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JUST WAR THEORY AND GLOBAL PEACE: JURISPRUDENCE OF THE EFFECTS OF CONTEMPORARY ARMED CONFLICTS ON HUMAN DIGNITY

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ABSTRACT

The history of our world today cannot be constructed without reckoning with the frequency of armed conflicts in many parts of the globe. Armed conflicts and wars have unfortunately assumed an important part of human existence. This paper concedes to the fact that there may always be wars which nonetheless had from earliest times become the scourge of humanity. Ranging from loss of lives and property, internal displacement of people, the flow of millions of refugees, to general destabilization of human resources, the consequences of armed conflicts constitute veritable assault to human dignity. This paper critically examines the underlying philosophy and jurisprudence that relate to or empower and engender armed struggles. Far from recommending pacifism as the panacea, this study considers the nature of just war theory, and finds its principles as the desideratum to the untoward indignity meted to the human resource. Ethico-Philosophical principles and rules of International humanitarian law (IHL) would inform our theoretical framework.

Keywords: Jurisprudence, Just War, Peace, Armed Conflict, Human Dignity.

1. INTRODUCTION

Armed conflict has been a scourge of humanity from the earliest times. The contemporary world following its older counterpart has witnessed not a few inter and intra state conflicts which have resulted, *inter alia*, in the loss of lives and property, internal displacement of people, the flow of millions of refugees, and general destabilization of human resources. Often, these conflicts give rise to the diversion of resources including official human development assistance. While these consequences and more are common to all armed conflicts, the contemporary global scenario seems to be markedly different both in the sources of the conflicts and the resultant level of damage wrought on the human person and his dignity. No doubt, this contemporary uniqueness is as a result not only of the sophistication of the strategies employed but also of weapons deliberately manufactured, calculated and directed for the purpose of mass destruction. The First and Second World Wars, the Hiroshima and Nagasaki decimation, the uneventful Auswitch and Buchenwald, the Middle East crises, the Vietnam inhumanity, the Bosnia-Herzegovina catastrophe, the armed conflicts in former Yugoslavia, between Iraq and Iran, and Ethiopia and Eritrea, the internal belligerency in Afghanistan, Iraq, former Sudan, Rwanda, the Congo, Somalia, Sri Lanka, Colombia, and the

African numerous inter and intra ethnic fisticuffs, and so on, constitute only a tip of an iceberg of calamity experienced in modern armed conflict. They remind us of the cruelty of war and the suffering, death and destruction it entails. But it is the September 11, 2001 terrorist mayhem on the United States and those in many parts of the world today including Nigeria that show that armed power relations in the global system have been so severely tested that it has become fashionable today to argue that the world has irrevocably changed with those events. These calamitous events also raise an obvious question, namely, is the behaviour of the parties to such armed conflicts subject to any restrictions? The answer is no doubt in the affirmative, found as it were, in the diverse sources such as the law of the United Nations Charter, human rights law, environmental law, the law of neutrality, and the 'laws of war' that are often referred to as 'international humanitarian law applicable in armed conflict'[1]. The ever increasing incidents of armed warfare in our world today show that that the various municipal and international laws with regard to wars and conflicts including *ius ad bellum, ius in bello* and *ius post bellum*,[2] have been jettisoned and thrown to the dogs. The sources of these conflicts are not devoid of political, economic, socio-cultural or religious factors. Beside these factors, however, is an underlying philosophy that keeps fanning the embers of the social pathology.

The main thrust of this paper is to delineate the philosophical basis of contemporary armed conflicts. In other words, this essay attempts to critically investigate and examine the fundamental ideology and the subterranean philosophical worldview that is behind the volume of mass conflicts in our world today. The paper attempts to answer certain relevant fundamental questions: Does such an arm-race philosophy still have any regard for the stipulations of the just war theory? Are the tenets of this thought-world in tandem with the basic aspiration, dignity and destiny of the human person? Can conflicts really be privy to global peace germane, as it were, to the much desired integral development of man in our world today? Hence, what are the best methods of conflict resolution and peace building unto peaceful co-existence? Attempts to answer these and allied questions constitute the basic problems and the task of this paper. Our approach is primarily onto-anthropological and jurisprudential.

2. CRITICAL ANALYSIS OF THE TERMS CONFLICT AND PEACE

The term 'conflict' etymologically derives from the Latin *"confligo-confligere-conflixi-conflictum"* meaning "to engage" or "to contend". Literally, 'conflict' presupposes the existence of some interest for which different individual or groups enter into a contest or duel. Therefore, the term 'conflict' is used usually for the range of arguments, tensions and violent struggle that occur both within and between states. Bakut notes that the term denotes a "pursuit of incompatible goals or interests by different groups or individuals"[3]. Conflict is often seen as a threat to peace and depicted as if it is totally negative. The truth, nonetheless, is that depending on how it is handled, conflict can either be constructive or destructive. In the former sense conflicts can be used to explore different solutions to a problem and stimulate creativity by bringing emotive and non-rational arguments into the open while deconstructing long-standing tension[4]. As destructive, on the other hand, conflicts are used mainly to inflict injuries on, neutralize or subvert the aspirations of opponent. As such, it can hinder progress in the society, encourage unfriendly behaviours, and enhance win-by-all-means-necessary attitudes[5].

[1] It can also be called, for short, 'law of armed conflict' or simply 'humanitarian law'. See F. Kalshoven & L. Zegveld, *Constraints on the Waging of War: An Introduction to International Humanitarian Law*, 4th Ed., Cambridge: Cambridge University Press, 2011, p.1.
[2] These expressions and their implications will properly be discussed and distinguished hereunder.
[3] B. T. Bakut, "The Environment, Peace and Conflict in Africa" in S. G. Best (ed.), *Introduction to Peace and Conflict Studies in West Africa*, Ibadan: Spectrum Books Ltd., (year of publication not stated), p. 236.
[4] S. A Faleti, "Theories of Social Conflict" in S. G. Best (ed.), *Op. Cit*., p. 36.
[5] *Ibid*.

The implication is that the term conflict is according to Faleti, "a fluid and infinitely elastic concept which can be twisted into different shapes"[6], which question has not failed to divide scholars into camps. Hence, various theories abound as to the meaning, causes and impact of social conflict[7]. Conflict in this paper precisely as armed is seen in the negative light except otherwise stated. Thus, armed conflict is the resort to the use of force and armed violence in the pursuit of incompatible and particular interests and goals.

