

Must the “Violent Bear It Away”? A Restorative Critique of Just War

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So many in these days have taken violent steps to gain the things of this world—war to achieve peace; coercion to achieve freedom; striving to gain what slips through the fingers. We might as well give up our great desires, at least our hopes of doing great things toward achieving them, right at the beginning. In a way it is like the paradox of the Gospel, of giving up one’s life in order to save it.¹

—Dorothy Day

In a world riven by religious terror and casual slaughters, what will we say of the just war? Is the very notion of a just or justified war a *contradictio in adjecto* in late or post-modernity—war having finally become, in Clausewitz’s words, “theoretically limitless”?² Such is the conclusion of the recent “Catholic Nonviolence Initiative” of the Nonviolence and Just Peace Conference in Rome sponsored by the Pontifical Council for Justice and Peace and Pax Christi International.³ Or, as Michael Walzer urges, is war still a “rule-governed activity, a world of permissions and prohibitions—a moral world,” even “in the midst of hell”?⁴ The norms of just war, after all, remain a stubborn inheritance, an “overlapping consensus” of permissions and prohibitions enshrined in international positive law, i.e., the Geneva Conventions and Protocols.⁵ But how are we to make sense of such a consensus?

In these pages, I will argue (1) that the framework proposed initially by the U.S. bishops for assessing just war and pacifism in their pastoral letters *The Challenge of Peace* and *The Harvest of Justice is Sown in Peace* will no longer suffice. In the second section (2), I will propose a hermeneutical reading of the *justum bellum* from the emerging perspective of restorative justice that, I argue, better illumines what the bishops call the “dual tradition” of pacifism and just war. In the final section (3), I consider the implications of adopting such a perspective for both public policy and personal discernment in the face of the Gospel paradox.

The just war redivivus?

In *The Harvest of Justice Is Sown in Peace*, the U.S. bishops write, “An essential component of a spirituality for peacemaking is an ethic for dealing with conflict in a sinful world. The Christian tradition possesses two ways to address conflict: nonviolence and just war.”⁶ In assessing this “dual tradition,” the bishops recur to their earlier analysis in *The Challenge of Peace* where they assert: “The moral theory of the ‘just war’ or ‘limited-war’ doctrine begins with the presumption which binds all Christians: we should do no harm to our neighbors [...].”⁷

The bishops follow here the work of James Childress.⁸ In a series of seminal articles, Childress, following in turn W.D. Ross, developed the implications of such a deontological theoretical framework. Childress began with the presumption that, as a “rule governed activity,” war “must be justified” by reasons sufficiently weighty to override the presumption or “*prima facie* duty of non-maleficence.” In Childress’ words, “The phrase ‘*prima facie*’ indicates that certain features of acts that have a *tendency* to make an act right or wrong claim our attention; insofar as an act has those features, it is right or wrong. But our actual obligation depends on the act in its wholeness and entirety.”⁹ Our *prima facie* duty of non-maleficence can thus be overridden only in the face of other, more stringent *prima facie* obligations, in this case, the “serious and weighty” duties “to protect the innocent from unjust attack, to restore rights wrongfully denied, or to reestablish a just order.”¹⁰

These obligations are further qualified by the other *ad bellum* and *in bello* criteria, e.g., war remains “the *ultima ratio*, the last resort.”¹¹ In Childress’ words, “Just war theory indicates when the *prima facie* duty not to injure or kill others can be overridden or outweighed by the *prima facie* duty to act justly and to pursue justice.”¹² Moreover, even though overridden, the *prima facie* duty of non-maleficence, says Childress, leaves “traces,” with the upshot that “the conduct of the war should be as compatible as possible with the overridden *prima facie* obligations,” e.g., constrained by the *in bello* norms.¹³ Such a formal framework of *prima facie* duties appears to provide for an ecumenical convergence of the “dual tradition” of nonviolence and just war. In Childress’ words, Christian pacifists and advocates of the just war

[b]oth share the same starting point—war is at least *prima facie* wrong and thus requires justification. They differ however because absolute pacifists deny that war can ever be justified, while just warriors hold that it can sometimes be justified.¹⁴

Childress acknowledges that the proposed framework departs significantly from the substantive moral arguments of Augustine and Aquinas. Indeed the “formal function of the criteria is hardly what traditional just-war theorists expected, for they developed their criteria within substantive theories of justice and the common good.”¹⁵ Yet such theories, grounded in comprehensive teleological doctrines, fall prey to what John Rawls calls the “reasonable pluralism” of our age, characterized by differing, even incommensurable conceptions of the good. Justice, says Rawls, must be political, not metaphysical, much less religiously inspired; and so too the just war.

But does the framework of *prima facie* duties and reasoned exceptions in fact give us an ecumenical and secular (political) convergence? Critics like James Turner Johnson and George Weigel object that the *prima facie* duty or presumption against war is “is radically at odds with the classical idea of just war,” displacing the original and proper presumption against *injustice*.¹⁶ Lisa Cahill takes the opposite tack, arguing that “to phrase the prohibition against war as a ‘presumption’ is already to contemplate the inevitability of exceptions.”¹⁷ For Helmut Baer and Joseph Capizzi, the “*prima facie* just war system” plagues both houses, inasmuch as it “generates convergence by asking the representatives of the different traditions on war to misconstrue or distort their basic commitments.”¹⁸ Pacifists, argue Baer and Capizzi, must adapt their stance to norms of rule-governed behavior (the *prima facie* duties of non-maleficence and justice), thereby permitting exceptions.¹⁹ Further, the framework of *prima facie* duties, conversely, compels “the just war theorist to relinquish his basic conviction that the forceful exercise of political power is an integral part of God’s providential care for creation.”²⁰ In failing to account for “the place of force in politics,” say Baer and Capizzi, Childress relegates the just war to the penumbra of moral decision-making.

