

Wars over Wildlife: Green Militarisation and Just War Theory

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Abstract

Militarisation of conservation (sometimes known as ‘green militarisation’) is an issue of growing international interest. Rhino horn is immensely valuable (in 2013 its value exceeded that of gold or cocaine), and its illegal trade has attracted widespread attention. Conservationists have declared a ‘war’ on poaching, with extensive military resources deployed to combat it. This sometimes includes operations which are referred to, particularly in the media, as ‘shoot-to-kill’. These can be tantamount to extra-judicial killings. We scrutinise this issue using ‘Just War’ principles, to explore whether the ‘war’ on poaching meets the criteria expected of armed conflict. Our perspective suggests that it fails both ethical and pragmatic examination. This piece encourages conservation scientists, and the public, to consider which actions are justified in protecting wildlife, and how we should rethink conservation policy to achieve ethical, successful outcomes for both people and wildlife.

Keywords: conservation, green militarisation, anti-poaching, Just War, rhino

LETHAL FORCE IN CONSERVATION

Using lethal force to protect wildlife from poachers is an extreme example of conservation action. Shooting suspected poachers has been particularly prevalent in Africa, and is reportedly a ‘de facto’ policy in Malawi, the Democratic Republic of the Congo and Uganda (Duffy 2010). In Botswana, shooting has previously been sanctioned in defence of people or wildlife (Somerville 2018). There is no official policy in South Africa (Annecke and Masubelele 2016), and the

head of special operations for Kruger National Park denies operating a shoot-on-sight policy (Hübschle 2017). Yet there is considerable evidence of its practice on the ground. Between 2011 and 2016, at least 150 to 200 *suspected* poachers were killed in South Africa’s Kruger Park alone (Shaw and Rademeyer 2016). On March 15, 2020, it was reported by KwaZulu-Natal Environmental Affairs officials that two suspected rhino poachers had been killed in a shootout at the Hluhluwe-Imfolozi Park (news24 2020). On March 11, 2020, the Botswana Defence Force (BDF) disclosed that one BDF soldier and a suspected poacher had been killed during anti-poaching operations on Chief’s Island in the Okavango Delta (Africa Sustainable Conservation News 2020). People may be tried, convicted or killed as a result merely of their presence in parks (Duffy 2010). Shooting poachers is not confined to Africa: in India’s Kaziranga Park rangers report being ‘fully ordered’ to shoot poachers on sight: 50 poachers were reportedly killed between 2014 and 2017 to protect the park’s one-horned rhinoceros (*Rhinoceros unicornis*).

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These policies, operating in a legal grey area, continue what has been described as ‘a normalisation of deadly violence against humans in...parks in defence of biodiversity’ (Neumann 2004). Some poachers may, as is frequently reported, be part of organised criminal networks involved in the illegal wildlife trade. But many aspire only to generate income in the face of severe poverty (and are often exploited by criminal networks) - there are reliable accounts of hungry villagers in search of small game being shot when found with bows and arrows (Neumann 2004). The extent of such killing is unknown: there is little transparency concerning the circumstances of poacher deaths, and due legal process is often conspicuously absent (Shaw and Rademeyer 2016).

Shooting poachers is part of the ‘green militarisation’ of conservation (Duffy et al. 2015; Lunstrum 2014). Official armed forces of, for example, Botswana and South Africa are directly active in conservation (Lunstrum 2014). Many African governments provide Park rangers with rigorous militarised training and lethal weapons, and armies from other countries (e.g., the UK) often provide military training to park staff¹. Shooting suspected poachers can also occur outside government agencies, on private land. Because of multiple threats, including insurgency and poaching, some wildlife landowners are turning to the use of armed, military-trained personnel who nominally operate as ‘police reservists’, and who technically could use lethal force.

