Just War in the Twenty-First Century:
Nonviolence, *Post Bellum* Justice, and R2P

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In the last two years, as we have learned of the Russian hacking of the U.S. presidential elections, Americans have had new reason to understand the truth of Clausewitz's maxim that war is the continuation of politics by other means. Without firing a shot, the Russians have disrupted American electoral processes, threatening to undermine the constitutional character of the American republic. Cyber-warfare has suddenly become very real.[1] We have also learned that American security is threatened not only by other states but also by the mega-corporations that provide our online platforms and digital technology. Indeed, we have only begun to see the potential for disruption and destruction that cyberwarfare can create.[2]

War is taking on different faces. Although forms of coercive diplomacy, such as sanctions, applied as an alternative to armed force, reduce the immediate physical damage adversaries can do to one another, they can do long-term harm to the health and longevity of large populations and they impede the ordinary conduct of civilian life.[3] So-called "hybrid wars," where military objectives are attained by shadowy means short of outright war or through non-state actor proxies, have become common.[4] All take place outside the normal field of armed combat and tax our assumptions about war as a norm-governed activity. All these trends will require close ethical evaluation, even though they are designed and executed in ways that defy regulation.

In these reflections on the future of just war, I want, however, to approach three different issues that have emerged from the past thirty years of conflict and that require further examination and refinement. They are: (1) implications of the tradition and practice of nonviolence for the just war tradition; (2) two issues in the *jus post bellum* (the morality of concluding war and armed conflict), namely, the duty of reconstruction and the place of forgiveness in securing a just peace; and finally, (3) the Responsibility to Protect (R2P), a field where just peacemaking and just war intersect and can be mutually supporting.

These topics are on the frontiers of just-war thinking where they touch on the avoidance of war, peacemaking, and the mixed terrain of R2P. My intention in proposing them is to encourage the development of just-war thinking at the growing edges that conform to the basic purpose of the just war tradition to prevent and limit war. In some cases, especially nonviolence and forgiveness, they are far from the habitual concerns of just-war analysts. If by the end of these reflections the reader is not persuaded, as I am, that these developments need to be integrated with just-war thinking, I hope, at least, to have established a base-line for others to pursue further inquiries.

I. The Nonviolence-Just War Nexus[5]

Just-war thinkers tend to ignore nonviolence and the related just-peace theory as versions of pacifism. Yet while many advocates of nonviolence may lean toward pacifism, not all do. The recent passing of Gene Sharp ought to remind readers that nonviolence also has a proven practical side which has helped effect significant peaceful change in a many conflicted societies and prevented civil contestation from collapsing into armed conflict.[6] Likewise, the growth of conflict resolution/transformation and peace studies as independent and accepted fields of study and training suggest that not everything of relevance to conflict may be found in the military field. Similarly, the rise of forgiveness and reconciliation commissions suggests that we have tools other than military peacekeepers for establishing a durable peace.[7]

Catholic teaching on just war also has formally recognized the role of nonviolence, and *a fortiori* just peace, in the avoidance of war.[8] Pope Francis, in his 2017 World Day of Peace Message, "Nonviolence: A Style of Politics for Peace," underscored the complementarity of nonviolence and just war in the practical moral work of preventing and limiting violent conflict. He wrote, "Peacebuilding through active nonviolence is the natural and necessary complement to the Church's continuing efforts to limit the use of force by the application of moral norms."[9] "Application of moral norms," of course, refers to the applied use of the just war.[10] Even more than nonviolence, just peacemaking originated in the hope of moving beyond passive resistance and nonviolent direct action to constructive approaches to the prevention of war.[11] As John Howard Yoder argued in *When War Is Unjust* and the U.S. bishops echoed in *The Harvest of Justice Is Sown in Peace*, nonviolence and just peace "raise the threshold for last resort."[12] As Yoder wrote in the first edition of *When War Is Unjust*:

If there are more nonviolent resources available than people have thought about […] then the conclusion is unavoidable that the notion of last resort—one of the classical criteria of the [just war] tradition—must exercise more restraint than it did before.[13]

The U.S. bishops, for their part in 1993, described last resort in a particularly stringent way: "[F]orce may be used only after all peaceful alternatives have been seriously tried and exhausted."[14]

Beyond judging last resort, nonviolence and just peacemaking have still wider implications for just-war analysis: they provide tools for helping peace take hold in post-conflict situations, in evaluation of reconstruction (nation-building) efforts, and in assessing the balance between nonviolent civilian peacemaking and military peace enforcement in international policies.[15] With so much new information, so many activities underway, and so many institutions now engaged in the nonviolent peacebuilding, just-war analysts can no longer afford to ignore nonviolence in their theorizing and in their analysis of situations of conflict.[16] As the U.S. bishops wrote in 1993:

Such obligations [to seriously utilize nonviolent practices before going to war] do not detract from a state's right and duty to defend against aggression as a last resort. They do, however, *raise the threshold for the recourse to force* by establishing institutions that promote nonviolent solutions of disputes and nurturing political commitment to such efforts. In some future conflicts, strikes and people power could be more effective than guns and bullets.[17]

In short, the development of nonviolent techniques, along with the institutions and trained personnel to employ them, makes it incumbent on just-war analysts to include them in their *ad bellum* calculations, as Yoder insisted, if these calculations are to be credible.

> **Recommendation no. 1:** *Nonviolence and even more just peace should be integrated routinely into just-war assessments, particularly with respect to measuring whether the criterion of last resort has been satisfied. (They should also*

be applied to issues of jus post bellum, *particularly to assessing whether sufficient resources have been allocated to upholding the civilian dimensions of just peace.)*

Excursus: Just War as a Social System

The emergent reality of nonviolent activists, conflict-resolution specialists, institutions, and practices suggests another turn is necessary among just-war thinkers: namely, to cease treating just war as an academic or legal theory only, but rather as a social system. Ideas and norms are essential in social systems, but social systems include much more, such as institutions, practices, and trained persons whose duty it is to realize the norms underlying the system. It is not just academic philosophers and theologians, or even law-school professors, who are concerned with the ethics of war and peace. It is military personnel who are liable to indictment for violation of the laws of war, the JAG officers who may prosecute them or advise commanders and policymakers on tactics, officers who may sit on courts martial, human rights lawyers who may investigate crimes, prosecutors and judges in international war crimes tribunals, and bishops, clergy, and moral theologians involved in conscience formation. They are all part of a social system dedicated to applying, enforcing, transmitting, and improving just war as a form of practical, i.e., moral, knowledge governing one of the most important aspects of social and political life.

