

# Research Report

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General Assembly

First Committee (International

Security and Disarmament)

*Jus post bellum* (Justice after war) as a method to  
maintain international security



MUNISH



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<b>Forum</b>	GA1
<b>Issue:</b>	<i>Jus post bellum</i> (justice after war) as a method to maintain international security
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## Introduction

*Jus post bellum* is a concept that refers to the termination of a war. *Jus post bellum* falls with *jus ad bellum* (justice before war, or resorting to such) and *jus in bello* (justice during war) as the three categories in which Just War Theory is divided (Orend, 2000). Although the concept of Just War Theory originally comes from Catholic and Roman philosophers, the term *jus post bellum* claims to have been first proposed in 1991 (Jumper 2009). This term explores the idea of seeking peace after war, and more importantly, this concept seeks to maintain peace at national and international level. The necessity to culminate the idea of combat in an area and effectively organize a post-conflict region to eliminate all remainders of war has become indisputable in recent interventions and their aftermaths. This issue can be seen as a disarmament issue, a social issue, a philosophical issue, or a judicial issue; however, the United Nations has addressed from all perspectives, excepting philosophy. The United Nations has a history of having tackled issues in the matter of *jus ad bellum* and *just in bello* but it still has yet to develop guidelines for *jus post bellum* to be effectively applied in according nations.

The context of each conflict will directly affect the requirements that the area will demand to transit to justice. Factors such as: the connection between the consequences of a given conflict to the root causes of a following one, the law/s established over the territory concerned, and the patterns of violation of human rights (civil, social, political, economical, cultural etc.) that occurred during the conflict, will directly affect how the approach towards justice after war should be taken.

The first committee of the General Assembly should approach this issue from a disarmament perspective, taking into consideration effective ways to culminate war and disarm and evacuate parties involved. However, other aspects of *jus post bellum*, such as legal and/or social must not be disregarded.



## Definition of Key Terms

### *Jus post bellum*

Jus post bellum is a term originally established in Latin that translates to “Justice After War” in English.

The concept of ‘jus post bellum’ has an established tradition in Just war theory. In traditional just war theory, jus post bellum refers to the stage of culminating war effectively. The idea of Jus post bellum encourages countries with recently finalized conflicts to not leave ‘loose ends’ in the affected areas of the conflict. The idea of Jus post bellum attempts to ensure a quick recovery for the area and it also attempts to prevent the emergence of a new conflict that derives from the culminated one. Often nations focus on the prevention of new conflicts or the ceasing of occurring ones ignoring what just war theory proposes. According to Just War Theory, all wars are formed in terms of a cycle in which jus post bellum is essential to prevent a new conflict.

In the contemporary era, the term embodies the idea that peace-making must now be addressed internationally and legally. States in a post conflict should have a UN-provided set of assistance and guidelines that will lead the conflict area to peace. The concept is fully based in an effective transition from times of conflict to times of peace.

### Conflict Areas/Nations

The term “conflict area” is often used to name a certain region that is in a state of prolonged fighting. Conflict often involves an open struggle, clash or battle between opposing parties, forces and/or ideas. For a certain region to be referred to as a conflict area, it does not necessarily have to be in a current conflict; the term often also applies to either areas that are know for having constant open battle throughout many years or for a region that is still in recovery from a harsh, detrimental conflict that ceased recently.

### International Security

“To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the



suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace” (UN Charter)

The concept of International Security entails a certain surety to a nation that it will not be harmed by another nation. By its own definition, International Security consists of mutual diplomatic agreements between nations in regards of how their military can be used. Ensuring International Security is one of the key points to an effective transition from conflict to peace. Often, the finalization of a conflict means the victory of a party and the loss of the other. When the conflict entails more than one nation, International Security will be the first element both parties would want to guarantee for themselves. A reliable strategy that prevents threats to and from both parties is what can establish the concept of “international Security”

## Justice

Justice in the United Nations is treated as the idea of bringing fairness through the following of international laws. In terms of an “after war context” justice should be considered and defined as: the process of obtaining both, judicial and non-judicial mechanisms. Judicial will include trials for nations, organizations and individuals accused of committing war crimes while non-judicial should include funding for reparations.