In the same manner, the concept of peace does not enjoy a consensus *ad idem*. Its conceptions are quite myriad for the tendency to conceptualize peace merely as the converse of war has largely been discredited. Studies reveal that peace can exist independent of war. This is possible in situations where paradoxically there are peaceful interactions between countries that are engaged in active war such as where Palestinians and Israelis establish peaceful use of water resources even as the war between them has raged[8]. Besides, absence of war does not necessarily mean peace. War is only one form of violence which is physical, open and direct. Galtung observes that a society cannot be described as peaceful where 'structural violence' such as poverty, exclusion, intimidation, oppression, want, fear, and sundry types of psychological pressure still constitute the psycho-social mainstay[9].

Consequent upon the uncertainties in the definition of peace, diverse conceptions emerge from various scholarly perspectives. Many ancient and medieval thinkers see peace as a natural, original, God-given state of human existence. The mythical account of the biblical Genesis, for instance, holds that Adam and Eve at creation were put into the Garden of Eden which symbolized the epitome of *pax divina*. This viewpoint is equally captured by the early Greek mythology. Within the Epic poems of Homer and Hesiod in which the imaginative capacity of Greek genius was aglow, peace was falling to mankind as rain. Homer, for instance, articulated a religious attitude to the cosmos in which men and gods were benignly and peacefully related to one another.

The pantheon of the gods was situated at the precincts of Mt. Olympus from whence the world came under the supervision of the gods. Human life and activities were at the intense gaze and scrutiny of the chief god, Zeus. Consequently, the destiny of man, guidance and ordered direction of his life and activities became the responsibilities not of man but of the gods[10]. Hence, peace was regarded as a state of perfection, the pre-corruption state of man in society, and an earthly expression of God's kingdom that is yet unblemished. Perhaps, it is due to the alleged endemic sinfulness, weakness and finitude of man which may be privy to abysmal erosion of peace that Homer predicated of the gods the duty of governing and ruling the world. In the same vein, St. Augustine distinguished between "two cities"[11], namely, the city of God which is founded on perfect heavenly peace and spiritual salvation, and the earthly city of man that is based on the appetitive and possessive impulses, corrupt and torn by strife. In line with these views, Rousseau regards peace as the original state of human existence in which

[6] *Ibid.*

[7] Faleti presents a number of these theories. *Structural conflict theory* states that conflict is built into the particular ways societies are structured and organized. It holds that conflicts occur because of the exploitative and unjust nature of human societies and domination of one class by another .*Realist theory* traces the root of conflict to a flaw in human nature which is seen to be selfish and engaging in the pursuit of personalized self-interest defined as power. The *biological theories* (innate theory and frustration – aggression theory) subscribe to the genetic and hormonal origin of conflict. They are built on the tradition that regards man as intrinsically evil, which trait is transmitted from generation to generation. *Physiological theories* in addition to the features of biological and realist views hold that man's innate aggressiveness remains idle until stimulated by necessity or encouraged by success. *Economic theories* see struggle for economic resources as the basis of conflict. There are other theories like *psycho-cultural conflict theory*, *human needs theory*, and *systemic theories*. See generally S. A Faleti, "Theories of Social conflict" in S. G. Best (ed.). *Op. Cit*., pp. 41-55.

[8] O. Ibeanu, "Conceptualizing Peace" in S. G. Best (ed.), *Op. Cit*., p. 3.

[9] J. Galtung, "Cultural Violence" in *Journal of Peace Research*, 27: 3, 1990.

[10] C. G. Starr, *The Ancient Greeks*, New York: Oxford Univ. Press, 1971, pp. 24-32.

[11] See St. Augustine, *The City of God*, Doubleday: Image Books,1958.

man has no desires being naturally good, free and a gentle savage. It was only later that this tranquil state became corrupted and depraved by human desire and greed, which state of affair Rousseau blames on drive for private property[12].

However, the above pre-corruption thesis of the divine source of peace came under severe attack in the socio-political philosophy of Hobbes. Hobbes had argued that the primeval 'state of nature' was agog with conflict and violence. Man was regarded as a wolf to fellow man (*homo homini lupus*) and life seen as solitary, poor, nasty, brutish and short. This Hobbesian theory is, perhaps, a recapitulation of the consequences of the divine abandonment of the intrinsically wicked and finite man as articulated in the dramas[13] of Sophocles. In these dramas, a paradigm shift was inaugurated in the attitude of the goods towards man and his activities. As man became forlorn and abandoned, his wretchedness and responsibilities were cast unto his shoulders. Certainly, this attitudinal shift portrays a tragic figure of a suffering man who stands before a now distant and tyrannical Zeus who in conjunction with other gods became insensitive to the prayers and pleas of mankind, lacking in pity and above all possessing a quality of maliciousness. In this scheme of things, Oedipus *rex* was constrained by Fate to be the slayer of his own father and the husband of his own mother[14]. No doubt, this Sophoclean tragedy became the precursor of the Hobbesian cosmology in which state of nature a great man could be murdered in sleep or overwhelmed by a mob. It was only as men resolved to create, according to Hobbes, a social contract by which each donated his/her right to a Leviathan enjoying, as it were, absolute power as Zeus that a peaceful and orderly life was created[15].

But because the above religio-philosophical account hardly addresses the social context of peace beyond the state of nature, various sociological explanations rear their heads. Sociologically, peace refers to a condition of social harmony in which there are no social antagonisms and where individuals and groups are able to meet their needs and expectations. Two theories emerge from this interpretation, namely, 'structural-functionalist' and 'dialectical materialist'. According to the former, peace is achieved where existing social structures perform their functions adequately as supported by the requisite culture, norms and values. In the latter, Marxian perspective, peace is realized only in a society where there are no classes. Peace as seen by the sociological school remains only an aspiration in modern times. The gradual collapse of communism today is perhaps a show-case of the unreliability of this aspiration.