Unlike aesthetics, logic, or the philosophy of mathematics, just-war thinking influences and shapes life beyond the academy. It has life and death consequences. Its applications and interpretations affect foreign military policy, domestic policing, and the accountability of officials entrusted with power over life and death. It should not be taught, learned, and developed in an ivory tower, isolated from outside influences. Just war analysts must work with the consciousness of the social and political significance of their work, and conversely, they must be alert to developments in the operational side of the field: in military manuals, prosecutions, treaties, evolving human rights concerns, Church teaching, the proceedings of tribunals and the development of nonviolent techniques of conflict transformation.

Thinking of just war as a social system partakes of the Web model of which Anne-Marie Slaughter writes in *The Chessboard and the Web*.[18] At the same time, while the "punctual" or snapshot analysis of individual acts will continue to have its place in the ethics of armed conflict, just-war thinking will have to evolve to examine the ethics of trends, processes, and policymaking in a complex, dynamic web of relations. Consider, for example, Wikileaks: what began as an

apparent work of rogue hackers has turned out to have been an exercise in covert hybrid war and political de-stabilization. Or again, think of the Arab Spring: a popular movement with trans-national links that began with an individual dissident, it was deliberately exploited by networked Tunisian and Egyptian activists, resulting in unpredictable and differentiated political change across an entire region. It is not just policymaking, as Slaughter proposes, that needs to be carried out in terms of deep connections, but ethics as well. Otherwise, ethics will fail to present the guidance that policymakers and the military look for it to give.

> **Recommendation no. 2:** *In defining issues and elaborating just-war ethics, analysts should not treat states and militaries as their sole concern, but treat conflict as an issue in a social system with multiple actors and complex interactions in need of moral evaluation.*

II. *Ius Post-Bellum*: Ending Conflict Justly

Consideration of the *jus post bellum*, the morality of concluding armed conflict, arose with the ethno-religious wars in the break-up of the former Yugoslavia. While the principle of just settlement goes back to earlier reflection on the injustice of the penalties on Germany in the Versailles Treaty,[19] discussion of *institution-building*, *transitional justice*, and *forgiveness* has its roots in the resolution of the Rwandan genocide and the civil wars in the former Yugoslavia.[20] (Here I will not deal with transitional justice, but only with institution-building, because it has proved to be an underfunded and controversial goal, and with forgiveness, because its pertinence is too often ignored or rejected.)

R2P, a revolutionary concept in international theory, arose out of the same matrix of religio-ethnic conflict as the expanded thought on the *jus post bellum*,[21] but was soon applied elsewhere, notably in Timor-Leste. Despite African suspicions that it represented a new form of neo-colonialism, it was utilized or considered in many African conflicts, frequently through ECOWAS (the Economic Community of West African States) and the African Union.[22] Especially since the muddled R2P operation in Libya and the failure to apply R2P in Syria, its relevance has been questioned.[23] It has been also undermined by the collapse of the post-World War II liberal international order and blocked by rivalries among the Security Council's Permanent Five. Nonetheless, it continues to remain relevant, especially for ethnic and civil conflicts where the

great powers do not have conflicting interests. (The International Criminal Court, though flawed and weak, nonetheless continues to bring war criminals to judgment.[24])

There is also a long-term need to develop the normative elements of R2P in the interest of a more peaceful world order. There are a number of key points to make in this regard. (1) The rooting of sovereignty in security for *human persons, by reason of their human dignity and basic rights*, needs to be fortified as part of the international system. (2) The ethics of the use of force needs to focus more on the *positive preventative measures* that are the first leg of the R2P agenda. (3) Theorists need to accent the connection between *last resort and military enforcement measures*, too often confused, in the popular mind and even among experts, with the whole of R2P.

For the purpose of this essay, I will review newer elements of post-conflict justice: institution-building and forgiveness.[25] I will not address questions of just-settlement except to note that some issues—like no settlement of conquered territory, which has been tested by the decades-long Israeli-Palestinian conflict, and especially the rights of refugees from war, which has been a growing problem worldwide made especially grievous by the Syrian civil war—are frontline issues that need the world's attention.[26] Questions of nation-building continue to be on the international agenda. A donor meeting hosted by Kuwait in February, 2018, for the re-building of Iraq succeeded in raising only a small portion of the $88 billion goal.[27] At the same time, observers are beginning to wonder whether funding can be found to re-build Syria after its civil war and the international campaign against ISIS.[28] While the global consensus on nation-building that arose as a consequence of the Balkan wars of the 1990s is eroding under the weight of donor fatigue, imperial overstretch, and the corruption of recipient states, nation-building will remain a requisite of global governance for the foreseeable future. Without it, the world will become a less stable, hostile place where many millions of people will lack protection and basic rights, planting the seeds of more wars and expanded repression.

> **Recommendation no. 3:** *Just-war analysts should be looking at the places where post bellum justice is breaking down to identify pressing problems which need to be discussed in accounts of the just war. These problems include the rights of refugees and repetitive re-building in what have proved to be corrupt and faction-ridden states.*

Responsibility for Post-Conflict Institution-Building

Two historical developments led to the recent recognition of nation-building as a requirement of a just peace. The first was the break-up of the former Yugoslavia, where both re-construction, that is, physical re-building of infrastructure, and institution-building were seen as necessary for establishing conditions of a stable peace after a series of ethno-religious wars in a region where ethnic divisions still run deep. The second was the 2003 U.S. invasion of Iraq, a preventive "war of choice," in anticipation of which Secretary of State Colin Powell enunciated what he called the Pottery Barn Rule: "You break it, you own it," specifying U.S. responsibility as an invading power for rebuilding Iraq following the cessation of armed combat. Of course, the responsibility grew all the graver when it became known that the war was promoted on fabricated intelligence reports of which Powell was ignorant, and so for lack of a just cause. As "the war in Iraq" broadened to include new insurgencies, like al-Qaeda and the Islamic State, rivalries between the majority Shia and the minority Sunni over who controlled the post-Saddam state, and ethnic groups like the Kurds, assigning responsibility for rebuilding "when the smoke clears" became more difficult, with local actors coming to bear a greater share of the blame for the war. Moreover, Iraqi factions, including the government, came to bear a greater degree of responsibility because their in-fighting too had done considerable damage to the Iraqi state.

Confusion over assigning responsibility after fifteen years of war is one reason to expect the international community to take the lead in re-building. More important, at a time when the state, like Iraq, remains internally divided and regional rivalries keep the situation unstable, the affected population would seem to be better served by the international community as a whole than by either local competitors or by major international protagonists. This is a practical rule-of-thumb in zones of conflict.