## General Overview

Former Secretary- General Kofi Annan, summarized the evolution from peacekeeping to peace-building in his report as follows:

*“While United Nations efforts have been tailored so that they are palpable to the population to meet the immediacy of their security needs and to address the grave injustices of war, the root causes of conflict have often been left unaddressed. Yet, it is in addressing the causes of conflict, through legitimate and just ways, that the international community can help prevent a return to conflict in the future”*

Historically, the concept of demilitarization and establishing jus post bellum has been an approached from an experimental perspective. Nations implemented their policies on culmination of war based on a “trial and error” method. Several strategies have been implemented but few successful examples are available for comparison so nations must just



expect or hope for the consequences brought by war to culminate or pass smoothly. Such experimental approach has resulted into a set of diverse results and the study of post-conflicts in history is the only human science that can demonstrate this. The issue of establishing justice after war through international cooperation was first seen after the First World War in Germany and it is considered to be amongst the worst cases of disarmament and *jus post bellum*. In contrast, the culmination of war in Japan after the Second World War is considered to be amongst the best examples of post-conflict. Lastly, amongst the current situations of reconstruction lies the case of Kosovo that is now in post conflict. These examples can all show variations of methods and results for justice after war.

### Disarmament of Germany after WWI

The First World War was an awakening for the international community to realize that it was time for nations to begin communicating with one another. Woodrow Wilson, the president of the United States at the time, observed this necessity to create an international multilateral body and envisioned an idea that later on became *The League of Nations*. Once proposed, several nations began working towards the creation of the League. However, other governors felt that establishing justice after the war meant asking Germany and its allies to assume absolutely all blame/responsibility for the damages caused by the war. The French Prime Minister, Georges Clemenceau, was harsh in what he asked of Germany due to the threat they posed towards France. Wilson, on the other hand, believed a more peaceful and sympathetic approach towards the defeated nations would bring optimum results. Other nations, such as Britain, fell in the middle of the two opinions. After long debate, several treaties were signed, including the Treaty of Versailles.

The Treaty of Versailles had detrimental short-term and long-term effects on the international committee. This Treaty became the creator of the “war guilt” imposed on Germany that eventually lead to a Second World War. The Treaty humiliated the entire nation and gave unjust benefits to the Allied party, who had also participated in the war.

The treaty included three articles (228, 229 and 230) that dealt with crimes that had been committed during the war. In these articles, the “Allied and Associated Powers“ were given permission to take to court people who were believed to have committed crimes throughout the time of war. The treaty specified that Germany was to supply all necessary and relevant documents and/or information that could be used to gain knowledge about the incriminating occurrences to ensure fairness. Lastly, the treaty provided certainty that those who were accused would have the privilege to choose their own consul.



It has been argued by numerous historians and war-experts that the failure to an effective conclusion of World War One was one of the main causes that eventually lead to World War Two. A better finalization of the First World War could have included a more bilateral approach to the culmination of war. Post-war obligations should have the capability of ensuring that the peace that is now established is a clear improvement over what existed before (and logically) during the war. The Treaty of Versailles looked for economic benefit for the victors of the war, but it did not prioritize a sustainable system for peace.

A very respectable statements made by the editors of The New Republic in 1919 regarding the Treaty of Versailles, claims: "If a war which was supposed to put an end to war culminates without strenuous protest by humane men and women in a treaty of peace which renders peace impossible, the liberalism which preached this meaning for the war will have committed suicide."

### Disarmament of Japan after WWII

After their surrender in 1945, Japan encountered its nation in ruins. The nation suffered from devastating food shortages and its largest cities (besides Kyoto) were in severe damage. Japan was occupied by the international control of the Allied Powers, who dissolved the Empire of Japan and created a democratic state. On May 3 of 1947 the Constitution of Japan was enforced, however, it was not until April of 1952 that the period of occupation by the Allied powers ceased. Other changes were included in Japanese politics, such as the elimination of the secret police and the inclusion of women in politics.

Throughout the occupation, one of the main supervisors sent by Allied forces into Japan was General Douglas MacArthur. MacArthur attempted to ensure that the right of belligerency was eliminated from Japan by the disposition of land, sea and air forces as well of other war potential. However, the exigencies of the Korean War lead the United States to reconsider this policy. MacArthur then commanded for the development of a 75,000 police force and to defend the islands. Later in 1951, Japan allowed forces from the United States to enter Japanese territory in order to provide aid to further supplement their defence capacities. Finally, in 1954 the establishment of the Japanese Self-Defence Forces regained control of their army.