These activities are part of a growing rhetoric that portrays anti-poaching as a ‘war’ rather than merely a civilian law enforcement issue. Indeed, an analysis of Botswana’s anti-poaching strategy ‘provide[s] justifications for classifying anti-poaching efforts as war’, and states ‘We believe parks are war zones and that rules and principles of war ought to be implemented’ (Mogomotsi and Madigele 2017). Regarding the recent Chief’s Island incident, the Commander of the Botswana Defence Force said it ‘clearly indicates that poachers continue to declare war on members of the Botswana Defence Force’. Militarisation is particularly conspicuous in conservation policy in South Africa where poachers may be armed foreign nationals, leading some conservation officials to frame the issue in terms of national security (Lunstrum 2014). A wide range of conservation NGOs and national governments have called for stronger armed responses to poaching (Duffy et al. 2015), and international conservation organisations have gone so far as to openly publicise their support for lethal force (Duffy 2010). Public support for this is inflamed by anthropomorphic accounts of animal deaths in the media (Neumann 2004).

‘JUST WAR’ IN CONSERVATION

Can the Just War Framework be Used to Scrutinise the Militarisation of Conservation?

It is clear that the ‘war’ on poaching is more than a metaphor, such as is often invoked in the ‘war’ on cancer, or on drug use, for example. If we take this rhetoric seriously, how can we decide if acts carried out in the prosecution of that

war can be justified? The doctrine of ‘Just War’ provides a long-established framework for making ethical judgements of this kind. While it is sometimes assumed to be limited to the analysis of state-on-state conflicts, the moral reasoning it represents is more broadly applicable than this, and comprises ‘a very useful set of criteria that can be applied in a much broader set of contexts than might initially be imagined’ (Whetham 2016a). For example, its principles have been applied to non-state-on-state conflict such as assessing when humanitarian intervention might be justified (Elshtain 2001) or responses to cyber-attacks on national infrastructure (Lucas 2017). It is particularly helpful for structuring decision-making in a situation where one is seeking to do something that is, under normal circumstances, prohibited, e.g., deliberately cause harm to others (Whetham 2016a). Given that anti-poaching has been described specifically as a ‘a ‘Just War’ that legitimises shoot-on-sight policies’ (Mogomotsi and Madigele 2017), it may be instructive to scrutinise these policies against this background. The taking of human life without due process is after all the ultimate human rights violation (Annecke and Masubelele 2016). None of the countries alleged to operate a shoot-on-sight policy currently have the death penalty for poaching, so suspected poachers often face a far higher penalty than those that are convicted.

Focusing on rhino poaching in South Africa as a case-history, we ask if the use of lethal force by park rangers adheres to Just War principles. While the western branch of the Just War Tradition has its roots in Graeco-Roman values, it is neither an exclusively western nor a religious phenomenon: its core principles can be found across diverse cultural backgrounds (Whetham 2016a). We follow the Tradition as set out by Guthrie and Quinlan (2007), where the principles of authority, cause and proportionality are particularly relevant. In brief, the Tradition demands that actions that can cause harm to others, i.e., going to war, can be undertaken only if there is a compelling, morally justifiable reason – a just cause, that they are undertaken with the right intentions, authorised by those who have the legitimacy to sanction the suspension of the normal rules prohibiting this kind of action, that the harms that the action may produce in both the short and long term are proportional to the injury that has been suffered, that there is a reasonable prospect for success, and that there are not alternative options that may do less harm and still produce results, i.e., war is a genuine last resort. Each of these criteria, and how they should be applied in contemporary affairs, is hotly debated by Just War scholars. For example, can a non-lethal cyber-attack count as a just cause? How ‘pure’ must one’s intentions be – are you prohibited from acting if there may be an additional benefit to taking action? What counts as a legitimate authority in the messy reality of intra-societal conflicts and civil wars? What harms should be legitimately taken into account, and for how long? What does success look like when involved in a long-running counter terrorist campaign? Finally, what does the moment of last resort look like when faced with a potential genocide? The Just War Tradition has been critiqued on various levels (e.g., McMahan 2009). However, none of

its critics have, as yet, managed to successfully replace it as a normative framework for thinking about the rights and wrongs of when conflict can be justified.