International responsibility also makes sense, however, on *humanitarian grounds*. Over recent decades, the U.N., other international agencies, and non-governmental organizations have developed an extensive organizational capacity for addressing both humanitarian emergencies and post-conflict transitions. They have the expertise, the personnel, and organizations to assist victims of armed conflict. The principle of the R2P, moreover, makes clear that the primary justification of sovereignty is the protection of people. The International Commission on Intervention and State Sovereignty put it this way:

> State sovereignty implies responsibility, and the primary responsibility for the
> protection of its people lies with the state itself. Where a population is suffering
> serious harm, a result of internal war, insurgency, repression or state failure, and
> the state in question is unwilling or unable to halt or avert it, the principle of non-
> intervention yields to the international responsibility to protect.[29]

The principle affirms, Thomas Weiss writes, both that "domestic authorities are best placed to take steps to guarantee fundamental rights" and that, in the event of state failure or malfeasance, "a continuum of responsibility" is required for the sake of the people.[30]

Anticipating R2P by decades, beginning with John XXIII's 1963 *Pacem in terris*, Catholic Social Teaching has affirmed that "the establishment, safeguarding and defense of human rights" is the end of "public authority," i.e., government, at all levels.[31] Pope Benedict XVI, in his 2008 address to the General Assembly, offered this rationale:

> Recognition of the unity of the human family, and attention to the innate dignity of
> every man and woman, today find renewed emphasis in the principle of the
> responsibility to protect. This has only recently been defined, but it was already
> present implicitly at the origins of the United Nations, and is now increasingly
> characteristic of its activity.[32]

"The principle of 'responsibility to protect,'" Pope Benedict added, "was considered by the ancient *jus gentium* as the foundation of every action taken by those in government with regard to the governed."[33] The humanitarian justification of international responsibility is that the goal of all government is to uphold the rights and dignity of persons. While the state is the ordinary *locus* of this responsibility, in the event of state failure, responsibility falls to the international community as a whole, whether working through the United Nations or other multinational groups, like ECOWAS.

> **Recommendation no. 4:** *Just-war analysts should give greater attention to the*
> *justification and elaboration of international responsibility for* post bellum *justice,*
> *including institutional nation-building.*

The Responsibility of Perpetrators and Complicit Actors

The Pottery Barn Rule holds aggressors or initiating powers responsible for re-building after conflict. The U.S. responsibility for re-building in Iraq was essential after the 2003 invasion. While later on its full responsibility may have been somewhat attenuated by the other destructive actors (Iraqi factions, domestic and international jihadists, the corrupt and ethnocentric Iraqi governments), the U.S. still retains some responsibility for re-building when there is a reasonable prospect of success once corruption and factionalism have been curbed.

Ascertaining the degree of responsibility for an outside party after domestic corruption and factionalism have over time undermined earlier reconstruction efforts is a serious question in the Middle East both now and into the foreseeable future. The international order is in disarray, oscillating between the Morality of States based on the old Westphalian model and a new Cosmopolitan Morality of Human Rights and R2P.[34] There can be little prospect of a solution of duties to rebuild without a move away from resurgent nationalism. Reform of the U.N. Security Council is also critical, as the veto power of the P–5 has proven an obstacle to the implementation of R2P. Even then, as the case of Iraq demonstrates, corruption and factionalism are very difficult to overcome. In the meantime, the international community may have to satisfy itself with a mix of outcomes on the spectrum between elementary re-building of infrastructure (in the interest of basic rights of the people) without institution-building, on the one hand, and renewed states with fully developed institutions, on the other. Economic sanctions are likely to be counterproductive in hard-to-rebuild states, harming the populace and presenting new opportunities for corruption. Until satisfactory reform has been attained, backward, partially re-built states might be better spurred to reform by exclusion from or limited participation in international bodies and programs rather than economic sanctions.

Returning to the issue of responsibility of various actors, insofar as the U.S. has pursued its own interest in the suppression of ISIS, it bears direct responsibility for rebuilding towns like Raqqa which it leveled to the ground.[35] An argument might be made that U.S. duties to populations who were victims of its allies might not be as strong, but because they were allies in the U.S. war on ISIS, the U.S., arguably, still bears primary responsibility for those populations' reconstructions. As an ally of the Iraqi coalition that re-took Mosul from the Islamic state, the U.S. would also bear major responsibility for the re-building of that city.

For its part, Russia bears greater responsibility for reconstruction in Syria due to its backing of the inhumane military policies of the Assad regime and its own direct attacks on Syrian civilians. As a practical matter, however, reconstruction in Syria may be slow and scarce. Russia does not have the resources to meet the scale of the work to be done. The usual donor nations, moreover, may be especially reluctant to contribute to reconstruction in Syria as long as the Assad regime, which so savagely attacked its own people from the beginning to the end of the conflict, remains in place. In the absence of reconstruction, the international community should look seriously at third-country resettlement of Syrian refugees. Sadly, just as Syria was a failure of the enforcement pillar of R2P because it was never applied, it will likely be an example of the failure of the R2P reconstruction pillar, too.

> **Recommendation no. 5.** *Against the background of today's complex wars, the responsibility of aggressors and their allies, especially superpowers, demands careful study, analysis, and publicity as an essential element in political accountability.*

> **Recommendation no. 6.** *Recent history urges studies of the impact of corruption and factionalism in recovering states on (repeat) obligations to re-build.*

The Place of Forgiveness

An overlooked factor in bringing justice after conflicts, especially inter-ethnic and interreligious ones, is the need for forgiveness between the former adversaries. Following 9/11, Pope John Paul II brought the hard-won wisdom of the Balkan wars of independence to the U.S. pursuit of al-Qaeda and the Taliban in Afghanistan. The pope acknowledged a state's right to defend its people against global terrorism. He went on, however, to argue that there is "no justice without forgiveness."[36] John Paul had exercised a personal ministry of apology and forgiveness, writing numerous letters of apology to groups the Church had offended over the centuries, from the victims of the Crusades, to Protestant Reformers, Jews, Rwandans, and black victim of racism.[37] John Paul's ministry of apology and forgiveness culminated in a Service of Pardon at Saint Peter's on the first Sunday of Lent, 2000, in which the pope and his curial cardinals asked God's pardon for the sins of churchmen over the past millennium. So, he was personally engaged when he wrote,

