

The History and Application of Christian Just War Theory as Related to Preemptive Attack

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## **Abstract**

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The Christian Just War tradition was created around the central principle that war was part of human existence, but that it needed limitation. It evolved under the influence of historical pressures and through intellects that synthesized the nonviolent teachings of Jesus with governmental concerns. The Christian Just War tradition has always sought to define what would allow a war to be considered just. It has become part of Western secular culture, helping to form ethical categories and preconceptions of Just War. Preemptive warfare has, since the very beginning of the tradition, been considered unjust, and yet it continues to be a tactic used by many governments, even those influenced by the Christian Just War tradition. Often using the language of the tradition, they find ways to argue that their preemptive strategies are just. For this reason, the effectiveness of Christian Just War theory is often debated.

This study begins by tracing the historical development of the Christian Just War tradition from Jesus through Aquinas, examining each thinker's views on preemption. It then puts Christian Just War theory into the context of the late 19th and early 20th centuries, and explores two examples of preemptive war. Finally, it compares contrasting applications of Christian Just War theory in the debate over the Iraq War. While preemptive warfare is considered unjust, the idea of preemption is hard to define objectively. This is one reason that Christian Just War principles have been used to justify preemption, though the legitimacy of this usage is highly debated. While the correct usage of Christian Just War theory, which maintains the purpose and integrity of the principles, condemns preemptive warfare, the application of it determines its effectiveness.

## Table of Contents

INTRODUCTION.....	1
Christian Just War Theory .....	1
Thesis Outline .....	2
CHAPTER ONE: <i>The Roots of Christian Just War Theory</i> .....	4
The Jesus Movement .....	4
Early Christianity .....	7
The Edict of Milan and the Influence of Cicero.....	11
Lactantius .....	17
CHAPTER TWO: <i>Just War in the Christian Empire</i> .....	20
Ambrose of Milan .....	21
Augustine of Hippo .....	23
Pope Urban II and the First Crusade .....	41
Thomas Aquinas .....	44
CHAPTER THREE: <i>The Modern Era</i> .....	50
Realism .....	50
Positive Law .....	52
Natural Law and Just War .....	55
The Impact of World War I.....	57
The Impact of World War II.....	59
Nuclear Weapons .....	63
Terrorism.....	65
CHAPTER FOUR: <i>Modern Preemptive Wars: Two Cases</i> .....	70
The Historical Context of the Six Day War.....	71
The Movement Toward War .....	74
Military Rationale.....	76
The Preemptive Nature of the Six Day War .....	77
The Historical Context of the Iraq War .....	79
The Bush Doctrine, American Exceptionalism, and the New World Order.....	82
The Rationale for War .....	85
International Support .....	87
Limited Congressional Support .....	88
The United Nations.....	89
Unilateral Preemptive Action .....	94
CONCLUSION: <i>The Application of Christian Just War Thought in the Debate Over Preemption</i> .....	98
BIBLIOGRAPHY .....	106

## Introduction

The Christian Just War theory is based on the belief that wars are part of human existence, but that they should be limited in scope. This acknowledgment of political reality balanced with religious moral restrictions has become one of the most influential ethical traditions in Western civilization. It remains in use among Christian theologians, but it has also become central to Western secular cultural conceptions of Just War. The principles and criteria created in the Christian Just War tradition have become part of international law, as well as the conscience of the populace. Governments, both secular and religious, engage in many varieties of warfare, often using the rhetoric of Christian Just War theory to support their efforts. Preemptive attack is one type of warfare which is hard to justify. Though preemptive warfare contradicts many principles of the Christian Just War theory, governments have continued to use it, professing the act to be just. This raises the question of how Christian Just War theory has been applied, both by those who seek to engage in preemptive warfare and those who seek to condemn it.

### Christian Just War Theory

Christian Just War theory has evolved over the two millennia of Christianity. It is one of three main attitudes toward war in the Christian ethic: pacifism, Just War, and crusade.<sup>1</sup> Pacifism dominated the early church, but after Christianity became the religion of the Roman Empire, new theology was needed which allowed religion to coexist with the functions of government, including warfare. From this tension, the Christian Just War tradition evolved. The concept of crusade is, to theologians including Augustine, part of the Christian Just War thought, as it argues that a war ordered by God must be just, but it is only semi-attached to classic Christian Just War theory.