Just War considerations do not relate only to whether war is justified, but also encompass conduct within war. There are two broad sets of principles which should be taken into account: *ad bellum* principles, which should be examined *before* engaging in war, to determine whether that engagement is just, and certain *in bello* principles, which are concerned with permissible action in the conduct of a war. For example, under the latter, one should be discriminating to ensure that any harm to innocent parties is limited, and any harm must be proportionate to the aim that is being legitimately pursued. There are also methods of conducting war that are considered *malum in se* - evil in themselves – and can therefore never be employed regardless of what is at stake. Just as with the *ad bellum* principles, there is contemporary debate as to how to apply the *in bello* concerns in modern warfare. For example, how should one think about proportionality when employing a non-kinetic weapon such as a cyber-attack? Or, who should receive the protections afforded to non-combatants in an environment where combatant functions are fluid and people carry out many roles, combat being only a minor and very secondary one? While historically it might have been relatively easy to say that poisoned weapons were considered to be *malum in se* (evil in themselves), what types of new technology fall into this category today?

Some see these ongoing debates concerning application of the Tradition's principles as demonstrating that it is no longer fit for purpose in the 21st century. However, those debates both at the *ad bellum* and *in bello* levels of war are precisely what makes the Just War a Tradition rather than a theory – a fact that is often lost on those who see it as something static or fixed (Whetham 2016a). It represents a 'fund of practical moral wisdom' that has evolved over time to reflect the changing character of war (Johnson 1984: 15). It is important that the Just War criteria should not be considered as simply a checklist, but rather as a number of overlapping considerations that should be taken into account. The less convincing the answers are to the questions posed by the Tradition when taken overall, or if one particular area represents obvious or profound problems, the harder it is to claim legitimacy for one's actions (Whetham 2016b). The principles overlap in the sense that a judgment on one principle may depend on how another is judged – for example whether declaring a 'war' is proportionate for achieving the desired goal is related to the amount of harm that will be necessary to inflict to achieve that goal (proportionate force).

Lethal force in Conservation and the Principles of Just War

Is the protection of charismatic megafauna and ecosystems a *just cause*? Given the instrumental value of the environment to human life, and the intrinsic value of individual megafauna, the principle of 'just cause' might be legitimately applied.

Whether a conflict meets the conditions to be considered a Just War also depends on right or *legitimate authority*. It is not material that either the agent causing or responding to the harm may not be a nation state – the classical origins of Just War theory long predate the system of nation states we are familiar with today (Whetham 2016b). In the case study of South Africa and anti-poaching to protect rhinos, the army's participation requires government approval, so the condition of 'right authority' is defensible (although in other cases, such as private militias, meeting the criterion of right authority is less clear). The South African government's approval is informed by input from conservation professionals, so it also fulfils the criteria of '*right intention*', provided the stated aim is the one motivating the action. However, there also has to be a public declaration of 'war', which is important in signalling to the hostile agent what is required of them to stop the actions described in the declaration (Whetham 2016a). While there is ample publicity surrounding deaths of poachers in South Africa via conventional media, no clear statement of any policy has been made by those who are *directly* responsible for it, and it does not seem to have been made in such a way that the protagonists involved (the poachers) are acting in full knowledge of the consequences of their actions. The personal observations of one of us suggests that on the Mozambique – South Africa border Mozambican poaching syndicates have little-to-no awareness of any rules of engagement and the treatment they could be subjected to by anti-poaching personnel.

The principle of *proportionality* introduces further morally challenging issues concerning the degree of force used. It requires that the good secured by the action outweighs the evil in gaining it, an explicitly utilitarian judgement of the relative costs and benefits. The acknowledgment that a war is in progress changes the rules and permits states (or other actors) to do things they would not otherwise be permitted to do – to restrict liberties, curtail rights, and ultimately, even use lethal force. Is a war against poaching justified as a proportional response to the injury suffered? Some argue that conservation gains *could* justify such a change of status: Messer (2010) holds that 'future non-use benefits to large numbers of people worldwide, while individually small, when aggregated are likely greater than large individual costs [poacher deaths]'. Many will find such a verdict morally disquieting, if not indefensible, and this is far from secure.

Even if the principle of proportionality were to be defensible, that is a necessary but not sufficient condition. According to 'Just War' criteria, the action also has to have a reasonable chance of success (violence without likely gain being impermissible), and should follow exhaustion of alternative methods, i.e., last resort (Guthrie and Quinlan 2007). One recent study of armed rangers and poachers in South Africa failed to find any evidence for a deterrent effect (Barichievy et al. 2017), although it is possible such deterrence may be achieved elsewhere. However, even if there is a short-term impact, the long-term effectiveness of shoot-on-sight policies is questionable, and such heavy-handed tactics are particularly

likely to fail where sustainable conservation depends on the support of already disenfranchised local communities (Anneck and Masubelele 2016; Duffy et al. 2015).