"My ministry at the service of the Gospel obliges me, and at the same time gives me the strength, to insist upon the necessity of forgiveness. I do so again today in the hope of stirring serious and mature thinking on this theme, with a view to *a far-reaching resurgence of the human spirit in individual hearts and in relations between the peoples of the world.*"[38]

John Paul had tutored Poland's Solidarity Labor Movement in nonviolence, twice negotiated with Soviet presidents to prevent military repression of dissident movements in Eastern Europe, and after the fall of Communism in Eastern Europe declared that the great lesson of the East European Revolutions of 1989 was the resilient strength of nonviolent resisters.[39] It was not surprising, then, that he would see forgiveness as a necessary remedy in "situations of conflict which endlessly feed deep and divisive hatreds and a seemingly unstoppable sequence of personal and collective tragedies."[40] That observation pertained to the Israeli-Palestinian conflict in the wake of the bloody suppression of the Second *Intifada* (2000–2005),[41] but he could have equally been writing of the Balkans or central Africa where "deep and divisive hatreds" had led to cycles of revenge marking the previous ten years.[42] John Paul reasoned that, where the pursuit of justice would otherwise fall into a contest of conflicting rights claims, "a will to let justice and reconciliation prevail" allows the parties "to transcend themselves."[43]

Another churchman made a similar argument. Archbishop Desmond Tutu was the chairman of South Africa's Truth and Reconciliation Commission. His book *No Future without Forgiveness* is an account of the commission's work and an "apology" for forgiveness as a practice of peace-making.[44] The commission attempted, and to a considerable degree achieved, national reconciliation in South Africa after forty-five years of formalized Apartheid and thirty-odd years of protest, repression, and guerrilla war.[45] The commission paved the way for a post-racialist society, and over the next two decades became a model for truth and reconciliation commissions elsewhere. It represented a break with the retributive justice model set fifty years before by the Nuremberg trials in the direction, instead, of restorative justice.[46] Some forty truth commissions were conducted beginning in 1974; of these, some thirty have taken place from 1990 to the present.[47]

Before the South Africa and then post-conflict peacebuilding in the Balkans, there had been only a few instances of forgiveness in international politics. Forgiveness was regarded as a private and essentially religious act, with no public implications. Donald W. Shriver, Jr., attributed this to the thousand-year "sacramental captivity of forgiveness" in the Western world where forgiveness

was a private act confined to the confessional.[48] It was compounded by Enlightenment individualism, which influenced both European and American societies.[49] The United States has had particular difficulty with forgiveness and public apology, as Shriver shows with analyses of the ups and downs of formal reconciliation efforts between the U.S. and Germany, the U.S. and Japan, and the legacy of domestic slavery.[50]

One group that has been skeptical of the forgiveness and reconciliation approach to post-conflict post-building is jurists, especially those committed to transitional justice as central to *post bellum* peacemaking.[51] These more legalistic jurists regard forgiveness and reconciliation, also called the Restorative Justice approach, as a heresy to their legalist conviction on the need for juridical accountability and retributive justice.[52] By contrast, restorative justice approaches including forgiveness have greater appeal to those in religious communities.[53] But the field is complex, populated by religious legalists and legal restorers and legal as well as religious capacity-builders.[54] "Religious traditions," as Daniel Philpott explains, "are generators, hosts, and sources of the distinct concepts of justice, mercy, and peace that reside in reconciliation."[55] They are particularly suited to addressing the primary and secondary wounds borne by the victims of war that formal, legal, and material remedies fail to address.[56]

Just-war analysts, depending on their philosophical and/or theological assumptions, may find themselves similarly divided (and co-mingled) in their stands on the inclusion of forgiveness in treatment of the *jus post bellum.* But there is already a partially achieved consensus on the inclusion of forgiveness and reconciliation as elements of the *jus post bellum*, so hope for further a broader consensus is well-founded. To date, progress has been made in understanding both the multiple overlaps between religious and secular post-conflict peace-builders[57] and the possibility of rendering religious insights on forgiveness in secular terms.[58]

Philpott makes the case for forgiveness in public life, arguing from the need for certain virtues and attitudes, like respect, reciprocity, and trust, to sustain liberal democracies to the further need for virtues and attitudes, like forgiveness, repentance, and harmony, to heal wounded societies and thereby sustain a stable peace.[59] As he writes:

> If it is legitimate for governments to cultivate the virtues, attitudes, judgments, and
> outlooks that sustain [liberal] political orders founded on human rights and if the
> transformations in judgment that […] practices [of reconciliation] bring about help

to cultivate these virtues, then these transformations [in judgment regarding forgiveness] are legitimately pursued.[60]

That is, if virtues, attitudes, and moral practices necessary for forgiveness support our liberal institutions, then those same virtues, attitudes, and moral practices may be justifiably cultivated in establishing the new relations between former enemies necessary for an enduring political peace. "If virtues are needed to sustain liberalism," Philpott contends, "then they will be all the more necessary to restore or construct liberalism in settings where citizens are divided, embittered, or disheartened on a large scale."[61]

Accordingly, while forgiveness and reconciliation may have their origins and natural home in religious communities, the overlap in convictions and methods of religious and secular peacebuilders and the adoption of post-conflict TRCs by dozens of countries help build a case that forgiveness and reconciliation ought to be included among the criteria of the *jus post bellum.*

> **Recommendation no. 7:** *In the future, especially as the complex conflicts in Afghanistan, Iraq, Syria, and elsewhere wind down, as the need for just-war analysts to elaborate and apply standards of post-conflict peacebuilding to assessment of reconstruction policies grows more apparent, forgiveness and reconciliation ought to be among the standards they employ.*

Just War in a Society of States

I have referred already to the Cosmopolitan Morality of Human Rights, as elaborated by Charles Beitz, as a model of international affairs that is suited to a world in which the protection of the rights of persons is the function of sovereignty. Cosmopolitan theories emphasize the primacy of persons. According to these theories, the organization of governance is ordered to the service of persons. States are secondary to persons. A related theory of international morality is that of a Society of States.[62] The "Society of States" model retains some features of the Westphalian realism of the state system.[63] It is the model expressed in R2P: states have the primary responsibility to uphold the rights of their persons, but in the case of failure to protect sovereignty devolves to the international community to supply what the state does not.[64]

According to the standard objection to cosmopolitan schemes of governance, given the lack of a world authority ("policeman") to enforce human rights globally, states must preserve the right to use armed force to do so.[65] By contrast, the Society of States model preserves the sovereignty of the nation-state conditionally and affirms the right of the international community to assume responsibility to protect a state's nationals when the state has failed to do so or is itself violating their rights on a wide scale. Since, under the U.N. Charter, states are permitted to use force for defensive purposes only, the authority to use armed force to protect the rights of foreign nations under R2P resides with the U.N. Security Council. In just-war terms the Security Council is the *legitimate authority*, "the world's policeman" as it were, with the warrant to authorize the use of force within the territory of a sovereign state for the purposes of preventing genocide and crimes against humanity and defending large populations under threat.