While dealing with the post conflict, Japan did not exclusively focus on disarming. Many other aspects had to be dealt with in order to re-establish Japan as a strong nation. For instance, war criminals were sent (mostly) to the International Military Tribunal for the Far

East in Ichigaya. Many of these criminals were eventually condemned although many others were granted immunity from criminal charges. One of the main factors that aided the trial process was the willingness of high officials to collaborate with files and evidence that would prove the innocence or guilt of accused characters. The establishment of legal served to exemplify to the Japanese people how justice was being established.

In addition to the war-trial process, Japan also received aid to regrow economically. The nation focused in building roads and reconstructing its large cities by improving infrastructure and investing in the farming industry. They also expanded their income by creating thermal and nuclear power plants. In 1970, Japan hosted the Expo 70, which was a world fair with the theme "Progress and Harmony for Mankind. Holding the Expo 70 also aided the Japanese economy. By the time the Cold War had arrived, Japan was already a strong nation economically and therefore held international relevance. The quick Japanese development was yet another factor that leads historians to believe this is one of the best cases of a transition from war to peace.

Political critics often argue that the Japanese recovery happened due to the imposition of ideologies and systems of the United States in Japanese territory, the nation experienced an incredibly efficient transition. Although it cannot be denied that the U.S.A. had a large impact during the time of the occupation, Japan has slowly adapted the systems given to them to those that work best for their own country. Japan has now slowly began to adjust their constitution and currently in Japanese politics this constitution is being called for revision in order to allow Japanese military to participate in peace-keeping missions at an international level. Japan is now in absolute self-determination and has a solid base to continue in such manner.

## Kosovo

The conflict in Kosovo has been one to draw plenty of international attention for how to deal with post war justice, due to its more contemporary situation and complications with exactly who to bring to justice.

This region initially went into armed conflict in 1998 as a consequence of the invasion of Serbian forces and the following armed uprisings in Albania in Spring 1997. Soon after, a group known as the Kosovo Liberation Army (KLA) practiced a major guerrilla offensive and obtained control of a third of Kosovo only a few months after the initial uprising.

The KLA was formed in 1991 and initiated its first campaign in 1995 when it launched attacks targeting Serbian law enforcement in Kosovo. It was regarded by the United States,

the United Kingdom and France as a terrorist group until 1998, when it was de-listed without explanation. After attempts at a diplomatic solution failed, NATO intervened billing the campaign in Kosovo as a "humanitarian war", while Yugoslav forces continued to commit atrocities during the two month-long aerial bombardment of Yugoslavia. In 2001 a United Nations court found that although there had been a "a systematic campaign of terror, including murders, rapes, arsons and severe maltreatments", Serb troops had not committed genocide in the region, because the intent was to remove rather than eradicate the Albanian population. Many interested parties and scholars still maintain that the methods used to remove Kosovans from Yugoslavia were inhumane and deserving of justice.

The war ended in the Kumanovo Treaty, with Yugoslav forces agreeing to withdraw from Kosovo to make way for an international presence. The Kosovo Liberation Army disbanded soon after this. The conflict was at the centre of news headlines for months, and gained major coverage and attention from the international community and media. The NATO bombing and surrounding events have remained controversial.

Following the war itself, NATO called for a restoration of Kosovo's autonomy and respect for civil rights. In this situation, the international community set up two massive reconstruction efforts covering a variety of methods - from rebuilding infrastructure, to encouraging economic growth, to refugee return, to prosecuting war criminals. However, to many, this appeared insufficient.

The impact of the crisis still evident today is that Kosovo lacks international aid. Although the patrols from nations such as the United States still supervise and secure the area, there is little to be said about the current development of the nation. The lack of infrastructure in the country and the underdevelopment prohibits the nation from becoming economically sustainable. As the European powers progress in their economies, Kosovo still has a long way to go. The ongoing conflict also left Kosovian education at a dreadful state, and now that there is no war in the area the youth of the nation seeks ways to obtain education in order to further develop their nation.

The transition from war to peace in Kosovo is an ideal example to consider the current methods that are being taken by the United Nations and by the international community to establish Justice after war.