Now such objections to the proposed framework of *prima facie* duties are, I believe, telling yet incomplete. Let me elaborate in terms of three further criticisms regarding (1) the eclipse of the biblical vision in *prima facie* duties; (2) the dubious status of moral traces of *prima facie* duties; and (3) the epistemic limits of a *framework* of *prima facie* duties.

(1) *Prima facie* duties

Laudable as appeal to *prima facie* duties for the sake of ecumenical convergence is, the price is steep. The U.S. bishops’ pastoral letters recall *Gaudium et spes*’ teaching that “peace is not merely the absence of war” but “‘an enterprise of justice’ (Is 32:17),” and affirm that a “theology of peace

should ground the task of peacemaking solidly in the biblical vision of the Kingdom of God.”²¹ One wonders, though, how much of the vision of “justice and peace” kissing (Ps 85) survives in conflicting *prima facie* duties no longer grounded in substantive theories of justice and the common good.²² For *shalôm* is now reduced to non-maleficence and defined so that it could be overridden by a *prima facie* duty of justice. Yet the “*shalôm*” of the kingdom entails far more than the mere absence of violence.

As the Scripture scholar John Donahue observes, the “biblical term for peace, *shalôm*” implies

wholeness, completeness, or health. For this reason, in certain important biblical texts, especially those describing the effect of the just use of royal power, or in eschatological expectations of a restored kingdom, peace and justice are closely linked; for example, “Justice will bring about peace; right will produce calm and security” (Is 32:17, in the New American Bible translation); “Kindness and truth shall meet; justice and peace shall kiss. Truth shall spring out of the earth and justice shall look down from heaven” (Ps 85:11f.).²³

Indeed, the semantic fields of justice and peace overlap: “In general terms the biblical idea of of justice,” writes Donahue, “can be described as *fidelity to the demands of a relationship.*” In this relationship, “concern for the defenseless in society” is “rooted in the nature of Yahweh [...] who is defender of the oppressed.”²⁴ For a people born of Exile, the touchstone of covenant fidelity will be the welfare of the widow, orphan, and stranger (migrant), those most vulnerable in a kinship society.

(2) *Prima facie* duties

It is not only the eclipse of the biblical vision that inspires doubt. For it is by no means clear how “traces” of an overridden “*prima facie* duty not to injure or kill others” can be said to persist or retain normative force, whether indirectly “by *mandating* the ultimate object of peace” or “directly as in the protection of certain classes, avoidance of unnecessary suffering, and care for combatants who are *hors de combat.*”²⁵ For if a *prima facie* duty does not oblige, how can it generate *actual* restrictions or duties?²⁶ Further, if it is curious that a *prima facie* rule that does not oblige should leave moral traces, it is curiouser and curiouser, as Alice might say, that a *prima facie* rule that is

rightly *overridden* should. Not only, then, does appeal to a theoretical calculus of *prima facie* duties fail to encompass the fullness of the biblical vision of a just peace; such duties, once overridden, leave but vanishing traces. The presumption “we should do no harm to our neighbors” binds at best *pro tanto*, only to be superseded by justice.

(3) A framework of *prima facie* duties

The crux of the difficulty, I believe, is that Childress, following Ross, conflates two logically distinct senses of duty. In ordinary speech, duties may figure as reasons for acting, as when we invoke a maxim of non-maleficence in deliberation. Conversely, duty may signify the practical conclusion of such deliberation: all things considered, I ought (or ought not) to do harm. In Thomistic teleology, general duties like non-maleficence, in the first deliberative sense, may serve to justify duty in the latter, practically rational sense: in deliberating, says Aquinas, the general precepts of the Decalogue, precisely inasmuch as they preserve “the common good” and “the very order of justice,” admit “of no dispensation whatever.” But such general, secondary precepts of the natural law must be interpretatively specified to determine what action I ought to do here and now. For Aquinas, “killing is forbidden in the Decalogue, in so far as it bears the character of something undue.”²⁷ Yet whether a given instance of killing *is* undue cannot simply be inferred; we must look to the morally relevant circumstances, e.g., grave threats to the commonweal.

While we must always revere life, *in extremis*, “foes of the commonweal can be slain.”²⁸ The specificatory maxim of non-maleficence holds, then, but not always; sometimes it may be outweighed by a more stringent duty. For Aquinas, following Aristotle, practical wisdom differs from theoretical reasoning precisely in this concrete, deliberative specification of what justice requires—what, here and now, in the practically rational sense, I *ought* to do. For while theory, as in physics, seeks the “ultimate universal,” practical reason looks to the “ultimate particular,” i.e., the circumstantial determination of that act that best satisfies the order of justice.²⁹

In proposing a framework of *prima facie* duties, however, Childress, like Ross, seeks to pattern moral “principles after scientific principles.” As A. I. Melden observes, a system of *prima facie* duties assimilates “moral principles or precepts” to “universally quantified propositions about what ought to be done,” where “*prima facie*” qualifies “ought” as permitting exceptions.³⁰ Agreement of the pacifist and just warrior obtains, then, for Childress, inasmuch as both are bound by universally quantified, *prima facie* duties. Differences emerge only with the substantive

specification of the “actual” duty in question. In Childress’s words, the just-war criteria, deriving from *prima facie* duties of non-maleficence and justice, “constitute a formal framework within which different substantive interpretations of justice and morality as applied to war can be debated.”³¹

But a framework of *prima facie* duties rests on a fatal ambivalence. For in building exceptions into the very notion of duty, we give with one hand (what “ought” to be done, e.g., non-maleficence, is universally quantified), yet take with the other (but exceptions obtain, so that sometimes it is the case that I ought to do harm). Putative agreement turns on just this ambivalence; for, although duties like non-maleficence may *commend* a general course of action in our deliberation, and *command* a specific action in judgment, they cannot do both at once. Better to follow Aristotle and Aquinas in distinguishing general moral precepts from their concrete, circumstantial application in determining the “ultimate *particular*.”³²

The departure from Aquinas turns out, then, to be more significant than Childress realized. Indeed, if limited convergence is to be found between Christian pacifism and just war, it will rest, not in bracketing “substantive interpretations of justice and morality,” but in the thick, narrative tradition from which both interpretations emerge. For tradition does not bequeath us a meta-theory or formal decision-procedure, but a narratively embodied system of beliefs. There is, indeed, no single “theory of just war, but rather a complex casuistry giving rise to the *ad bellum*, *in bello*, and *post bellum norms*. As modern hermeneutics tells us, the sense or meaning of such rules is a function of the history of their application—what Hans-Georg Gadamer calls *Wirkungsgeschichte*, the history of effects.³³ And in the working of tradition, multiple variations have been wrung on the just-war norms.