If a war on poaching can be justified at the *ad bellum* level, what would that actually permit at the *in bello* level against poachers themselves? Could lethal force always be justified? Would poachers simply be treated as combatants and therefore be targetable at any time, regardless of what they were doing? Or would discrimination require that they only be treated as combatants when they were in the act of conducting illegal activities? A key argument justifying the use of lethal force against poachers has been that they may be ‘heavily armed’, a phrase frequently used in press accounts of poaching, such that self-defence legitimises shooting. Self-defence is widely accepted to be a legitimate reason for taking human life, but only if no other means of defence is available. While many park rangers have been killed by poachers worldwide, and many continue to risk their lives to defend wildlife, self-defence cannot be a general justification for a policy of shooting on sight, especially where a poacher poses no lethal threat at the time they are shot. The personal observations of one of us suggest that it is not unusual for rangers (who are often heavily armed) to shoot dead suspected rhino poachers who may be equipped with far more limited weaponry presenting little or no immediate threat to the life of the rangers. While this is not always the case, shooting incidents are rarely reported in detail, making it almost impossible to judge whether the use of lethal force is ‘reasonable’ or proportional as judged objectively (that being a standard under internationally agreed codes of conduct for law enforcement; OHCHR 2020). If disproportionate force is used against suspected poachers, this would also suggest a clear breach of ‘Just War’ ethics.

CONCLUSION

Both ethically and pragmatically, examination of Just War principles support the conclusion that the use of the language and methods of war to tackle rhino poaching in South Africa cannot currently be justified. While as noted above, the Just War Tradition principles should not be seen as simply a checklist, it is clear that anyone seeking to claim that a war on poaching in South Africa is a legitimate response to the harm it poses will find it difficult to satisfy the normative requirements. We suspect the same conclusion would be drawn for many, if not most, other examples where shoot-on-sight policies prevail under the guise of a “war on poaching”.

This has real-world implications for modern conservation. Some commenters have gone so far as to argue that the narrative of the ‘war on poaching’ of rhinos in South Africa occurs within a political economy of racial inequality, where rhino poaching may be viewed as akin to an attack on white interests, and which therefore deserves violent responses (Buscher 2016). What is not arguable is that on social media, where much of the discussion around rhino poaching occurs, emotions run high. In these highly emotive exchanges (Buscher (2016) refers to ‘a politics of hysteria’), poachers are placed in a ‘space of

exception’ where they no longer are viewed as having a right to life or human protection (Buscher 2016; Lunstrum 2017). As human poachers are dehumanised, species like rhinos are embraced as part of the national identity (Lunstrum 2017). In these arenas, poaching incidents frequently provoke calls for extreme violence including torture of the poachers, against which shoot-to-kill policies even begin to appear relatively mild (Lunstrum 2017). The endorsement of shoot-on-sight policies is facilitated by this reduction of (often highly vulnerable) people to a dehumanised state, where killing no longer requires due process (Lunstrum 2017). This narrative has disturbing consequences: the authorities see that their constituents (the public) endorse pressure to use extreme violence against poachers, legitimising killing as part of green militarisation, and with killing of poachers receiving little critical attention or examination (Lunstrum 2017).

Our analysis demonstrates that the use of lethal force against poachers does not meet the criteria of a ‘just’ war. It highlights the need for a more considered and ethical approach to anti-poaching strategies and other forms of militarised conservation. In the long-term, conservation of rhinos and many other species will rely upon the engagement of local communities. Both the conservation narrative and action need to shift the emphasis from fighting a war towards building a peace. Suspected poachers should be treated with the same due process, care and consideration as any other human suspected of law-breaking, and certainly with at least as much care even as an iconic, threatened and nationally-valued animal such as the rhino.

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NOTE

1 <https://www.bbc.co.uk/news/newsbeat-45113932>

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