Through interpretation of theology and political history, the Christian Just War tradition had developed two main categories of Just War principles: *jus ad bellum*, which addresses "when, if ever,

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<sup>1</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 14.

lethal force is justified," and *jus in bello*, which addresses how a war may be fought justly.<sup>2</sup> Each category contains moral principles by which a war may be measured. There are seven main *jus ad bellum* principles: *just cause*, which limits what might be considered the instigation for warfare; *competent authority*, which prevents anyone who is not a legitimate and competent public authority from declaring war; *right intention*, which asks if the goal of the war is just; *last resort*, which demands that all other avenues have been exhausted before violence is used; *relative justice*, which measures if the act of going to war will create more injustice than it set out to correct; *proportionality*, which measures whether the benefits outweigh the costs; and *reasonable hope for success*, which prevents loss of life in fighting a war without hope of winning.<sup>3</sup> There are two main *jus in bello* principles: *discrimination*, which separates combatants and non-combatants, and *proportionality*, which regulates the amount of damage be done in comparison to the offense being redressed.<sup>4</sup> Some Christian Just War theologians, including Augustine, also added *good faith*, which demands that in a war the two sides maintain a certain amount of trust, keeping the communication open so that the war can be ended.<sup>5</sup> *Necessity*, which demands that the damage done in war be restricted to that which fulfills military goals, is often added to the *jus in bello* criteria, though sometimes under the principle of *discrimination*.<sup>6</sup>

## Thesis Outline

In the first two chapters, this thesis will take a historical approach, examining the evolution of the Christian Just War tradition and exploring how preemption was addressed at each stage. In chapter 3, it will place the tradition in the context of modern secular theories of warfare: Realism, Positive Law, and Natural Law, and survey how these theories have dealt with the changing nature of human conflict. Chapter 4 will use the Six Day War and the Iraq War to investigate the ways that the

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<sup>2</sup> Richard B. Miller, *Interpretations of Conflict: Ethics, Pacifism, and the Just-war Tradition* (Chicago: The University of Chicago Press, 1991), 13.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, 14.

<sup>5</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006) 11.

<sup>6</sup> *Ibid.*, 10.

principles of the Christian Just War were used to justify wars that are widely considered to have been preemptive, as well as examine why the rhetoric failed to answer the criteria. Finally, the conclusion will compare the application of Christian Just War principles by former President Jimmy Carter and the Bush administration in the debate over Iraq.

## Chapter 1

### The Roots of Christian Just War Theory

Early Christianity developed during a time of conflict between the Roman Empire and the Jews of Israel. The mistrust, exacerbated by Roman paranoia of new religions originating in the East, produced an environment in which early Christians moved away from Judaism. This was not an easy transition and Christians were often understood as a sect of Jews by government. As more gentiles and Roman citizens began converting to Christianity, it became perceived as a dangerous new cult which had departed from the respectable ancient traditions of Judaism.<sup>7</sup> In the first and second centuries, Christians were a minority in a large empire, powerless in politics and sporadically persecuted. They simply did not have enough political power to need a concept of Just War, though they did have several key teachings on violence and Imperial allegiance. As Christianity grew and began to achieve mainstream acceptance, eventually being legalized in the Edict of Milan, Christian theologians, making use of the work of Roman thinkers such as Cicero, began the process of reinterpreting biblical teaching on violence and warfare in ways that were more acceptable to the Empire, becoming Christian Just War theory.

#### The Jesus Movement

Before there was Christianity, there was the Jesus Movement. It is usually defined as the movement coalescing around the living charismatic leader Jesus of Nazareth and continuing for a short time after his death. This movement was, in the words of Karen Jo Torjesen, "informal, often counter-cultural in tone, and was marked by a fluidity and flexibility that allowed women, slaves, and artisans to assume leadership roles."<sup>8</sup> In the Jesus Movement, the gentile influences were less pronounced than they would be in early Christianity, and the theology was less developed. The main

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<sup>7</sup> Elaine Pagels, *Adam, Eve, and the Serpent* (New York: Vintage Books, 1988), 50.