Consider the genealogy of the *justum bellum* in the West. For Augustine, war was a tragic necessity, the consequence—and remedy—of fallen nature. The “love of enemies” admits “of no exceptions,” yet the “kindly harshness” of charity does not “exclude wars of mercy waged by the good.” Inspired by the “severity which compassion itself dictates,” such “wars of mercy” presumed that those inflicting punishment had “first overcome hate in their hearts.” Neither Ambrose nor Augustine permitted violent *self*-defense; for only defense of the innocent neighbor could satisfy the stringent claims of charity.³⁴ Thomas Aquinas recognizes the normative primacy accorded *caritas* in-forming justice, posing the *quaestio* in the *Summa Theologiae* II-II, q. 40, “whether it is *always* sinful to wage war?” Harking back to their Thomistic heritage, the Renaissance Spanish

schoolmen Francisco de Vitoria and Francisco Suárez fashioned the just-war tradition ordained, in Vitoria's words, to "the common good of all," including that of one's enemies.

In the Augustinian-Thomistic tradition, we begin, then, not with simple premises or *prima facie* presumptions underlying "the concept of a just war," but rather with a grammar embedded in a complex web of belief, i.e., nested values, ideals, tales, and tropes. Yet much modern rhetoric of just war betrays a different "deep grammar." Indeed, with the eclipse of the religiously-inspired ideal of the *bonum commune* in early modernity, the *justum bonum* is annexed to quite different purposes. In Hobbes's militant rhetoric, for instance, the "state of nature"—no longer naturally pacific—is aptly "called war, as is of every man against every man." And in that inglorious "tract of time" we call history, "wherein the will to contend by battle is sufficiently known," we have but *one* right, that of "self-defense"—the very right Ambrose and Augustine denied!³⁵ In a nominalist vein, Hobbes opposes liberty—as a man's "Right of Nature" (*jus naturale*) "to use [his] power, as he will himself, for the preservation of his own nature"—to the "Law of Nature" (*lex naturalis*) which "determineth, and bindeth."³⁶ Once human nature is stripped of Grotius' natural sociability, it is "the foresight of their own preservation" that leads "men who naturally love liberty, and dominion over others" to submit to "that restraint upon themselves (in which we see them live in commonwealths)."³⁷

In sum, violent self-preservation, no longer a "stain upon our love for neighbor" in Ambrose's words, is our natural right, writ large upon the "artificial person" of the state. Moreover, Leviathan does not sacrifice this right even under the rule of international law. For Hobbesian "realism" legislates for general self-preservation in the form of laws of nature, the force of which depends upon general compliance. In a state of partial compliance, governed by weak international law, "reason" will abide by the laws of nature, e.g., of the *justum bellum*, only to the degree that they promote self-preservation. Accordingly, with the eclipse of the Christian narrative's "ontology of peace,"³⁸ the criteria of proportionality, reasonable hope of success, and last resort are ordered no longer to the "common good" (including the good of enemy civilians) as a final end, but rather to the limited aims of strategic self-interest. And so the "violent bear it away" (Mt. 11:12)—less by abjuring the norms of just war, it should be emphasized, than by incorporating or schematizing them within a putatively realist narrative. Hobbesian logic is inscribed within a "moral world"; to preserve this world, we betray the very tenets that make it moral.³⁹

A restorative framework

In the preceding section, I questioned whether pacifism and just war can be reconciled under the rubrics of *prima facie duties*. We saw that a rapprochement on the model of scientific theory (universally quantified propositions) bracketed the substantive interpretations of justice and morality that differentiated this “dual tradition.” Indeed, a thin, theoretical rapprochement, I believe, remains illusory. But might the very thickness of tradition, unfolding as a complex web of beliefs, ideals, tropes, and tales shed light on our differences? In the next section, I will argue that recent appeals to restorative justice offer us a post-metaphysical framework for assessing differing interpretations of just war and Christian pacifism in the working of tradition.⁴⁰

Looking back

In his incisive book *In Defense of War*, Nigel Biggar laments the modern confusion of “the whole of just war theory with only the late modern part”: that is, the assumption, exemplified in David Rodin’s work, that national self-defense, justified on the analogy of individual self-defense, is “the central ‘just cause’” of just war theory.⁴¹ As we noted above, early Christian reflections on the just war imagined otherwise. In Biggar’s words:

Throughout its first millennium and beyond, Christian just war thinking has taken as the paradigm of just military action the defense of the innocent neighbor against injustice. Accordingly, it approves the state’s self-defense only insofar as it comprises the defense of the common good against unjust aggression.⁴²

Biggar joins a chorus of earlier Christian writers (Augustine, Aquinas, Cajetan, Vitoria, Suarez, Molina) in elaborating “a variety of ends” justifying military action:

to fend off and stop injustice, to vindicate actual victims and reassure potential ones, to deter other potential wrongdoers, and to bring home to these wrongdoers the significance of what they have done for the sake of their own moral and spiritual health.⁴³

The family resemblance of these writers' respective theories, however, admits significant differences as to how these ends are specified and integrated. Biggar himself favors a punitive or retributive interpretation, even while acknowledging that the "early Christian tradition [...] displays quite some variety in its view of the punitive nature of just war."⁴⁴ Biggar likewise differs from other modern theorists, like Oliver O'Donovan, in offering a broad interpretation of punitive war as "being a hostile response—whether defensive or offensive—not merely to damage, but to injustice."⁴⁵ O'Donovan differentiates punishment from defense and reparation, yet argues that "[a]ny concrete act of armed force [...] will combine defensive, reparative, and punitive objectives."⁴⁶ Biggar, by contrast, subsumes all these ends, "defensive, vindicative, deterrent, and reformative," in a "punitive response" equated with retribution.⁴⁷

This essay does not permit me to engage Biggar's interpretative gambits in framing the just war in punitive or retributive terms. For the moment, though, let me note that Biggar himself has adumbrated a more comprehensive framing of just war in terms of the regulative ideal of the common good—Aquinas' political "translation" of Augustine's *caritas*. In the early Christian tradition, "the common good of all" both inspired and constrained "wars of mercy"; and only with the eclipse of the ideal of the *bonum commune*, as we saw most notably in Hobbes, was the right of self-defense enshrined in modern just-war theory.