It is probably the failure of the above sociological thesis that led to the political definition of peace which consists in identifying peace with order. As political order, peace entails that government employs the coercive apparatuses of the state to deal with citizens in order to maintain law and order. It can equally be seen as a contractual pact denoting that the parties thereto mutually respect the agreement and recognize each other. However, merely identifying peace with order may not satisfy its essential meaning. The political order may, after all, be a way of perpetrating and perpetuating oppression of the under-privileged by privileged classes whose worldview, as congealed in the dominant ideology, is thorough- going and pervasive.

Be the above conceptions of peace as they may, yet despite their not being necessarily wrong, they are not adequate in understanding the entire reality of peace. Each creates the impression that one can synchronically find peace as an absolute, once-and-for-all condition or frozen state of rest. It therefore seems that the earthly peace is "a process rather than a

[12] These ideas were strongly expressed in both Rousseau's *Discourse on Inequality* and *Social Contract*. See G. H. Sabine and T. L. Thorson, *A History of Political Theory*, New York: The Dryden Press, 1973, pp. 533-537.

[13] See, for instance, *Antigone* and *Oedipus the King*.

[14] In studies in Psychology, this appellation has been used to refer to a complex whereby a boy child is emotionally tilted to his mother. This is *Oedipus complex.* The girl child- father counterpart is called *Electra complex.*

[15] T. Hobbes, *Leviathan*, Edited by J. Plamenatz, Glasgow: William Collins Sons & Co. Ltd. 1976.

condition, involving activities that are directly or indirectly linked to increasing development and reducing conflict, both within and between societies"[16]. It is a continuous process involving not only 'peacekeeping' and 'peace enforcement' but also 'peace making' and 'peace building'[17]. Integral peace, rather than understood synchronically, is diachronic connoting, according to Miall, both the 'negative' aspect of peace as the absence of war and the 'positive' aspect as including justice and development, respect and tolerance between people, harmony or balance in the ecosphere, tranquility of inner peace, and wholeness[18]. It is this later view of peace that this paper is concerned with.

3. CONTEMPORARY ARMED CONFLICT: SUBJECTIVISM AND WILL-TO POWER

The main concern of this part of our study is to argue that the ideological mindset behind the contemporary armed conflict and its effects is premised on the philosophical shaping of modernity which fountainhead is Descartes. Descartes, influenced by Bacon, had invented a philosophy which was completely orientated to the 'practical'. He had moved for the abolition of the speculative philosophy taught by the schoolmen in favour of the *pragmata* in order to render man the "Lord and possessor of nature". However twisted, this modernistic mastery of nature is directly opposed to every extraneous and heteronomous intervention including not only human laws but also those of the divine. For instance, in Cartesian philosophy, God was allowed to exist only as a cause and as an engineer who will set into motion the universe that had already been regarded as mechanistic, governed as it were, by geometrical properties of space. No doubt, such a god who has so been absorbed into causality and thus operates only as a nature[19] is no longer a personal being. This pragmatist paradigm was but a result of that geometrically in-built axiom, *cogito ergo sum* which set modern philosophy and technology upon their common destiny. With this universal postulate, the 'self' and 'consciousness' were extolled over and above existence, over and above the good, over and above the peaceful, and over and above even the true as a transcendental attribute of being. Thenceforth, the self stands at the very heart of modern philosophy with the total certitude of consciousness. This subjectivist axiomatic self-consciousness became the creator of that philosophy of the will which began with Kant and culminated in Nietzsche as the will-to-power.

Moreover, this practical orientation of Cartesian philosophy of consciousness was further advanced by Giambattista Vico the '*factum*' in whose formula--*Verum Quia Factum* (truth is the tangible) is translated as that which is scientifically feasible and which could be made by man. But although the Cartesian orientation in the question of technical mastery was pushed forward by Vico, yet it was in Kant that the seeds of the *subjectness* of the subject became fully germinated. Thus, where mathematics is the ideal for Descartes, Copernican-Newtonian physics became the decisive moment for Kant. In Kantian Copernican Revolution, for instance, *a priori* conditions have been mapped out under which and within which knowledge is possible, otherwise it is not. For an object to the known, it must correspond to the *a priori* forms of the intuition and thus to the Copernican axiom which out of itself authenticates itself. The practical result of this auto-authentication is the emergence of the

[16] O. Ibeanu, *Art. Cit*., p. 10.
[17] All these constitute different forms of peace process. *Peace-keeping* entails the use of means that will keep conflicting parties apart and keep conflict at current low level. Where conflict is high and conditions for peace remain limited, *peace-enforcement* is needed to create the space for increasing development and reducing conflict. *Peace making* arises in situations where conflict is high but there are viable conditions for pursuing development. *Peace building* applies to a situation of low conflict and high prospects for development. See. O. Ibeanu, *Art. Cit*., p. 13.
[18] Cited in B. Bakut, *Art. Cit*., p. 235.
[19] R. Descartes, *Meditations VI*. See also J.D.Curran, *Unpublished Lecture on Philosophy of Science*, St. Joseph Seminary, Ikot Ekpene, 1995.

autonomous subject who legislates for himself and fashions out his own morality. This is the commencement of the philosophy of the will.

This tradition of philosophy of the will progressed to become in Hegel a will-to-will, in Schopenhauer a will-to-live and culminated in Nietzsche as the will-to-power. Thus, Nietzsche brought to full realization that metaphysics which originated with Bacon and Descartes. In Nietzschean corpus, self-consciousness is the consciousness of the will willing itself. For Nietzsche, the will-to-power is the innermost essence of being. Heidegger observes that it is "the mode of being now ruling in everything that exists which finds accomplishment through man"[20].

The above analysis of the metaphysical theme of knowledge underlying the technical mastery of nature is relevant to the extent that it is the struggle for power that largely accounts for the enormity of the contemporary armed conflicts. Although this power struggle is co-eval with man, it is today being fuelled to the present degree by the subjectivist, individualist and egoist philosophy that was inaugurated by modernity. Hegelianism for which the "real is rational and rational real" is an instance of this subjectivist idealism. At both its right and left respectively are two despicable theories, Nazism and Marxism that toyed with the dignity of the human person. While Nazism, inhuman and racist in posture, led to Hitlerist near decimation of the Jews during the Second World War, Marxism, collectivist in its approach, denies man his basic rights to privacy and private property, and subjects him to the whims and caprices of state development[21]. Noting can be more assaulting and degrading of the human person.