<sup>8</sup> Karen Jo Torjesen, *When Women Were Priests: Women's Leadership in the Early Church & the Scandal of their Subordination in the Rise of Christianity* (New York: HarperCollins Publishers, 1995), 11.



theological sources from that period are the Gospels, which are generally thought to preserve Jesus of Nazareth's teachings from oral tradition. As the charismatic leader of a small movement within a society which had been forced to join the Roman Empire less than a century earlier, Jesus taught nothing specific about just conduct in war. At most, it could be argued that he was speaking about the causes of national strife in a spiritual sense when he discussed the destruction of the Temple, but he was not teaching about earthly wars, rather eternal struggles between good and evil.<sup>9</sup> Jesus even rejected the importance of earthly wars as merely signs of the end times.<sup>10</sup> The sacred realm, not the earthly one, was what was important. On Earth, Jesus' focus was the personal and spiritual behavior and belief of his followers and of Israel at large. He was preparing them for the coming of the Kingdom of Heaven, an event that carried heavy ethical ramifications, thus earthly behavior was important.

Jesus' teachings on violence were few, the most referenced were found in the gospels of Matthew and Luke. The author of Matthew quoted Jesus as saying "But I say to you, do not resist an evildoer. But if anyone strikes you on the right cheek, turn the other also."<sup>11</sup> Possibly working from a common source, the author of Luke added "and from anyone who takes away your coat, do not withhold even your shirt."<sup>12</sup> This is a reaction-based concept. It is impossible to preemptively turn the other cheek. The turning of the cheek comes after the act of aggression. This teaching, combined with his command to "love your neighbor as yourself,"<sup>13</sup> gives the impression that Jesus advocated active non-violence. Further, Jesus even told his followers to "Love your enemies and pray for those who persecute you, so that you may be children of your Father in heaven."<sup>14</sup> Rather than taking up arms against an oppressor, love is the appropriate response. In the words of Donald

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<sup>9</sup> Mark 13:14 (New Revised Standard Version)

<sup>10</sup> Mark 13:7-8 (New Revised Standard Version)

<sup>11</sup> Matt. 5:39 (New Revised Standard Version)

<sup>12</sup> Luke 6:29 (New Revised Standard Version)

<sup>13</sup> Matt. 22:39 and Luke 10:27 (New Revised Standard Version)

<sup>14</sup> Matt. 5:44-45 (New Revised Standard Version)

Senior, "The Christian must be as gracious as God is, loving those who do not love you."<sup>15</sup> In later centuries Gandhi and Martin Luther King Jr. would see this type of nonviolence as a powerful technique for social change. Nonviolent resistance, including the acceptance of punishment, Gandhi and King believed, awoke empathy and love within the enemy, or in those who witnessed the violence.<sup>16</sup> In the centuries that followed the death of Jesus, the non-violence of Christians won many converts through the witness of martyrdom.<sup>17</sup> Tertullian, who himself had been converted by the sight of Christian martyrs, boasted that "the more we are mown down by you [the Romans], the more we multiply: the blood of Christians is seed!"<sup>18</sup>

The other major gospel source for teachings on violence would also become very important to interpreters of Jesus' life and message, specifically on the subject of military service. In the garden of Gethsemane,

they [the chief priests and elders] came and laid hands on Jesus and arrested him. Suddenly, one of those with Jesus put his hand on his sword, drew it, and struck the slave of the high priest, cutting off his ear. Then Jesus said to him, 'Put your sword back into its place; for all who take the sword will perish by the sword. Do you think that I cannot appeal to my Father, and he will at once send me more than twelve legions of angels? But how then would the scriptures be fulfilled, which say it must happen in this way?'<sup>19</sup>

While this is part of the story of Jesus' betrayal and death, the verse "all who take the sword will perish by the sword," became a foundational teaching in early Christian non-violence. Roland Bainton argues that this was not supported by the New Testament, but by "an effort to apply what was taken to be the mind of Christ."<sup>20</sup> This theology grew and changed to make martyrdom a highly valued response to Roman persecution. By a century after Jesus' death, martyrdom tales were being written and published to teach ethical lessons about reacting to violence and, more importantly, the

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<sup>15</sup> John T. Pawlikowski and Donald Senior, ed. *Biblical and Theological Reflections on the Challenge of Peace* (Wilmington, DE: M.Glazier, 1984), 58.