Looking forward

I have argued at greater length elsewhere that the emerging perspective of restorative justice offers a critical, pragmatic retrieval of the ideal of the common good.⁴⁸ For what is to be restored, whether in the context of criminal justice, transitional justice, or, I shall argue here, in redressing violence, is the common good of all affected, victims and perpetrators alike. In the words of Archbishop Desmond Tutu, Chair of the South African Truth and Reconciliation Committee (TRC):

Retributive justice—in which an impersonal state hands down punishment with little consideration for victims and hardly any for the perpetrator—is not the only form of justice. I contend that there is another kind of justice, restorative justice [...]. The central concern is not retribution or punishment but, in the spirit of *ubuntu*, the healing of breaches, the redressing of imbalances, the restoration of broken relationships. This kind of justice seeks to rehabilitate both the victim and

the perpetrator, who should be given the opportunity to be reintegrated into the community he or she has injured by his or her offence.⁴⁹

Now, in interpreting such breaches of the common good, the modern rhetoric of human rights is not rejected, but rather encompassed within a broader interpretative framework.⁵⁰ In this framework, basic human rights to security, subsistence, and civil-political liberties are less properties of sovereign selves, abstracted from the ensemble of social relations (as in modern liberalism), than a moral grammar of dissent against systemic violence and atrocity. Rights thus play a *critical* or *deconstructive* hermeneutical role in disclosing systemic inequities, e.g., genocide, ethnic cleansing, politically motivated rape, etc.

In this richer, communitarian interpretation, moreover, rights imply correlative duties, not merely of forbearance, but of substantive provision and protection. Rights, then, figure not only critically in disclosing systemic violence, but generate systemic imperatives of institutional redress. To the critical hermeneutical use of rights there thus corresponds a *constructive* use in establishing a rights regime in which basic claim-rights are suitably redeemed and protected. In the wake of atrocity, what must be restored is not the *status quo ante*, but the rights-based common good of mutual respect and recognition.

Our rights talk must be rich enough to name both victim and offender while essentializing neither. Under the rubrics of the common good, moreover, our moral entitlement to equal respect justifies preferential treatment for those whose basic rights are most imperiled. Combining the critical and constructive uses of rights, a regime of rights must thus *reconstructively* embody a legislative or juridical preference for victims of racial, ethnic, and gendered violence. In interpreting the ethical ideal of the common good, the threefold hermeneutic of rights thus discloses systemic inequities, integrating interpersonal and systemic redress. As such, I believe, restorative justice provides a template for reappraising both pacifism and just war. For under the rubrics of the rights-based common good, both salient affinities and differences emerge.

Critically, both pacifist and just warrior must recognize systemic rights' violations—not only overt violence, but systemic inequities culminating in overt violence and warfare. Peace is never merely the absence of violence, but the justice mandated by *shalôm*—the *tranquillitas ordinis* of rightly ordered peace. *Constructively*, both pacifist and just warrior must acknowledge systemic duties, not only of forbearance but of protection and provision entailed by a rights regime. Such

systemic imperatives govern not only overt conflict, e.g., in protecting potential victims against aggression, but inequities preceding conflict, e.g., precursors of genocide, and the exigencies of social reconciliation in the wake of conflict, e.g. transitional justice. *Reconstructively*, both pacifist and just warrior must “take the victims’ side” in interpersonal redress. For both, a preferential option for the most vulnerable guides conduct and policy prior to, during, and after the cessation of conflict.

Now such a restorative framework, I believe, permits us to redress the lacunae noted above of a system of *prima facie* duties.

- (1) While *prima facie duties* reduce the biblical motifs of justice, peace, and love to the propositional content of universally quantifiable propositions, a restorative framework exhibits their complex interrelation. For neither pacifist nor just warrior are *prima facie* duties of justice and peace (non-maleficence) opposed. Both pacifist and just warrior live under the sign of the Psalmist: “just and peace shall kiss.” Differences remain, as the regulative ideal of a just peace (Augustine’s *tranquillitas ordinis*) is interpretatively specified—whether in a strict maxim of non-maleficence or one permitting exceptions. For just warriors, restorative justice underwrites the variety of ends justifying force: preserving justice, vindicating victims, deterring aggressors, etc. Pacifists, conversely, acknowledge such ends, e.g., protecting potential victims from aggression, but deny the legitimacy of lethal force as a means of realizing them.
- (2) While *prima facie* duties conflate general precepts with propositional validity claims (“You ought to do A”), the rubrics of the common good preserve the reason-giving force of the great biblical injunctions. In an Augustinian vein, for both pacifists and just warriors, violence always remains tragic—even if, for the just warrior, a just peace permits violence *in extremis*. But violence is tragic not because a *prima facie* duty of maleficence is overridden, or because a “trace” of the overridden norm persists. Violence is tragic because the love of enemies allows for no exceptions; because the “hard sayings” of Jesus must, as Aquinas and Augustine say, be kept “in readiness of mind.”⁵¹

- (3) Finally, while a *system of prima facie* duties subsumes pacifism and just war under universally quantifiable duties, a restorative framework identifies differences within the working of a common narrative tradition. As Donald Davidson observes, “disagreement and agreement alike are intelligible only against a background of massive agreement.”⁵² Only such “massive agreement”—fidelity to the Psalmist’s demands of justice *and* peace—permits us to assess salient differences, e.g., the permissibility of lethal violence.