## Major Parties Involved and Their Views

### The United Nations office for Disarmament Affairs

The United Nations office for disarmament affairs (UNODA) seeks to minimize all weapons, whether massively destructive (such as nuclear bombs and biological or chemical weapons) or conventional (such as sea and land mines, small arms, missiles). Moreover the UNODA's mission includes "nuclear disarmament and non-proliferation", "strengthening of the disarmament regimes in respect to other weapons of mass destruction, and chemical and biological weapons" and to make "disarmament efforts in the area of conventional weapons, especially landmines and small arms, which are the weapons of choice in contemporary conflicts".

The UNODA is one of the United Nations organ's to work closest to the Disarmament and International Security Committee (GA1). Their missions and visions are quite similar. The UNODA is an appropriate organ to supervise and attempt for a minimization of weapons. In the post war context, the UNODA would contribute to an effective transition from war to peace by providing substantive and organizational support for norm-setting in the area of disarmament. This can be done by the foster of multilateral disarmament.

It is essential to note that the UNODA is among the very few UN organs that includes the concept of jus post bellum in their mission statement. The mission statement finalizes claiming: "UNODA supports the development and implementation of practical disarmament measures after a conflict, such as disarming and demobilizing former combatants and helping them to reintegrate in civil society."

### The UN department of peacekeeping operations

The United Nations department of peacekeeping operations (DPKO) has international security as their primary goal and works directly with the United Nations Security Council. The DPKO has four main offices that have all directly worked with cases regarding justice after war. Amongst these four offices there is a Main Office that aims to provide "provide political and strategic policy and operational guidance and support to the missions". The second office concerns Rule of Law and Security and it entails "justice and corrections, mine action, the disarmament, demobilization and reintegration of ex-combatants and **security sector reform**". The third office is the Office of Military Affairs which enhances the capacities of military peacekeeping missions. Lastly, the Policy Evaluation and Training Division



“provides an integrated capacity to develop and disseminate policy and doctrine; to develop, coordinate and deliver standardized training; to evaluate mission progress towards mandate implementation; and to develop policies and operational frameworks for strategic cooperation with various UN and external partners”. All of these offices can provide aid for a peaceful transition from conflict to peace and should be taken into account when searching to solve the issue.

### **International Court of Criminals**

The International Court of Criminals (ICC) is an independent organ from the United Nations. Although the ICC’s mission has little to do with transitions from war time to peace time, the ICC trials individuals that are often accused of war-crimes and therefore, should be considered an aid for nations to establish fair trails for war criminals.

## **UN involvement, Relevant Resolutions, Treaties and Events**

With ‘jus post belum’ being such a neglected topic in the United Nations, no resolution has been released to provide specific international guidelines on the transition of war to peace. Although many resolutions appear during a post-conflict, none has appeared to discuss justice after war as a whole.

### **Possible Solutions**

In order to develop effective solutions, delegates will have to research what their nation’s moral-ethical stance is on the matter. In the case of nations that currently face conflict, the delegate should be aware of what needs such nation might have after the conflict (economical, political and social but mostly military). These delegates should also consider which actions presented by the U.N., would the governors of the nation disagree with. In the case of delegates not in conflict, they should lie with their allies. Lastly, in the case of large, developed nations, delegates must consider what their nations would be willing to do for the reconstruction of other nations. Information about international debts, loans, borders and trade can be crucial to define where a nation stands on the matter.

First delegates should propose certain guidelines for any nation emerging from conflict. These guidelines should balance the idea of being applicable for a large pool of cases and being effective. They should include dealing with war crimes, economic growth, disarmament, and other transitional factors.



Considering that the topic is being discussed as a whole and not just regarding specific conflict, nations are encouraged to approach the issue from an overall perspective, without disregarding their nation's interest and policies.

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## Appendix

### I. Gary J. Bass. "Jus Post Bellum"

In this extract, Bass elaborates on the several kinds of approaches that can be taken in order to understand the concept of "jus post bellum". The author constantly uses examples from many different regions, which can aid delegates during their research. The analysis is very in depth and presents the moral dilemmas that politicians must consider to take a stance in the matter.

<http://www.princeton.edu/~gjbass/docs/juspost.pdf>