Furthermore, the will-to-power, greatly enhanced by the technological advancement, also crystallizes into military sophistication. The manufacture of nuclear, atomic, bacteriological weapons, ballistic missiles, sophisticated range of gun armaments, time and letter bombs, hand grenade, armoured cars, fighter planes and so on exemplifies this explanation of the world. The atomic bomb of Hiroshima and Nagasaki event represents only a preamble of what the perfected Hydrogen bombs, guided missiles, chemical and other weapons of mass destruction can do today. On land, sea and air, from home and in the battle-field, new technologies of speedy defeat at minimal loss are the fortunes of the super-powers wherein military technology takes the heaviest budget after shuttles in these nations today. Wars have been made nasty and gruesome by high technology that deterrence must now assume the upper hand, for the entire world can now be destroyed ten times over in any contemporary warfare among the super powers. Thus, this mastery of nature in military science and technology by man through the will- to-power philosophy realizes the aim of Descartes: "To render ourselves the masters and possessors of nature"[22]. It not only vindicates Hobbes whose natural cosmology is nasty and depraved but also represents an eloquent epiphany of the man-who-obeys-only-himself of Rousseau[23].

The result of this military-technical mastery and autonomy of the will and the self is that our generation is characterized by armed conflicts without any recourse to the tenets of the just war principles. No doubt, no war can be good precisely as an evil. At best, it can only be just based on the conviction that non-violence is the norm while the use of force can only be morally allowed merely as an exception. Hence, the requisite conditions must be met for a war to be just. There must be a sufficient proportion between the good to be defended and the accompanying evil. War must be the last resort; and there must also be reasonable hope of

[20] M. Heidegger,"The Words of Nietzsche" in *Question Concerning Technology*, trans. W. Lovitt, New York; Harper and Row publ., 1977, pp. 96-97.
[21] See I. K. E Oraegbunam, "J Obi Oguejiofor and the Use of Philosophy" in *West African Journal of Philosophical Studies* vol. 8, Dec. 2005 p. 7.
[22] R. Descartes, *Discourse on Method*, p. 6.
[23] See J. Curran, *Op. Cit*.

success[24]. What obtains in contemporary practice is, however, far from the ideal especially with regard to the dignity of the human person. It may be appropriate to, albeit briefly, relate the consequences of the contemporary military assault on human dignity.

4. MILITARY ARMED CONFLICTS AND DANGER TO HUMAN DIGNITY

The major target of contemporary armed weaponry is mass destruction. The 1945 Hiroshima bomb which claimed about 160,000 heads is only in volume a little percentage of the explosive capacity of the missiles manufactured and targeted on cities today. Surely, this later constituted the military mainstay of the 1991 Gulf crisis which claimed hundreds of thousands of human lives. In military arsenal is also found trinitrotoluene (TNT) explosive and 20 megaton bomb one of which is capable of generating a fireball seven kilometers across. This one bomb has ten times the explosive capacity of all the bombs dropped by both sides in World War II. While the US Trident's submarine's 408 warheads each have three times the destructive capacity of the Hiroshima bombs, one Poseidon submarine could in effect destroy the former USSR. All there are only preparatory to the destructive effect of most modern bacteriological and other nuclear weapons.

With this development, human life and security are in jeopardy. This state of affair is even worse when it is noted that the devastating effects of these dangerous bombs do not halt at the moment of detonation. For several days and weeks after the Hiroshima event, many died as the survivors had no food deliveries. The water supplies were shattered and the injured were left with little or no care. Diseases spread more rapidly due to non-disposal of human carcasses. Radiation exposure resulted to direct deaths and indirectly by weakening the immune system and reducing capacity to fight off diseases. It is as if the survivors 'envied' the dead. Shell had explained how the long term ecological effects may even be more excruciating[25]. The consequent destructive effects of the Ozone layer would probably allow so much ultra-violet rays privy as it were to the decimation of flora and fauna. Rays are, for instance, capable of blinding all animals and insects and hence hindering their survival efforts. The global eco-systemic effect of this is certainly catastrophic, for most plant pollination would cease since insects locate flowers visually. Even human beings could not move about for more than ten minutes at a time due to the scorching intensity of the sun.

Furthermore, military-technical advances have led to the increase in the chances of nuclear war at the expense of human security. For many years, a side had the capacity to launch a massive strike against the other and so peace was virtually preserved by mutually assured destruction (MAD), as each side knew that if it used its weapons, it would also be destroyed since there was no way of knocking out the other side's weapons nor of defending its attack. But now, there are 'tactical' weapons for use on battle-fields against opposing armies as distinct from 'strategic' weapons for use against cities. This makes it possible for one side to resort to nuclear weapons if their armies are being over-whelmed by conventional forces. Hence, in MAD situation, a first strike attempt would destroy the enemies' cities but would leave missiles intact. But because destruction is mutually assured by both sides, no sensible side will launch a first strike. But now developed is the capacity to hit enemy missiles in their silos such that one side can fire its missiles after erroneously concluding that it is soon going to be attacked. In the 1960's it would have taken bombers many hours to reach their targets and, if necessary, these

[24] A Fagothey, *Right and Reason: Ethics in Theory and Practice*, 3rd Ed., USA: The C. V. Mosby Publ., 1963, pp. 515-6. For a detailed history of just war theory in relation to international law, see M. N. Shaw, *International Law*, 4th Ed., New York: Cambridge University Press, 1997, pp. 77-781.

[25] B. Shell, *Reflections: The Fate of the Earth*, 1982, p. 51. Cited in E. Oraegbunam, "Military-Nuclear Technologism and The Fate of the Human Life" in *The Pointer*, vol. v. No. 2, Dec. 1995 - Dec. 1996, p. 28.

could have been recalled late in their flight. Thus, there is little time to check whether mistakes have been made before a decision to launch or not to launch. The situation is now even worse as missiles can fly under radar screens. Spy satellites, sophisticated as they are, can detect where all the enemy's missile's silos are, and missiles are so accurate that they can hit enemy silos. In other words, technical advance has made possible a first strike that knocks out the enemy's missiles and leaves no capacity to retaliate. This is a less secure situation than MAD where each knew it would be suicide to try anything. Now it can be very tempting for one side to go for a first strike win[26].