Implications

Tradition does not, then, bequeath us a simple decision-procedure, be it the norms of just war or Christian pacifism. Our restorative hermeneutics rather lets us assess what is “handed on” as an extended argument in which multiple variations are wrung upon both strains of the dual tradition. Novel historical circumstances dictate new readings of just war, e.g., Vitoria’s defense of indigenous rights and denial of religious difference as a *casus belli*; Pius XII’s narrowing of just cause in the face of modern weaponry; and John Paul II’s further restricting of just war to humanitarian intervention. Yet the family resemblance of such interpretations is not infinitely malleable; certain interpretations belie the rights-based common good. As we saw in section (1), just warrior and pacifist alike must reject realist distortions of the tradition that reduce the common good of all to the narrow, strategic exigencies of national security.

So too, a restorative turn reveals the variety of pacifisms. Cahill distinguishes “compassionate pacifism” grounded in the Gospel mandate of neighbor love from “obedient pacifism,” modeled on obedient witness to “the nonviolence, and in some respects even nonresistant, example of Jesus.”⁵³ And just as a realist inflection of just war belies the hermeneutic criteria adumbrated above, so a strict, non-resistant strain of pacifism falls short of the constructive and reconstructive imperatives of healing breaches.

Further differences emerge among pacifists. Christian pacifists in the Anabaptist tradition abjure the sword; yet some follow the Schleithem Confession in ordaining the sword for “worldly magistrates,” at least in the exercise of “guarding and protecting the good” in police work.⁵⁴ Gerald Schlabach and others have developed the latter theme, proposing “just policing” as an alternative to war;⁵⁵ and Glen Stassen and Duane Friesen have elaborated “ten *practices* of just peacemaking” amenable, they believe, to “the original intention” of “just war theory and pacifism.” These

practices—all presuming a rights-based appeal to the common good—include “cooperative forces,” e.g., NGOs; promotion of “democracy, human rights, and religious liberty”; and “peacemaking initiatives,” e.g., nonviolent direct action and partnership conflict resolution. Such practices do not exclude force *per se*, but invite just-war advocates “to spell out what resorts must be tried before moving to the last resort.”⁵⁶

Pacifism too, then, exhibits variations, not least in the possible legitimation of humanitarian intervention assimilated to the peace-making of domestic police. Pacifists, as Stassen and Friesen urge, must “be what their name, derived from the Latin *pacem-facere*, means: peace-makers.”⁵⁷ For even if pacifism is not strategically justified, it must be strategic in intent, favoring those nonviolent practices and strategies best suited to protect the innocent. Where such nonviolent practices *are* effective in providing protection, they would be preferred even on just-war grounds (for which violence must be the last resort). Pacifists are part of the rights-based argument, as the lives of Dr. Martin Luther King, Jr., Dorothy Day, and Desmond Tutu attest. In a world where violence is naturalized, the “spirituality and practice of active nonviolence,” advocated by the Catholic Nonviolence Initiative, surely has its place. Stanley Hauerwas would doubtless dismiss a rights-based retrieval of the just war tradition; but his opposition turns more on a mistaken critique of rights, identified narrowly with political liberalism. He too, I believe, would recognize the duties of forbearance, protection of the most vulnerable, and provision mandated by *shalôm* and *sedaqah* (righteousness).

Conclusions

I have argued that tradition bequeaths us a complex *argument* in which pacifist and just warrior play distinct yet complementary roles. Their differences remain, and remain significant. Yet a degree of complementarity emerges, first inasmuch as both nonviolent spirituality and just-war casuistry are subject to the biblical imperatives of peace and justice. In neither the Augustinian-Thomistic tradition of just war, nor in Christian pacifism, do we begin with simple premises or *prima facie* duties. Rather, both emerge incrementally, as a grammar embedded in a complex web of belief, i.e., nested values, ideals, tales and tropes. Second, while such a background of agreement falls short of theoretical rapprochement, it allows for reciprocal influence: e.g., of Nelson Mandela and Desmond Tutu; or Dietrich Bonhoeffer and Martin Luther King, Jr. and Dorothy Day.

Yet neither acknowledging biblical imperatives nor reciprocal influence fully resolves our

initial dilemma: whether these two ways of addressing violence are finally compatible in a “dual tradition.” For the very biblical ideals that make influence possible may make condemnation necessary. Is the sword “outside the perfection of Christ,” as the Schleithem Confession declares; or is “the same sword” now “ordained to be used by the worldly magistrates”? Certainly, no theory of universally quantified propositions will allow us to say that the “sword” is both divinely ordained and not ordained. But what then do we confess? Must the opposing parties shun one another for infidelity, or at least falling short of the Gospel, as today we would shun those advocating crusade? Is pacifism but “wishful thinking,” or just war a Constantinian betrayal?

Let me respond by telling a personal story. In 1995, I visited Rwanda in the wake of the genocide. The killings had begun on the evening of Easter Wednesday, April 6, 1994, and continued for three months. By the end, more than 800,000 Tutsi as well as Hutu opposing the genocide were massacred. Between the second week of April and the third week of May, it is estimated that the daily rate of killing was at least five times that of the Nazi death camps. Three quarters of the Rwandese Tutsi population fell victim to the genocide; the elderly, children, and the infirm were killed, nor was there any haven. Churches offering sanctuary were the first places to be attacked.⁵⁸

As I visited these churches, filled with bodies still, bodies left as a memorial, my own pacifist convictions were deeply challenged. For had U.N. peacekeepers not summarily been withdrawn at the behest of the U.S. and the former colonial regimes, countless lives most likely would have been saved. In racist fury, neighbor killed neighbor, often with simple machetes. A show of force, akin to policing, may have sufficed, but none was offered. I remain a pacifist, in part as a consecrated religious Jesuit. But I am not prepared to condemn those who think otherwise, e.g., troops who would defend the innocent. Indeed, I would endorse their doing so. Have I abandoned my pacifism? I think not, for it remains plausible, as I argued above, to distinguish the waging of war from just policing. But there is still a deeper question: Might we not err precisely in assuming that one or another *has* erred? For if, as I have argued, both Christian pacifist and just-war advocate are bound by the exigencies of discipleship—the biblical imperatives of justice and peace—might not our differences emerge not in deliberation over whether just war or pacifism is more consistent with the Gospel, but rather in discernment of what the particular moment calls for?