New Issues of Legitimate Authority

What about situations where the Security Council is divided or especially when decisive Council action is blocked by a P–5 veto? Prior to R2P, regional bodies, especially NATO, intervened first in Bosnia and later in Kosovo.[66] While the U.N. agencies and even peacekeepers were engaged in these disputes, at critical times military enforcement to protect civilians fell primarily to the neighboring regional defense organization.[67] Those interventions followed Pope John Paul II's view of humanitarian intervention. According to him, when serious efforts at prevention have failed and "populations are succumbing to the attacks of an unjust aggressor, States no longer have a 'right to indifference.' It seems clear that their duty is to disarm this aggressor, if all other means have proved ineffective."[68]

As a matter of practical politics, the work of intervention has fallen to coalitions of neighboring states, working through their collective security arms, such as NATO or ECOWAS. (The Australian-led intervention in Timor-Leste [1999–2000] took place under U.N. auspices with U.S. assistance.) The question remains: When the U.N. is blocked from acting, under what authority do states, whether collectively or individually, have the right to intervene in other states for humanitarian purposes?

The general logic was already set out by Thomas Aquinas in his treatment of sedition (*Summa theologiae* 2a IIae, q. 42, a. 2): "Those […] who defend the common good and withstand the seditious party are not themselves seditious." That is, those who are defending the good of citizens

against a failed or repressive state become the legitimate authority insofar as they hold to that purpose. For Aquinas, the *podestà* who ruled for his own profit, or that of his family or clique, was not a legitimate leader, and neither was the *maiores*, a ruling elite, when it ruled in its own interest rather than for the common good. In such cases, legitimacy devolved to others. By virtue of their crimes, *de facto* governments have ceded legitimacy to the people, Thomas asserted, "the assembly of those who are united together in fellowship recognized by law and [in defense of] the common good." The same pattern for the devolution of authority may be applied to the modern society of states. Along the same line, the International Commission on Intervention and State Sovereignty (ICISS) warned:

> [I]f [the Security Council] fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, concerned states may not rule out other means to meet the gravity and urgency of the situation […].[69]

The elements of an understanding of devolved sovereignty also can be found in modern Catholic social teaching's conception of political authority.[70] As Pope John XXIII wrote, "We must remember that of its very nature, *civil authority exists*, not to confine its peoples within the boundaries of their nations, but rather *to protect, above all else, the good of the entire human family*" (italics added).[71] John's teaching contains the fundamental premise, found in Aquinas, that all political authority exists for the sake of upholding the common good, understood today as the full enjoyment of human rights. The added entailment, however, is that, when domestic authorities fail, political authorities elsewhere have the responsibility to uphold the rights of their people which have been abused or denied. That, I believe, is how "responsibility of the common good of the entire human family" must be read. A similar notion underlies the international law principle of international jurisdiction.

Thus, John Paul II, writing before R2P when the notion of humanitarian intervention was still highly controversial, refers not to the United Nations, but to "States and the international community" as having a duty to intervene on humanitarian grounds.[72] The preference, as the U.S. bishops affirm, is for multilateral interventions "because they enhance the legitimacy of these actions and can protect against abuse."[73] Still, when others are unwilling and a state has the capacity to intervene "to disarm the aggressor," provided the other canons of just-war are satisfied,

that state possesses moral justification to intervene. (The other canons would include especially duties of right intention, particularly not to acquire territory and not to colonize the region, and probability of success, lest those already injured be still more afflicted.) While there is much reason to be suspicious of intervention by a single state, as a very last resort it may be considered. Experience has shown it can be quickly followed by international action to secure the peace.

While the U.N. Charter and R2P provide rationales for U.N. intervention (or authorization of intervention) for humanitarian purposes, we have only sketches of ethical justifications for interventions by states (or a state) acting independent of U.N. authorization or in the wake of the failure of other U.N. efforts at humanitarian rescue.[74] Therefore,

> **Recommendation no. 8:** *Since we may foresee numerous situations in which the absence of Security Council consensus will prevent intervention in the form of military enforcement of an R2P situation, just-war analysts should articulate the nature and limits of legitimate authority for such interventions, whether by a combination of states, working for the common good, or at the extreme by a single state doing so.*

The Just-War Canons as "Precautionary Principles"

Some just-war analysts may regard R2P suspiciously because it challenges the state-centric Westphalian world-model on which they have been working.[75] Contrariwise, some proponents of R2P are suspicious of just-war language, fearing it taints the neutral legal language of R2P with the religious roots of the just war tradition in Western Christianity or with the self-serving pronouncements with which hypocritical world powers have attempted to justify their own country's acts of aggressive war.[76]

As I have already argued, R2P is closely linked to the criterion of last resort. I have also indicated how R2P is related to the criterion of success and more broadly to the *jus post bellum.* Here I would like just briefly to comment on how the just war tradition serves the practice of R2P. Once a just cause has been ascertained[77] and the Security Council or other authority is weighing intervention, decision-makers are expected to weigh these other factors *ad interventionem,* with a view to deciding whether or not to intervene.

The "precautionary principles" identified by the ICISS are a four-point version of the just-war canons: (1) right intention, (2) last resort, (3) proportionality of means, and (4) prospects of success.[78] So, in exercising its authority in humanitarian rescue, the Security Council (or other authorities) need to apply these norms before and during the application of armed force. The canons, in other words, govern enforcement missions. They bar or open the way to intervention. While humanitarians can be "bullish" about armed humanitarian intervention, wanting to intervene promptly to prevent more death, political leaders, the military, and international civil servants tend to be more cautious about the resort to force, thereby tolerating increased mortality in the interest of limiting the number and expense of interventions as well as attaining consensus around the use of force.[79] Thus, the Precautionary Principles put restraints on the option to intervene. R2P also sets a higher standard for just cause: (1) large-scale loss of life, actual or foreseen, or (2) large-scale ethnic cleansing, actual or foreseen—higher standards than most activists would want, providing another brake on the humanitarian impulse to take up arms.[80]

In brief, the just-war canons are already integrated in the R2P system. Indeed, if just war is intended for the protection of the innocent, then R2P is an authentic expression of the just-war ethic. Given the increase in failed and failing states, the rise of new autocracies, and the problems posed by enormous refugee flows, we can expect the medium and long-term future to be replete with humanitarian crises, and some, at least, are likely to require military enforcement for their resolution.