The above state of affair results in the enormity of hazards which nuclear products inflict on humanity by way of the danger and risk they pose. The nuclear fission, fusion, ionization, radioactive transformation, etc show that each atomic nucleus is a great source of tremendous energy reserve. Einstein's theory of relativity gives a clue to the immensity of nuclear energy reserve in his famous equation $E=MC^2$ where E is the energy of photon, M the mass of the nucleus and C the velocity of light. Hence, the fission of I kilogramme of Uranium will release 22,700,000 kilowatt hour[27]. What an enormous energy reserve! No doubt, a toll will be taken on humanity once this is synthesized into a weapon.

This technical and military advance resulting from the philosophy of the will-to-power lies at the explicit source of the reason why France in 1995 and North Korea in 2006 carried on their respective nuclear tests despite the protestation of the international community. Hence, there is scarcely any doubt that for reasons of this surge in nuclear weaponry, global security will continue to deteriorate. In the words of Santoni, "nuclear attack unleashes a dehumanizing terror on humanity, typifies an organized murder planned out by science, and represents the most awful destructive rage of technological civilization"[28]. The result is that the value of human life and dignity is kept at bay. It has often been said: "if you want peace, go for war". Can war really give rise to peace genuinely speaking? What are the better ways of making peace? Generally, can military technology impact positively on human peaceful co-existence? What type of philosophy will counteract the will-to-power and subjectivist mindset that engineers and engenders the contemporary armed conflicts?

5. GLOBAL CONFLICT AND HUMAN DIGNITY: ATTEMPTS AT RECONCILIATION

Throughout human history, several attempts have been made to arrive at peace. In ancient times, the Roman Empire assumed the task of governing the then known world (*oeconomia*). The empire claimed to have sowed the problem of lack of peace by the method of one dominant nation and this strategy was characteristically successful so long as the empire preserved its dominion. Three main defects were clearly apparent: the empire itself had to be built up and sustained by war and conquest before it could maintain peace in the world; it never included the entire world and its overextension haboured the seeds of its downfall; and finally the solution was satisfactory to the dominant Romans but galling and irksome to their subjugated peoples. Hence, this method can scarcely be congenial to peace in Ancient times.

In the middle ages, a turn to the church as the model of international organization was made. In that turning, a question always arose: why could nations not produce in the political sphere what the Church had successfully accomplished in the religious sphere?[29] Feudalism with it hierarchical structure of overlords and vassals, its limitation and subordination of powers supplied the means for affecting this organization and logically tended toward a union and peaceful co-existence of the whole world. Dante holds the Pope as supreme in spiritual sphere

[26] E. Oraegbunam, *Ibid.*
[27] *Ibid.*
[28] R. E. Santoni, "Commentary on Albert Camus" in *After Hiroshima: Between Hell and Reason*, 1946.
[29] Fagothey, *Op. Cit.*, p. 538.

and the Emperor in temporal matters, with all other rulers owing them fealty[30]. This arrangement, however, never got far beyond the stage of the ideal. And precisely as a mere political venture, the Holy Roman Empire did not succeed in rising above the level of the unsuccessful. But this ideal occupied the whole of medieval political thinking.

With the decline of feudalism and the disintegration of united Christendom together with the resultant unrealizability of medieval ideal, some of the renaissance writers like Grotius turned to international law as the means for keeping the peace. The Congress of Vienna which assembled in 1815 after the French Revolution and Napoleonic wars, the Geneva Convention, and the Court of Arbitration at The Hague, the League of Nations shortly after World War I, and the United Nations Organization today together with the various conventions and protocols emerging therefrom[31] are several attempts to maintain the global peace. No doubt, these socio-legal attempts have had only a moderate success in mediating small disputes. None at all succeeded in preventing either the two world wars that wrecked the 20th century or the contemporary form of terrorist attacks that thrive on suicide bombings and hijacking of passenger and other planes. Certainly, the failure of international law to maintain world peace is a function of its essential nature, on the one hand, and the vested economic interest and overbearing influence of the so-called super powers in the global legislative equation, on the other hand. The enforceability of international laws is not easy to come by due perhaps to the limitations placed on them by the principles of sovereignty and territorial integrity. Hardly then can international laws be used to checkmate civil and internal crises that hamper national developments. Again, the recent American hegemony over and against even the other super powers continues to fan the embers of some regional crises such as in Middle East. These crises are clearly centripetal and centrifugal to American political and economic interest. Under this dispensation, the only attainable peace would be that of the grave yard.

Furthermore, the above version of *pax Americana* is only an extended and a new type of *pax Britannica* or more generally, *pax Europeana* during the heydays of colonial inversion. Lugard, for instance, described a 'dual mandate' furnished by the colonialist philosophy and motif:

> Europe is in Africa for the mutual benefit of her own industrial classes and of the native races in their progress to a higher plane… and it is the aim and desire of civilized administration to fulfill this dual mandate. On the one hand, the abounding wealth of the tropical regions of the earth must be developed and used for the benefit of mankind; on the other hand, an obligation rests on the controlling

[30] Dante, *De Monarchia*.Cited in Fagothey, *Op. Cit.*

[31] See, for instance, Hague Regulations on Land Warfare of 1899, Charter of the International Military Tribunal of 1945, Geneva 'Red Cross' Conventions of 1949, International Convention against the Taking of Hostages 1979, Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1971, Hague Convention for the Suppression of Unlawful Seizure of Aircraft 1970, the Declaration on Principles of International Law 1970, 1977 Additional Protocols to Geneva Red Cross Convention 1949, Convention on the Prevention and Punishment of Terrorism 1939,etc. See generally M.N. Shaw, *International Law*, 4th Edition, New York: Cambridge University Press, 1997, pp. 777-821. See also the 1980 United Nations Convention on prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, Protocol I on Non-Detectable Fragments 1980, Protocol II on Prohibitions or Restrictions on the Use of Mines, Booty Traps and Other Devices 1980, Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons 1980, Protocol IV on Blinding Laser Weapons 1995, Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booty Traps and Other Devices 1996, Protocol V on Explosive Remnants of War 2003, the Ottaw Convention on Anti-Personnel Mines 1997, and the Convention on Cluster Munitions 2008. See generally F. Kalshoven & L. Zegveld, *Constraints on the Waging of War: An Introduction to International Humanitarian Law*, 4th Ed., Cambridge: Cambridge University Press, 2011, pp.169-194.