Here, we hark back to the very origins of Christian reflection on just war, for not all were ordained to fight. As Ronald Bainton observes, “The prime transmitters of the nonmilitary tradition

of the early Church were the monks.”⁵⁹ In Ambrose’s words, “it was not the clergy’s business to look to arms but rather to the forces of peace”; and Augustine counsels Boniface that “[t]hey occupy indeed a higher place before God who, abandoning all these secular employments, serve Him with the strictest chastity, but ‘every one’, as the apostle says, ‘hath his proper gift of God, one after this manner, and another after that’ (1 Cor 7:7).”⁶⁰ For Aquinas, too, the “higher” calling of clergy and religious precluded resort to lethal force: “Although it is meritorious to wage a just war, nevertheless it is rendered unlawful for clerics, by reason of their being deputed to works more meritorious still.”⁶¹

With Vatican II’s universal call to holiness, such hieratic distinctions of higher or lesser meritorious roles no longer obtain. Neither does appeal to legitimate authority justify citizen soldiers’ obedience to what Augustine called “unjust commands” of “temporal masters.”⁶² In the hard grace of discipleship, none is spared discernment or the deliberation it entails.⁶³

In elaborating the “place” of discernment, Karl Rahner distinguishes essentialist and formal existential ethics, figuring respectively in the First and Second Week of St. Ignatius’ *Spiritual Exercises*.⁶⁴ In Rahner’s spirituality, essential ethics defines the sphere of *universal* norms, while a formal existential ethics pertains to discerning the *particular* call of God to the disciple as “*individuum ineffabile*, whom God has called by name, a name which is and can only be unique.”⁶⁵ Like Dante’s Virgil, moral deliberation brings us to the brink of discernment; but in the formal existential ethics of the Second Week’s election, we are summoned by name to respond to God’s gracious invitation. This is, in other words, one’s “selving” before God. For Rahner, not all moral decisions are mapped onto practical syllogisms. Discernment is necessary just because it is possible, because God does graciously invite one to a particular state, which need not be, *per se*, morally superior to another.

Might it be thus with Christian pacifism and just war? Not a question of theoretical inference, or even of practical, “essentialist” reasoning, but of graced discernment? If so, I may fully trust in my vocation, yet not be compelled to condemn yours. Condemnation, of course, is warranted where we fail to discern, or much worse succumb to Hobbesian “realism.” But if, as I have argued, discernment is a function of discipleship for pacifist and just-war advocate alike, then our differences emerge within a complex web of nested biblical values, ideals, tales, and tropes. And if we need not condemn, then perhaps we may learn each from the other.

In a world so riven by violence, both Christian pacifist and just-war advocate must acknowledge

the tragic aspect of discipleship, inspiring a hermeneutics not of righteous vindication, but of lament. For the proponent of just war, killing is severely constrained by the systemic imperatives of peace and justice in-forming the use of just-war (*ad bellum*, *in bello*, and *post bellum*) norms. Yet killing remains tragic. For Christians engaged in what St. Paul calls public magistracy, the wisdom of pacifists remains an all too cogent admonition against *hybris*. And the pacifist too must lament the killing and atrocity that could not be deterred by nonviolent practices and strategies. But always, re-conciliation—the healing of breaches—remains the end of the “dual tradition”; this is the hope “binding all Christians.” And forgiveness, which is always graced, transcending legal and moral duties and hence never exacted, may finally be indispensable for a future with hope.

Edmund Husserl spoke in his transcendental phenomenology of *epochē*, a bracketing of existential judgment. Might not spiritual *epochē* be required here, in a community of disciples who must discern, even in the midst of lament? May we witness rather than judge in healing our breaches? Is not humility required of both sides? Perhaps, as Dorothy Day reminds us, “in a way, it is like the paradox of the Gospel.”

Notes

1. Robert Ellsberg, ed., *The Selected Writings of Dorothy Day* (New York: Alfred A. Knopf, 1988), 280.
2. Karl von Clausewitz, *On War*, trans. Edward M. Collins, in *War, Politics, and Power* (Chicago: Henry Regnery, 1962), 65; cited by Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 3rd ed. (New York: Basic Books, 1977), 23.
3. The Pontifical Council for Justice and Peace and Pax Christi International, “Catholic Nonviolence Initiative,” <https://nonviolencejustpeace.net/final-statement-an-appeal-to-the-catholic-church-to-re-commit-to-the-centrality-of-gospel-nonviolence/>.
4. Walzer, *Just and Unjust Wars*, 36. Walzer speaks of the “moral reality” of war as “a rule-governed activity.”
5. For the ideal of an “overlapping consensus” see John Rawls, *Political Liberalism*, rev. ed.

(New York: Columbia University Press, 1996), xlvii ff., 133–172; and “The Idea of Public Reason Revisited,” in *The Law of Peoples* (Cambridge, MA.: Harvard University Press, 1999), 164–180.