R2P will be part of a multifaceted terrain of warfare in the twenty-first century, alongside state-to-state wars, civil wars, conflicts with terrorist non-state actors, hybrid wars, and cyberwarfare. All those types of conflict will require ethical analysis. But R2P is especially apt for that kind of study because it addresses a fundamental role of all government, the protection of human persons, which is likewise the goal of just war.

> **Recommendation no. 9:** *The practice of R2P needs the attention of just-war analysts and ethicists to see not only where the existing norms are violated or strained, but also where, by the light of experience, the norms need to be refined and re-framed. R2P, in other words, needs its own casuistry.*

Frontiers

Nonviolence, post-conflict justice, and R2P are frontier areas impinging on just-war analysis. Developments in each of these areas demand further study by just-war thinkers and integration not only into just war theory, but especially into its practice as a social system. In the world of the Web, thinkers and actors from many areas will be engaging with one another in the fields of conflict. Knowledge and appreciation of the contributions of other disciplines and schools of thought should be the beginning of collaboration in promoting a peaceful world.

Notes

1. See, e.g., Rob Knake, "Russian Hackers Were only Getting Started in the 2016 Election," *Fortune*, January 15, 2017, http://fortune.com/2017/01/15/russian-hackers-2016-election-cyber-war/ and Anders Corr, "Russia's Hack of Elections in France Requires Counterpunch," *Forbes*, April 27, 2017, https://www.forbes.com/sites/anderscorr/2017/04/27/russias-hack-of-elections-in-france-requires-counterpunch/#5106dd9c2311. Many experts would regard election hacking as cyber warfare. See "Most Infosec Pros Believe Election Hacks Are Acts of Cyber War," Help Net Security, September 11, 2017, https://www.helpnetsecurity.com/2017/09/11/election-hacks-cyber-war/.

2. Already Russian hacking of the Estonian and Ukrainian power grids has demonstrated that the destructive capacity of cyber-technology is at hand. See Ian Traynor, "Russia Accused of Unleashing Cyberwar to Disable Estonia," *The Guardian*, May 16, 2007, https://www.theguardian.com/world/2007/may/17/topstories3.russia and Margaret Coker and Paul Sonne, "Ukraine: Cyberwar's Hottest Front," *The Wall Street Journal*, November 9, 2015, https://www.wsj.com/articles/ukraine-cyberwars-hottest-front-1447121671. Serious Russian attacks on Estonia took place as early as 2007.

3. On the negative effects of long-term sanctions, see Marc Bossuyt, "The Adverse Consequences of Economic Sanctions," *Global Policy Forum*, June 21, 2000, https://www.globalpolicy.org/global-taxes/42501-the-adverse-consequences-of-

economic-sanctions.html, and especially David A. Cortright and George A. Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder, CO: Lynne Rienner Publishers, 2000).

4. See my "Just Peacemaking and Hybrid Wars," *Ethics and Armed Forces* 2015/2 (2015), http://www.ethikundmilitaer.de/en/full-issues/20152-hybrid-warfare/just-peacemaking-and-hybrid-wars/.

5. On this issue, see my "The Nonviolence-Just War Nexus" in a co-authored forum "Pope Francis's Politics of Peace and the Just War Tradition," *Horizons*, forthcoming summer 2018.

6. See Sam Roberts, "Gene Sharp, Guru of Nonviolent Resistance, Dies at 90," *New York Times*, February 2, 2018, https://www.nytimes.com/2018/02/02/obituaries/gene-sharp-global-guru-of-nonviolent-resistance-dies-at-90.html.

7. See Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2001); and William Bole, et al., eds., *Forgiveness in International Politics: An Alternative Road to Peace* (Washington, DC: USCCB, 2004).

8. The key document shifting Catholic teaching to the integration of nonviolence into its treatment of peace and war was Pope Saint John Paul II's *Centesimus annus* (1991), §23, §25, and §52. But the document consciously linking nonviolence and just war was the U.S. Bishops' *The Harvest of Justice Is Sown in Peace* (1993). See discussion below.

9. See Pope Francis, 2017 World Day of Peace Message, "Nonviolence: A Style of Politics for Peace," §6, https://w2.vatican.va/content/francesco/en/messages/peace/documents/papa-francesco_20161208_messaggio-l-giornata-mondiale-pace-2017.html.

10. The Holy See seems to avoid using the title "just war" in discussing normative regulation of armed conflict. *The Catechism of the Catholic Church* (1994) mentions it only parenthetically at the very end of its treatment of war, §§2302–2317, in fine print at §2309. See   http://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm.   *The Compendium of the Social Doctrine of the Church* (2005) makes no use of the term.

11. See Glenn H. Stassen, *Just Peacemaking: Transformative Initiatives for Justice and Peace* (Louisville, KY: Westminster/John Knox, 1992), and Stassen, ed., *Just Peacemaking: The New Paradigm for the Ethics of Peace and War* (Cleveland, OH: Pilgrim Press, 2008) In the latter version, the techniques of Just Peace are updated and explained in some detail by a variety of authors who adhere both to the just war and nonviolence traditions.

12. For the language of "threshold," see United States Conference of Catholic Bishops, *The Harvest of Justice Is Sown in Peace* (Washington, DC: USCCB, 2001), 12; and consult Yoder, *When War Is Unjust: Being Honest in Just-War Thinking* (Maryknoll, NY: Orbis, 1996), Appendix V, V, A-C, pp. 154–155, on last resort. On conditions that undercut the honest use of last resort, see the same volume, 70–71.

13. Yoder, *When War Is Unjust*, 78.

14. *The Harvest of Justice Is Sown in Peace*, 13.

15. Thomas Weiss defines two intermediate forms of military participation in international humanitarian crises that may warrant ethical assessment: "compelling compliance and providing protection." See his *Humanitarian Intervention*, 2nd ed. (Cambridge: Polity, 2012), 10–11.

16. On peacemaking institutions, see the excursus "Just War as a Social System" below.

17. *The Harvest of Justice Is Sown in Peace*, 12 (italics added).

18. Anne-Marie Slaughter, *The Chessboard and the Web: Strategies of Connection in the Age of the Web* (New Haven, CT: Yale University Press, 2017) discusses the demands of policymaking in a polyarchical and polyvalent world where international relations involves multiple actors, acting at different levels for different values.