> power, not only to safeguard the material rights of the natures, but also to promote their moral and educational progress[32].

Elsewhere, we have observed that the first arm of the dual mandate sustains the politico-economic motifs of the overlords while the second limb stems not only from the superiorist posture of same but also from the consequent 'inferiority' in the ontological status of the colonized who is condemned to need the European in order to be civilized "morally, educationally and economically"[33]. Precisely as involving subjugation and intimidation, we make bold to say that colonialism and neo-colonialism cannot be privy to world peace. What then can offer some help?

It has earlier been noted that even though conflicts have always dotted the terrain of human existence, yet the volume and scale of contemporary armed conflict are a consequence of the subjectivist and will-to-power philosophy that was inaugurated at the rise of modernity. It is this philosophy that gave birth to the nature and direction of modern science and technology. We submit that since it is a philosophy that is at work, another philosophy is needed to redirect the principle of military technology. The emergence of existentialism after the World War II represents the first contemporary attempt at considering the human individual condition sequel to the post-war devastation. Such themes as freedom, choice dignity, anguish, love dialogue, became pivotal to the existentialist discourse. Inter-subjectivity rather than rabid individualism characterized an important aspect of the philosophical systems of Buber, Sartre, Marcel and Jasper.

Existentialism needs to be complemented by a genuine philosophy of military technology. This is particularly needed as the fire of high level of mass conflicts in our world today is enkindled not only by quest for superior power but also by heavy manufacture of nuclear and other weapons. A philosophy of military technology is thus needed to investigate the rationality of weapon technology and prescribe a panacea. It may be *ad rem* to conclude this paper with an outline of such a philosophy.

6. LAW AND ETHICS OF JUST WAR THEORY: RECIPE FOR HUMAN DIGNITY

Just war theory[34] (or *Bellum iustum*) is a doctrine of military ethics of Roman philosophical and Christian origin[35.] Ever since, it has been a subject of intense scholarly

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[32] F. Lugard, *The Dual Mandate in British Tropical Africa* Cited in I. K. E. Oraegbunam, "The Philosophical Foundations of Western Colonialism: Impacts on the Development of Contemporary Africa" in *Journal of Africa in a New World Order*, vol. 1. No. 1, 2005, pp. 58-79.

[33] *Ibid*., p. 64.

[34] The Indian epic, the Mahabharata, offers one of the first written discussions of a 'just war'. In it, one of five ruling brothers asks if the suffering caused by war can ever be justified, and then a long discussion ensues between the siblings, establishing criteria like *proportionality* (chariots cannot attack cavalry, only other chariots, no attacking people in distress), *just means* (no poisoned or barbed arrows), *just cause* (no attacking out of rage), and fair treatment of captives and the wounded [Livy 9.1.10; Cicero, *Divinatio in Caecilium* 63; *De provinciis consularibus* 4; *Ad Atticum* VII 14, 3; IX 19, 1; *Pro rege Deiotauro* 13; *De officiis* I 36; *Philippicae* XI 37; XIII 35; *De re publica* II 31; III 35; Isidore of Seville, *Origines* XVIII 1, 2; Modestinus, *Libro I regolarum = Digesta* I 3, 40; E. Badian, *Roman Imperialism in the Late Republic* (Ithaca 1968, 2nd ed.), p.11]. The war in Mahabharata is preceded by context that develops the "just cause" for the war including last minute efforts to reconcile differences to avoid war. At the beginning of the war, there is the discussion of "just conduct" appropriate to the context of war. In ancient Rome, a "just cause" for war might include the necessity of repelling an invasion, or retaliation for pillaging or a breach of treaty [W. W. Fowler, *The Roman Festivals of the Period of the Republic*, London, 1925, pp. 33ff; W. V. Harris, *War and imperialism in Republican Rome, 327-70 B.C.*, Oxford 1979, pp. 161 ff]. War was always potentially *nefas*, "wrong, forbidden," and risked religious pollution and divine disfavor (Livy 1.32; 31.8.3; 36.3.9). A just war *(bellum iustum)* thus required a ritualized declaration by the fetial priests (Cicero, *De officiis* 3.17.69; M. L. Colish, *The Stoic Tradition from Antiquity to the Early Middle Ages* Brill, 1980, p. 150). More broadly, conventions of war and treaty-making were part of the *ius gentium*, the "law of nations," the customary moral obligations regarded as innate and universal to human

discourse among moral theologians, ethicists, lawyers and international policy makers. It is a theory which holds that a violent conflict ought to meet certain philosophical, ethical or political criteria. The theory of the just war was however articulated by Augustine of Hippo and Thomas Aquinas. Augustine of Hippo, generally considered one of the first and greatest Christian theologians, was one of the first to assert that Christians should not be pacifists[36], despite the famous passage, Matthew 5:39, which says "But I say, do not resist an evil person! If someone slaps you on the right cheek, offer the other cheek also". Although Augustine asserted that this was a personal, philosophical stance, he nonetheless held that peacefulness in the face of a grave wrong that could only be stopped by violence would be a sin. Defence of one's self[37] or others could be a necessity, especially when authorized by a legitimate authority:

> The commandment forbidding killing was not broken by those who have waged wars on the authority of God, or those who have imposed the death-penalty on criminals when representing the authority of the state, the justest and most reasonable source of power[38].

While not breaking down the conditions necessary for war to be just, Augustine nonetheless originated the very phrase, itself, in his work The City of God:

> But, say they, the wise man will wage just wars. As if he would not all the rather lament the necessity of just wars, if he remembers that he is a man; for if they were not just he would not wage them, and would therefore be delivered from all wars.