6. U.S. Conference of Catholic Bishops, *The Harvest of Justice Is Sown in Peace: A Reflection of the National Conference of Catholic Bishops on the Tenth Anniversary of The Challenge of Peace*, November 17, 1993, <http://www.usccb.org/beliefs-and-teachings/what-we-believe/catholic-social-teaching/the-harvest-of-justice-is-sown-in-peace.cfm>.
7. U.S. Conference of Catholic Bishops, *The Challenge of Peace: God's Promise and Our Response*, in *Catholic Social Thought: The Documentary Heritage*, expanded edition, eds. David J. O'Brien and Thomas A. Shannon (Maryknoll, NY: Orbis Books, 2010), §80, 624.
8. The principal episcopal author of *A Challenge of Peace*, Joseph Cardinal Bernardin, notes the bishops' debt to Childress, among other Protestant theologians, for having “greatly contributed to our understanding of the content and capacity of just-war ethics to evaluate public policy.” Childress is cited in note 35 in the text. See Joseph Cardinal Bernardin, “The Challenge of Peace: Ecumenical Roots and Relationships,” <http://homepage.accesscable.net/~dpoirier/sfo84txt.htm>, accessed December 19, 2017. James Turner Johnson writes that “*The Challenge of Peace*, without reference to the logic of *prima facie* duties, replicates the structure of Childress' argument exactly: just war theory begins with a presumption against war, and the just war criteria function to override this presumption (or to show that it should not be overridden) in particular cases.” See “Just War, As It Was and Is,” *First Things* 149 (January 2005): 14–24, at 19.
9. James F. Childress, “Just-War Theories: The Bases, Interrelations, Priorities, and Functions of Their Criteria,” *Theological Studies* 39 (1978): 427–445, at 430, 434.
10. *Ibid.*, 436.
11. *Ibid.*
12. James F. Childress, ““Nonviolent Resistance: Trust and Risk-Taking' Twenty-Five Years Later,” *Journal of Religious Ethics* 25/2 (1997): 213–222, at 216–217.

13. Childress, "Just-War Theories," 435.
14. Childress, "Nonviolent Resistance," 216.
15. Childress, "Just-War Criteria," in *War or Peace? The Search for New Answers*, ed. Thomas A. Shannon (Maryknoll, NY: Orbis Books, 1980), 40–58, at 51.
16. James Turner Johnson, "Just War: The Broken Tradition," *National Interest* 45 (Fall 1996): 27–36; cf. "Just War, As It Was and Is," *First Things* 149 (January 2005): 16.
17. Lisa Sowle Cahill, *Love Your Enemies: Discipleship, Pacifism, and Just War Theory* (Minneapolis: Fortress Press, 1989), 13.
18. Helmut David Baer and Joseph E. Capizzi, "Just War Theories Reconsidered: Problems with *Prima Facie* Duties and the Need for a Political Ethic," *Journal of Religious Ethics* 33/1 (2005): 119–137, at 123.
19. Baer and Capizzi move too quickly, I believe, in assuming that "the pacifist would be adopting just war language for an ostensible strategic gain, while tacitly admitting that, on its own terms, pacifism is politically irrelevant." See *ibid.*, 124. For Childress, however, pacifists deny that there can be exceptions to the "*prima facie* rule," but the denial need not be justified strategically.
20. Baer and Capizzi, "Just War Theories Reconsidered," 124.
21. U.S.C.C.B., *The Challenge of Peace*, §68, citing *Gaudium et spes*, §78; and *The Challenge of Peace*, §25.
22. For criticism of the bishops' appropriation of Scripture, see Quentin Quesnell, "Hermeneutical Prolegomena to a Pastoral Letter," in *Peace in a Nuclear Age: The Bishops' Pastoral Letter in Perspective*, ed. Charles J. Reid (Washington, DC: Catholic University of America Press), 3–19.
23. John Donahue, *What Does the Lord Require*, rev. ed. (St. Louis: Institute of Jesuit Sources, 2000), 70–71.
24. John Donahue, "The Bible and Catholic Social Teaching: Will This Engagement Lead to

Marriage?" in *Modern Catholic Social Teaching: Commentaries and Interpretations*, ed. Kenneth R. Himes (Washington, DC: Georgetown University Press, 2004), 9–40, at 14.

25. Childress, "Just-War Theories," 441 (emphasis mine).
26. *Ibid.*, 430.
27. Aquinas, ST I-II, Q. 100, a. 8.
28. *Ibid.*
29. Aristotle, *Nicomachean Ethics* 1141b14–22, 1142a3014–30.
30. A.I. Melden, *Rights in Moral Lives: A Historical-Philosophical Essay* (Berkeley: University of California Press, 1988), 92.
31. Childress, "Just-War Criteria," 51.
32. As Melden observes "of Ross's use of the expression '*prima facie*'":

Instead of speaking of "tending-to-be-oughts" rather than "oughts *simpliciter*," we should speak of the fact that the moral reason specified by some moral precept or maxim may or may not be sufficient to determine what it is that one ought to do in some specific case to which it applies. (96)
33. See Hans-Georg Gadamer, *Truth and Method*, 2nd revised ed., trans. Joel Weinsheimer and Donald G. Marshall (New York: Crossroad, 1989), 300–307.
34. Cf. Epist. 189, and 209, 2; *De Civitate Dei*, XIX, 12–13, XXII, 6; Quest. Heat. VI, 10, SEL., XXVIII, 2, p. 428, IV, 44, CSEL, XXVIII, 2, p. 353; *De Libero Arbitrio*, V, 12, Migne, PL, XXXXII, 1227; *Contra Faustum*, XXIII, 76 and 79; Epist., 138, ii, 14. Cited in Bainton, *War and Peace*, 91ff.
35. Thomas Hobbes, *Leviathan*, ed. C. B. Macpherson (London: Penguin Books, 1968), 185–186.
36. *Ibid.*, 38–39. Hobbes thereby separates what Suárez merely distinguishes.
37. *Ibid.*, 52.