<sup>16</sup> Robert L. Holmes, *Nonviolence in Theory and Practice* (Prospect Heights, IL: Waveland Press, 1990), 150.

<sup>17</sup> The early Christian writer known as Justin Martyr was one such convert, and wrote about it at length. Elaine Pagels, *The Origin of Satan: How Christians Demonized Jews, Pagans, and Heretics* (New York: Random House, 1995), 115.

<sup>18</sup> Elaine Pagels, *Adam, Eve, and the Serpent* (New York: Vintage Books, 1988), 50.

<sup>19</sup> Matt. 26:50-54 (New Revised Standard Version)

<sup>20</sup> Roland H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 53.

nature of reality. To be a Christian was to serve God and the pure eternal life that He gave you, separate from this impure brief material existence. This worldview deemphasized life and world affairs, setting the Christians apart from the empire in which they lived.

## Early Christianity

Rome was, in the first three centuries of Christianity, an empire which maintained its strength through military superiority and territorial expansion. As Christianity gained a foothold amongst the non-Jewish populace, it also was discovered by those in the army. There are multiple stories of military personnel converting and renouncing their service to the Emperor and their violent profession. Richard Regan points out that fragmentary literary evidence from the era indicates that Christian leaders, such as Tertullian, Origen, Justin Martyr, and Clement of Alexandria, discouraged military service.<sup>21</sup> Tertullian is one of the most influential writers in early Christian literature, and his martyrologies were popular enough that several have survived. "The Soldier's Chaplet," written ca. 211 CE, concerns a soldier revealing himself to be Christian, and the consequences of that action.<sup>22</sup> The pattern of the story was a typical one for a tale of Christian martyrdom. The hero is Christian. The hero refuses to hide that he or she is Christian. The hero refuses to do something demanded of him by earthly, usually Roman, society. The hero is jeered at and humiliated. Finally, the hero goes to his or her death gladly. In other words, it is the story of an individual following the model of Jesus in a very literal way. The hero's death intentionally - either from historical events, editorial license, or a bit of both - mirrors the Passion of Jesus. Within this outline, the author introduces and emphasizes ethical instruction, contrasting Roman and Christian beliefs and proving the superiority of Christian beliefs. In the case of Tertullian's *Soldier*, the major concern was violence, specifically military violence.

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<sup>21</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 5.

<sup>22</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 27.

The story begins in an idealized Roman setting: victorious soldiers celebrating a victory, while receiving "the bounty of our most excellent emperors," and wearing laurel crowns.<sup>23</sup> The Christian soldier refuses to put on his crown of victory, making himself known as a Christian. He is sent to a tribunal. Before the prefects, the soldier removes his uniform. Tertullian's criticism of Roman military virtues begins in earnest here. He starts by criticizing the very symbol of Roman victory, the laurel-crown. He calls it "useless."<sup>24</sup> The removal of all military garments is theological: "He loosed from his foot the military shoe, beginning to stand upon holy ground; he gave up his sword which was not necessary either for the protection of our Lord."<sup>25</sup> The soldier is replacing the inferior worldly values of Rome with the superior spiritual values of Christianity. He is described as "purple clad with the hope of his own blood, shod with the preparation of the Gospel, girt with the sharper word of God, completely equipped in the apostles' armor, and crowned more worthily with the white crown of martyrdom."<sup>26</sup> The Soldier is moving toward the all important moment of martyrdom. He is following in the footsteps of Jesus. He is refusing to give in, to fight back, or even to save his own life. To be an admitted Christian, in this tale, means death. The Romans judge him to be rash and eager to die. For the soldier, it is a theological battle over loyalty and ethics. For the Romans, it is a legal issue. The soldier is a conscientious objector.

At the tribunal, the question arises as to where is it forbidden for Christians to wear the crown? At this point Tertullian detaches from the narrative, leaving the rest to be inferred. The remainder of the piece is a theological discussion. He first asks if it is lawful for a human oath to be held over a divine one, then follows with more specific questions, including,

shall it be held lawful to make an occupation for the sword, when the Lord proclaims that he who uses the sword shall perish by the sword? And shall the son of peace take part in the battle when it does not become him even to sue at law? ... Shall he, forsooth, either keep watch-service for others more than for Christ, or shall he do it on the Lord's day, when he

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid., 28.