Nine hundred years later, Thomas Aquinas — an immensely influential philosopher and theologian in the tradition of scholasticism — used the authority of Augustine's arguments as he laid out the conditions under which a war could be just[39]:

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beings. In fact, the quintessential explanation of just war theory in the ancient world is found in Cicero's *De Officiis,* Book 1, sections 1.11.33–1.13.41. Just War Theory states that a just war must have just authority. To the extent that this is interpreted as a legitimate government, this leaves little room for revolutionary war or civil war, in which an illegitimate entity may declare war for reasons that fit the remaining criteria of Just War Theory. This is less of a problem if the "just authority" is widely interpreted as "the will of the people" or similar. Article 3 of the 1949 Geneva Conventions side-steps this issue by stating that if one of the parties to a civil war is a High Contracting Party (in practice, the state recognised by the international community,) both Parties to the conflict are bound "as a minimum, the following [humanitarian] provisions." Article 4 of the Third Geneva Convention also makes clear that the treatment of prisoners of war is binding on both parties even when captured soldiers have an "allegiance to a government or an authority not recognized by the Detaining Power."

[35] http://plato.stanford.edu/entries/war/ The first philosophers of just war were Aristotle and Cicero, and the first theologians St. Augustine and St. Thomas Aquinas. See also ^ "Just War Theory [The Internet Encyclopedia of Philosophy]". Iep.utm.edu. 2012-02-10. http://www.iep.utm.edu/j/justwar.htm. Retrieved 2012-03-16.

[36] Pacifism is the belief that war of any kind is morally unacceptable and/or pragmatically not worth the cost. Pacifists extend humanitarian concern not just to enemy civilians but also to combatants, especially conscripts. For example, Ben Salmon believed all war to be unjust. He was sentenced to death during World War I (later revised to 25 years hard labor) for desertion and spreading propaganda ("'Just War Theory'" vs. American Self-Defence, by Yaron Brook and Alex Epstein. Cited in http://en.wikipedia.org/wiki/Just_war_theory. 2012-06-12).

[37] The theory of self-defence based on rational self-interest maintains that the use of retaliatory force is justified against repressive nations that break the zero aggression principle. In addition, if a free country is itself subject to foreign aggression, it is morally imperative for that nation to defend itself and its citizens by whatever means necessary. Thus, any means to achieve a swift and complete victory over the enemy is imperative. This view is prominently held by objectivists.

[38] St. Augustine, *Op.cit.,* p. 56.

[39] J. L. Gonzalez, *The Story of Christianity*. Harper: San Francisco, 1984.

> First, war must occur for a good and just purpose rather than for self-gain (for example, "in the nation's interest" is not just) or as an exercise of power. Second, just war must be waged by a properly instituted authority such as the state. Third, peace must be a central motive even in the midst of violence[40].

Growing from Aquinas arguments was the School of Salamanca, which expanded on Thomistic understanding of natural law and just war. Given that war is one of the worst evils suffered by mankind, the adherents of the School reasoned that it ought to be resorted to only when it was necessary in order to prevent an even *greater* evil. A diplomatic agreement is preferable, even for the more powerful party, before a war is started. Examples of "just war" are:

- In self-defence, as long as there is a reasonable possibility of success. If failure is a foregone conclusion, then it is just a wasteful spilling of blood. 2. Preventive war against a tyrant who is about to attack. 3. War to punish a guilty enemy.
- A war is not legitimate or illegitimate simply because of its original motivation; it must comply with a series of additional requirements.
- It is necessary that the response be commensurate to the evil as use of more violence than is strictly necessary would constitute an unjust war.
- Governing authorities *declare* war, though their decision is not sufficient cause to begin a war. If the *people* oppose a war, then it is illegitimate. The people have a right to depose a government that is waging, or is about to wage, an unjust war.
- Once war has begun, there remain moral limits to action. For example, one may not attack innocents or kill hostages.
- It is obligatory to take advantage of all options for dialogue and negotiations before undertaking a war, as war is legitimate only as a last resort.

Under this doctrine, expansionist wars, wars of pillage, wars to convert infidels or pagans, and wars for glory are all inherently unjust. The first work dedicated specifically to the theory of just war was *De bellis justis* of Stanisław of Skarbimierz, who justified war of the Kingdom of Poland with Teutonic Knights. Francisco de Vitoria criticized the conquest of America by the Kingdom of Spain. With Alberico Gentili and Hugo Grotius[41], just war theory was replaced by international law theory, codified as a set of rules, which today still encompass the points commonly debated, with some modifications[42]. The importance of the theory of just war faded with revival of classical republicanism beginning with works of Thomas Hobbes.

The Just War theory is an authoritative Catholic Church teaching confirmed by the United States Catholic Bishops in their pastoral letter, *The Challenge of Peace: God's Promise and Our Response*, issued in 1983. More recently, the *Catechism of the Catholic Church*, in paragraph 2309, lists four strict conditions for "legitimate defense by military force":

[40]G. R, Rieff , *Crimes of War: What the Public Should Know*. New York: W. W. Norton & Company, 1999, p.35.

[41] Grotius wrote *De Iure Belli ac Pacis* (Constraints on the Waging of War). Writing at the time of the Thirty Years War (1618-1648), Grotius compared the practice of conducting virtually unrestricted war with another more commendable mode of waging war respecting the 'rule of right' and refraining from certain modes of acting 'on higher grounds and with greater praise among good men'. The 'moderations of war' *(temperamenta belli)* which he then expounded as requirements of a higher, moral order correspond in many respects with the rules of the law of armed conflict as we know it today.

[42] "JustWarTheory.com". JustWarTheory.com. http://www.justwartheory.com. Retrieved 2012-07-16.

- The damage inflicted by the aggressor on the nation or community of nations must be lasting, grave, and certain;
- All other means of putting an end to it must have been shown to be impractical or ineffective;
- There must be serious prospects of success;
- The use of arms must not produce evils and disorders graver than the evil to be eliminated. The power as well as the precision of modern means of destruction weighs very heavily in evaluating this condition.

Although the criticism can be made that the application of Just War is relativistic, one of the fundamental bases of the tradition is the Ethic of Reciprocity, particularly when it comes to *in bello* considerations of deportment during battle. If one set of combatants promise to treat the enemies with a modicum of restraint and respect, then the hope is that other sets of combatants will do similarly in reciprocation, (a concept not unrelated to the considerations of Game Theory).