19. The crushing burden of reparations imposed on Germany is often cited as a root cause of Nazi re-armament and World War II. "I believe," said John Maynard Keynes, "that the campaign for securing out of Germany the general costs of the war was one of the most serious acts of political unwisdom for which our statesmen have ever been responsible."

See Keynes, *On the Economic Consequences of the Peace* (New York: Harcourt, 1920), http://oll.libertyfund.org/titles/keynes-the-economic-consequences-of-the-peace.

20. Of special note is Noah Feldman's *What We Owe Iraq: War and the Ethics of Nation-Building* (Princeton: Princeton University Press, 2004).

21. On the intellectual and diplomatic history of R2P and its development, see Weiss, *Humanitarian Intervention*, *passim*.

22. For critiques of R2P from non-metropolitan (former colonial) states, see Rama Mani and Thomas G. Weiss, *Responsibility to Protect: Cultural Perspectives from the Global South* (New York: Routledge, 2011). CUNY's Global Center for R2P has produced a series of studies on the application of R2P, including in Africa. See http://www.globalr2p.org/. These include studies of regional interventions in Africa, presumptively immune from the charge of neo-colonialism.

23. See Weiss, *Humanitarian Intervention*, 139–142, 170–172; and Peter J. Hoffman and Thomas G. Weiss, *Humanitarianism, War, and Politics: Solferino to Syria and Beyond* (Lanham, MD: Rowman and Littlefield, 2018), 105–112 and 258–274. Assessments of R2P ought to include review of the U.N. Secretary General's annual report on R2P. See the latest report at http://www.globalr2p.org/media/files/2017-summary-of-the-secretary-generals-report-on-r2p.pdf.

24. See, for example, the story for a private suit brought to the ICC against Filipino president Rodrigo Duterte for murder and crimes against humanity for his ordering extrajudicial killings of thousands of alleged drug traffickers: Isabelle Gerretsen, "Lawyer Calls on Hague to Charge Rodrigo Duterte with Mass Murder," *Newsweek*, April 24, 2017, http://www.newsweek.com/rodrigo-duterte-mass-murder-charge-lawyer-hague-criminal-court-588497. For a list of ICC indictments, see https://en.wikipedia.org/wiki/List_of_people_indicted_in_the_International_Criminal_Court.

25. For reasons of space, I will not address questions of transitional justice, another topic of post-conflict justice.

26. On the question of refugees, see David Hollenbach, S.J., ed., *Driven from Home: Protecting the Rights of Forced Migrants* (Washington, DC: Georgetown University Press, 2010). A United Nations High-Level Meeting scheduled for December, 2018, is due to consider a global compact for refugees and migrants. Despite the enormous size of the problem, however, states seem to have little willingness at the present time to address these issues seriously. The process is also threatened by the likely withdrawal of the U.S. as the donor state under the Trump Administration's transaction aid policy of "America First."

27. See Jon Gambrell, "Kuwait says $30 billion pledged to rebuild Iraq," *U.S. News and World Report*, February 14, 2018, https://www.usnews.com/news/business/articles/2018-02-14/kuwait-to-give-2-billion-in-loans-investments-for-iraq.

28. See David Ignatius, "The rubble in Raqqa reminds us of our military might. But what is next?" *Washington Post*, October 19, 2017, https://www.washingtonpost.com/opinions/the-rubble-in-raqqa-reminds-us-of-our-military-might-but-whats-next/2017/10/19/98fac87a-b503-11e7-a908-a3470754bbb9_story.html?utm_term=.d26b1137e655.

29. Cited in Weiss, *Humanitarian Intervention*, 109.

30. Ibid., 110.

31. See John XXIII, *Pacem in terris*, in David J. O'Brien and Thomas A. Shannon, eds., *Catholic Social Thought: The Documentary Heritage*, expanded edition (Maryknoll, NY: Orbis, 2010), §§53–65 and §§136–141.

32. Benedict XVI, Address to the General Assembly, April 18, 2008, http://w2.vatican.va/content/benedict-xvi/en/speeches/2008/april/documents/hf_ben-xvi_spe_20080418_un-visit.html

33. Ibid.

34. On the Cosmopolitan Morality of Human Rights, see Charles R. Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1978); see Weiss, *Humanitarian Intervention*, 26–7, 105–7 on the Morality of "A Society of States."

35. See note 25 above.

36. See Pope John Paul II's 2002 World Day of Peace Message, "No Peace without Justice, No Justice without Forgiveness," January 1, 2002, http://w2.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_20011211_xxxv-world-day-for-peace.html.

37. See Luigi Accatoli, *When a Pope Asks Forgiveness: The Mea Culpas of John Paul II* (New York: Alba House, 1998).

38. Pope John Paul II, 2002 World Day of Peace Message, §10.

39. See John Paul's interpretation in *Centesimus annus* (Washington D.C.: USCCB, 1991), §23, §25, and §52.

40. Pope John Paul II, 2002 World Day of Peace Message, §11.

41. Ibid.

42. As I write, the president of the Republka Srpska is threatening to secede from Bosnia to re-join Serbia, and Serbia is threatening to take the northern area of Kosovo inhabited by ethnic Serbs from Kosovo which is celebrating its tenth anniversary. See Barbara Surk, "Milorad Dodik Wants to Carve Up Bosnia. Peacefully, if Possible," *The New York Times*, February 16, 2018, https://www.nytimes.com/2018/02/16/world/europe/dodik-republika-srpska-bosnia.html and Andrew Testa, "Kosova Finds Little to Celebrate after 10 Years of Independence," *The New York Times*, February 15, 2018, https://www.nytimes.com/2018/02/15/world/europe/kosovo-independence-anniversary.html.

43. Pope John Paul II, 2002 World Day of Peace Message, §11 and §13.

44. Desmond Tutu, *No Future without Forgiveness* (New York: Doubleday, 2000).

45. For a succinct account of South Africa's TRC, see Hayner, *Unspeakable Truths*, 40–45.

46. For the place of forgiveness in restorative justice, see Jennifer J. Llewellyn and Daniel Philpott, eds., *Restorative Justice, Reconciliation and Peacebuilding* (Oxford: Oxford

University Press, 2014), especially chapter 2, Llewellyn and Philpott, "Restorative Justice and Reconciliation: Twin Frameworks for Peacebuilding"; and chapter 10, Jason Spring, "Doing Justice Differently: From Revolution to Transformation in Restorative Justice and Political Reconciliation."

47. Hayner lists five "Illustrative Truth Commissions" (Argentina, Chile, El Salvador, South Africa, and Guatemala) and sixteen "Less Prominent Commissions." See *Unspeakable Truths*, 32–71.