38. Jean Bethke Elshtain, "Reflections on War and Political Discourse: Realism, Just War, and Feminism in a Nuclear Age," in *War in the Twentieth Century: Sources in Theological Ethics*, ed. Richard B. Miller (Louisville, Kentucky: Westminster/John Knox Press, 1992), 395–416, at 400.
39. *Ibid.*, 407.
40. Our interpretation of the common good, that is, does not depend upon an Aristotelian/Thomistic teleological metaphysics, but, as in Rawls' political liberalism, looks to an overlapping, pragmatic consensus on dignity and human rights.
41. Nigel Biggar, *In Defense of War* (Oxford: Oxford University Press, 2013), 149.
42. *Ibid.*, 154.
43. *Ibid.*, 169.
44. *Ibid.*, 163.
45. *Ibid.*, 164.
46. Oliver O'Donovan, *The Just War Revisited* (Oxford: Oxford University Press, 2003), 53, as cited in Biggar, *In Defense of War*, 164, n. 82.
47. Biggar, *In Defense of War*, 169, 170.
48. See William O'Neill, "Imagining Otherwise: The Ethics of Social Reconciliation," *The Journal of the Society of Christian Ethics* 25 (2002): 183–199.
49. Desmond Tutu, *No Future without Forgiveness* (London: Rider, 1999), 51. "Ubuntu," says Tutu, "speaks of the very essence of being human." It "means my humanity is caught up, is inextricably bound up" in that of others. "We say, 'a person is a person through other people.' It is not 'I think therefore I am.' It says rather: 'I am human because I belong.' I participate, I share." See 34–35.
50. Many modern theorists oppose interpretations of the common good to modern interpretations of individual natural or human rights. Modern Roman Catholic Social

Teaching offers a *via media*: *Pacem in terris* glosses the premodern, perfectionist teleology of *Mater et magistra* (depicting the common good as “the sum total of those conditions of social living, whereby [we] are enabled to achieve [our] own integral perfection” [§65]) in deontological terms of the “rights and obligations” implied by persons’ natural dignity. “It is agreed that in our time,” says Pope John, that “the common good is chiefly guaranteed when personal rights and duties are maintained.” See *Pacem in terris*, §§53–66, 132–41; *Gaudium et spes*, §§25ff., 30; *Dignitatis humanae*, §§6–7; *Populorum progressio*, §§22–24, 43–75; *Sollicitudo rei socialis*, §§38–40.

51. Aquinas, ST II-II, 40 a. 1; citing Augustine (*De Serm. Dom. in Monte i*, 19). See Augustine, “Letter 138, to Marcellinus.”
52. Donald Davidson, “Radical Interpretation,” in *Inquiries into Truth and Interpretation* (Oxford: Clarendon, 1984), 137. See also “Thought and Talk,” 155–170.
53. Cahill, *Love Your Enemies*, 13–14, 151.
54. “Schleitheim Confession” in *Baptist Confessions of Faith* (Chicago: Judson Press, 1959), 22–31, at 27.
55. Gerald Schlabach, ed., *Just Policing, Not War: An Alternative Response to World Violence* (Collegeville, MN; Liturgical Press, 2007).
56. Duane Friesen and Glen Stassen, “Just Peacemaking,” in *Christian Peace and Nonviolence: A Documentary History*, ed. Michael G. Long (Maryknoll, NY: Orbis Books 2011), 277–81.
57. *Ibid.*, 278.
58. See Gérard Prunier, *The Rwanda Crisis: History of a Genocide* (New York: Columbia University Press, 1995), 237–68; Africa Rights, *Rwanda: Death, Despair and Defiance*, rev. ed. (London: Africa Rights, 1995); Human Rights Watch, *Leave None to Tell the Story* (New York: Human Rights Watch, 1999), 1–30. Cf. Philip Gourevitch, *We Wish to Inform You That Tomorrow We Will Be Killed with Our Families: Stories from Rwanda* (New York: Farrar Straus and Giroux, 1998), and Samantha Power, “A Problem from Hell”:

America and the Age of Genocide (New York: Basic Books, 2002), 337.

59. Roland Bainton, *Christian Attitudes toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville: Abingdon, 1960), 89.
60. Ambrose, "Duties of the Clergy," cited in James F. Childress, "Moral Discourse about War in the Early Church," *Journal of Religious Ethics* 12 (1984): 12; Augustine, "Letter to Boniface," CLXXXIX, in *Nicene and Post-Nicene Fathers*, vol. 1, *The Confessions and Letters of Augustine, with a Sketch of his Life and World*, First Series, ed. Philip Schaff, trans. J.G. Cunningham (Peabody, MA: Hendrickson, 1994), 552–54, at 553.
61. Aquinas, ST II-II, 40, a. 2; cf. II-II, 64, a. 4.
62. Augustine, Commentary on Psalm 125, in *Expositions on the Books of Psalms*, vol. 5, trans. H. M. Wilkins, vol. 37 of *A Library of the Fathers of the Holy Catholic Church* (London: F. & J. Rivington, 1835), 543.
63. Bernard Prusak argues that legal recognition of selective conscientious objection would constitute "an important resource for the prevention of unjust wars." See Bernard G. Prusak, "A Right Not to Fight: Making the Case for Selective Conscientious Objection," *Commonweal*, December 1, 2017, 13–15, at 13 (quoting Jeff McMahan).
64. Karl Rahner, "On the Question of a Formal Existential Ethics," in *Theological Investigations* 2, trans. Karl H. Kruger (Baltimore: Helicon, 1963), 217–234. See also Rahner, "The 'Commandment' of Love in Relation to the Other Commandments," in *Theological Investigations* 5, trans. Karl H. Kruger (New York: Seabury, 1966), 439–459; "Theology of Freedom", in *Theological Investigations* 6, trans. Karl and Boniface Kruger (New York: Seabury, 1974), 178–196; and "Reflections on the Unity of the Love of Neighbor and the Love of God" in the same volume, 231–249, where Rahner observes that "freedom is not simply the capacity to do this or that but (formally) a self-disposing into finality" (240).
65. Rahner, "On the Question of a Formal Existential Ethics," 217–234. Essential ethics, as we have seen, refers to the set of universal, action-guiding moral norms ascertained by natural reason (e.g. respect for persons' basic rights); we need not assume that such norms rest

upon a foundationalist or essentialist metaphysics.