Just War theorists combine both a moral abhorrence towards war with a readiness to accept that war may sometimes be necessary. The criteria of the just war tradition act as an aid to determining whether resorting to arms is permissible. Just War theories are attempts "to distinguish between justifiable and unjustifiable uses of organized armed forces"; they attempt "to conceive of how the use of arms might be restrained, made more humane, and ultimately directed towards the aim of establishing lasting peace and justice."[43] The Just War tradition addresses the morality and, today, the legality of the use of force in two parts: when it is right to resort to armed force (the concern of *jus ad bellum*) and what is acceptable in using such force (the concern of *jus in bello*). In more recent years, a third category — *jus post bellum* — has been added, which governs the justice of war termination and peace agreements, as well as the prosecution of war criminals.

Anarcho-capitalist scholar Murray Rothbard stated, "a just war exists when a people tries to ward off the threat of coercive domination by another people, or to overthrow an already-existing domination. A war is unjust, on the other hand, when a people try to impose domination on another people, or try to retain an already existing coercive rule over them."[44] Thus, the just war theory, otherwise called the doctrine of justifiable war assumes a presumption against war. The theory presupposes that war should not be launched unless all the criteria are met (*jus ad bellum*), that the war will be fought in a moral way (*jus in bello*), and that the war will be ended in a moral way (*jus post bellum)*. Noteworthy is that all these ethico-religious principles were more or less adopted today by relevant UN instruments and customary international law as constituting what has come to be referred to as 'law of war'[45]. Besides, the Archimedean point on which the law of war or the just war theory stands is the notion of the 'equality of the belligerent parties'. Accordingly, even if the parties are blatantly unequal in many respects as in wars of national liberation for independence, internal armed conflicts as the

[43]http://www.eppc.org/publications/pubID.1998/pub_detail.asp. Retrieved 2012-07-18.

[44] J.R.Smith, "Rethinking the Crusades". Catholic Education Resource Center. http://www.catholiceducation.org/articles/history/world/wh0042.html. Retrieved 2012-07-18.

[45]The two main limits of the law of war are 'military necessity' and 'humanity'. While the first principle, a practical consideration, tells us that for an act of war to be at all justifiable requires that it is militarily necessary; the principle of humanity, a moral component, states that the act cannot be justified if it goes beyond what can be tolerated from a humanitarian point of view. These two broad overriding principles were overtime elaborated into ever more detailed principles and rules. See F. Kalshoven & L. Zegveld, *Constraints on the Waging of War: An Introduction to International Humanitarian Law*, 4th Ed., Cambridge: Cambridge University Press, 2011, p.2.

long lasting war in Colombia, or the inversion of Iraq in 2003 by the US and its partners, the parties are equally subject to the principles and rules of the law of war[46].

7. CONCLUSION

The rationality of any reality is the judgment of the meaning and raison *d'etre* of the reality *vis-à-vis* the destiny and the good of man[47]. Does hyper-military technology aim at the good of man? Today, there is a widespread fear that man has so unleashed tremendous natural forces from atoms that these threaten to swallow him up. Have these frightening forces any meaning for human development? The importance of these questions become salient when one observes the number of wars waged in our world today with their attendant consequences. Besides, the Biblical Genesis account of the divine mandate, "fill the earth and subdue it" (Gen. 1: 28) as given to first parents has been interpreted to mean technological control. But far from anticipating a destruction of goods, the mandate rather assigns them to the service of human life. according to this understanding, the scientist should not be a mere robot of researches and experiments irresistibly tearing nature open out of curiosity without any plan of employing it to the good of man. Hence, the good scientist is the one who starts his pursuit as a humanist. He must of necessity before and after, challenge his research and experiments to an imperative of universal rationality and morality. Discoveries of science and technological pursuit are not for their own sakes. The only justification for unleashing the forces of nature is that it serves the need of man and makes him full human.

It therefore goes without saying that the just war theory and international humanitarian law of armed conflict aim at the preservation of humanity in the face of the reality of war. Balancing humanity against military necessity is a major consideration. Yet many an obstacle often is on the way of the full realization of this aim. Sometimes, the rules are treated with utter disregard. Examples are the decisions taken on both sides in the Second World War, to make the enemy civilian population a target of air bombardment, and the decision taken towards the end of that war by President Truman of the United States to use the atomic bomb against Japanese cities. It is also not uncommon to behold warring situations that are unfortunately conducive to unlawful modes of combat, such as in 'asymmetrical warfare'. Again, other militating factors include heavy emphasis on the alleged ideological or religious character of a particular war; depicting the adversary as barbarian that ought to be exterminated; hostilities carried out as a technical operation at long distance (such as the bomber operating at high altitudes, the long-range missiles) or involving in a guerrilla-type war, tactics that expose the civilian population to enhanced risk. At other occasions, calculated disobedience to the rules or ignorance thereof rears its ugly head. While the efforts of the relevant international and regional bodies such as the UN and the International Committee of the Red Cross are germane and should be stepped up, it appears that the primary target must be to prevent armed conflict.

Hence, it behooves the contemporary weapon technologist to 'enwisdomize' nuclear physics and technology[48]. War for which nuclear weapons are manufactured cannot guarantee peace and human dignity in the world. Besides, peace is not just absence of war. Peace cannot be reduced to the equilibrium of power between opposing forces, nor does it arise out of despotic dominion. Peace is not derivable from any sort of conquest by any superior person or group of persons. True peace cannot be associated with individualism and modernism. Peace on

[46] *Ibid.*

[47] M. Nwoko, *Philosophy of Technology and Nigeria*, Enugu: Asomog Press, 1992, p. 107.

[48] P. Iroegbu, *Enwisdomization and African Philosophy*, Owerri Int. Univ. Press, 1994, pp 25ff. See also G. F. Mclean (ed.) "The Contemporary Philosopher and Technological Culture" in *Philosophy in a Technological Culture*, Washington D. C. 1964,p. 11; P. E. Hedgson, *Nuclear Physical in Peace and War*, New York: Howthorn Books, 1961, pp. 19-20.

earth will certainly be chimerical unless the welfare of man is safeguarded and people freely and trustingly share in another's riches and talents. Again, a strong determination to respect the dignity of man in conjunction with the deliberate practice of dialogue and brotherly love is keenly necessary for the achievement of peace. Peace is really the fruit of love, for love goes beyond what justice can ensure. Thus, to achieve peace, a rejection has to be made of all anti-charitable tendencies inherent in modernism. All these constitute the essential ingredients of a philosophy that will be germane to peace building and respect to human dignity in our world today.