48. See Donald W. Shriver, Jr., *An Ethic for Enemies: Forgiveness in Politics* (Oxford: Oxford University Press, 1995), 49–52. For an expanded presentation of Shriver's definition of forgiveness, see his chapter 3, "Understanding Forgiveness in Politics," in *Forgiveness in International Politics*, eds. Bole, et al., 41–60.

49. Shriver, *An Ethic for Enemies*, 8–62.

50. Ibid., 119–217. Shriver also cites several other cases where the U.S. might engage in international apologies: "Native Americans, Mexicans, Cuban, Filipino, Chinese, Vietnamese, Central American, and Iraqi peoples" (72).

51. Llewellyn and Philpott list the skeptics as "United Nations officials, western diplomats, the human rights community and international lawyers." See *Restorative Justice*, 16.

52. See Jonathan van Antwerpen, "Reconciliation as Heterodoxy," 77–117, in *Restorative Justice*. In "Charting the Path of Justice in Peacebuilding," Aaron P. Boesenecker and Leslie Vinjamuri provide contrasting profiles of "Legalists, Restorers, and Capacity-Builders"; see ibid., 76. ("Restorers" are the diplomats and civil society leaders whose primary concerns are the cessation of hostilities and the resumption of normal life and accordingly regard transitional justice as a strain on fragile peace agreements.) The common perspective of the authors whose work is collected in *Restorative Justice* is that there is significant overlap between members of the different schools as well as between secular and religious peacebuilders.

53. On the tensions between secular legalists and religious advocates of truth and reconciliation, see *Restorative Justice*, 92, 107–108, 246. Philpott describes the religious

resources for forgiveness in Judaism, Christianity, and Islam in *Just and Unjust Peace: An Ethic of Political Reconciliation* (Oxford: Oxford University Press, 2012), 119–167. On the roles of religious actors on behalf of forgiveness in international politics, see *Forgiveness in International Politics*, 89–170.

54. See Boesenecker and Injamuri, "Charting the Path of Justice in Peacebuilding," *passim*, in *Restorative Justice*.

55. Philpott, *Just and Unjust Peace*, 288. Philpott's book is one that every just-war analyst ought to wrestle with in weighing whether and how to include and apply forgiveness as a criterion of the *jus ad bellum*. It may be the single best book in the field to date. Of special pertinence is chapter 5, "Is Reconciliation Fit for Politics?" 74–93.

56. See *Just and Unjust Peace*, 32–47. Primary wounds include: violations of the victim's human rights, harms to the victim's person, victim's ignorance of the source and circumstances of political injustice, lack of acknowledgment of the suffering of victims, the standing victory of the wrongdoer's political injustice, and harm to the person of the wrong-doers. Philpott's articulation of the wounds healed by forgiveness may be one of the single most important developments in explaining the need of forgiveness in peace processes.

57. For an overview of these overlaps (and divisions), see the instructive chart "A Typology of Actors" in Boesenecker and Injamuri, "Charting the Path of Justice in Peacebuilding," in *Restorative Justice*, 45–48.

58. Also, see the discussion of skepticism and secularism in *Forgiveness in International Politics*, 120–128.

59. Philpott, *Just and Unjust Peace*, 85.

60. Ibid, 87.

61. Ibid, 85.

62. See references to Weiss in note 29 above.

63. For the reality of state sovereignty prior to R2P under the Westphalian system, see Weiss, *Humanitarian Intervention*, 15–24. On the conditional sovereignty model lying beneath R2P, see 24–27. Finally, on the changed geopolitical conditions that opened the way to R2P, see 27–33.

64. For the various arguments for conditioning sovereignty on protection of human rights, see ibid., 193.

65. See Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977), 98, on the domestic (policing) analogy. See also Vatican Council II, *Gaudium et spes*, December 7, 1965, §79, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html, which held the same assumption: "As long as the danger of war remains *and there is no competent and sufficiently powerful authority at the international level*, governments cannot be denied the right to legitimate defense […]" (italics added). Pope Francis, in response to the suggestion of some Pax Christi members that he should condemn just war, wrote, "the Council recognized that, since war has not been eradicated from the human condition, 'governments cannot be denied the right to legitimate defense once every means of peaceful settlement has been exhausted.'" See text of the papal message at http://www.paxchristi.net/news/pope-francis-sends-message-nonviolence-and-just-peace-conference/5854#sthash.T3TGhglz.dpbs.

66. In the wake of the failure of several efforts to intervene to stop the Syrian civil war, movements arose in the U.N. calling for the P–5 to refrain from using vetoes in the event of atrocity crimes. See "U.N. Security Council Code of Conduct," Global Centre for the Responsibility to Protect, http://www.globalr2p.org/our_work/un_security_council_code_of_conduct.

67. For the ebb and flow of U.N. involvement in these conflicts, see Hoffman and Weiss, *Humanitarianism, War, and Politics*, 79–97.

68. See Pope John Paul II, 1993 Address to the Diplomatic Corps, January 16, 1993, http://w2.vatican.va/content/john-paul-ii/en/speeches/1993/january/documents/hf_jp-

ii_spe_19930116_corpo-diplomatico.html, esp. §13; and the USCCB, *The Harvest of Justice Is Sown in Peace*, 38–41.

69. See Weiss, *Humanitarian Intervention*, 118.

70. See Pope John XXIII, *Pacem in terris*, §61 and §§83–85.

71. Ibid, §98.

72. John Paul II, "Address to the International Conference on Nutrition," *Origins* 22/28 (December 24, 1992): 475, cited in *The Harvest of Justice is Sown in Peace*, 38–39.

73. *The Harvest of Justice Is Sown in Peace*, 40.

74. On locating "legitimate authority" in the Security Council and the intellectual debate over who has authority precipitated by the failure to act in Rwanda and Kosovo, see Weiss, *Humanitarian Intervention*, 115–19.

75. This is another instance of the legal-religious tension noted above.

76. There are many examples, but one will suffice: the 1989 U.S. invasion of Panama pompously titled "Operation Just Cause." This was undertaken to arrest Panamanian President Manuel Noriega for drug-trafficking.

77. On just cause, see Weiss, *Humanitarian Intervention*, 113–114.

78. The term "Precautionary Principles" is derived from International Humanitarian Law, where there has been, as noted, a conscious effort to appear to have a legal paradigm distinct from historical (religious, philosophical, and military) sources. See Weiss, *Humanitarian Intervention*, 115–16.

79. See ibid., 113.

80. Ibid., 114.