<sup>26</sup> Ibid.

does not do it for Christ himself? And shall he keep guard before the temples which he has renounced? ... Shall he carry a flag, too, hostile to Christ?<sup>27</sup>

Tertullian uses Matthew 26:52 as a non-violent teaching, and sources it to the divine. That alone would be powerful, but he also questions Christians' place and activity in Roman society. Many of the rights and duties of Roman citizenship were rejected by Christians, or legally denied to Christians. The pressures of this cultural and ethical conflict helped to shape early Christian theology. Tertullian argued that a state of faith to God is superior to a state of faith to man, in that it "admits no plea of necessity; they are under no necessity to sin."<sup>28</sup> Any instruction given by a human institution which contradicts a divine instruction is invalid. He interpreted the divine instruction to turn the other cheek to be a rejection of the ancient Jewish "eye for an eye" law.<sup>29</sup> To hurt someone else is to make them revisit the violence on you, creating a cycle of violence, possibly leading to murder. Killing, any killing, is a type of sin. Worse, it is a sin which reproduces. By hurting someone else a person is not only sinning against his or herself, but inviting sinful retaliation. A true Christian's duty is to fight against all sin. In becoming a Christian he or she has made an oath to God to do so. A Christian, Tertullian argued, cannot hold an oath to a human that contradicts an oath to God, and being a soldier in the Roman Imperial Legion is just such an oath. Soldiers must kill, while Christians must not. The wearing of the crown represented the oaths to the emperor, making it idolatry. As pointed out by Alex Bellamy, Tertullian "revealed both the Christian's aversion to idolatry in the military and the fact that there were Christians in the army at this time."<sup>30</sup> As an outsider faith, Christianity's lack of political power made non-violence more than theological, it was the only option. Tertullian later argued that Christians were valuable and loyal members of the Empire because, while they could not fight in war, they prayed for the Emperor and the defense of the law.<sup>31</sup>

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<sup>27</sup> Ibid., 29.

<sup>28</sup> Ibid., 30.

<sup>29</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT: Ashgate, 2006), 15.

<sup>30</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 21.

<sup>31</sup> Ibid., 22.

This point was also made by Origen (ca. 185 – ca. 254 C.E.). In several works, he argued that Christians were involved in a holy battle to banish demons and sin from the Empire. Christian service to the Empire was vital, and Christians were model citizens, but they must serve differently than others. His work *Contra Celsum* (ca. 247 C.E.) is a rebuttal to a now lost work by the pagan Platonist Celsus, who argued that, "if all were to do the same as you [the Christians], there would be nothing to prevent [the king from] being left in utter solitude and desertion and the affairs of the earth would fall into the hands of the wildest and most lawless barbarians."<sup>32</sup> Christians did not perform many of the duties of citizenship, including service in the military, which Celsus believed threatened the stability of the Roman Empire. Therefore, he argued, Christians should be denied the rights of citizenship. According to Origen, Christians are set apart from humanity for the divine purpose of battling evil.<sup>33</sup> Every Christian, he said, is a "minister," and as religious officials were often excused from military duty, all Christians should also be exempt.<sup>34</sup> This is a political argument, intended for a non-Christian audience: Christians were useful to the Empire, and therefore should be valued.

In the midst of that argument, Origen made several theological points on the issue of Christians and violence. He believed that Jesus and the word of God forbade Christians from harming another human. This was one of the qualities that set them apart: "He [Jesus] nowhere teaches that it is right for His own disciples to offer violence to any one, however wicked. For he did not deem it in keeping with such laws as His, which were derived from a divine source, to allow the killing of any individual whatever."<sup>35</sup> Killing is against the will of God; the authority cannot be questioned, as far as Origen was concerned. The "divine source" was an authority higher than kings' or even the Emperor's. Authority was the cornerstone of Origen's argument. Christians were not

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<sup>32</sup> Philip J. Wogaman, *Christian Ethics: A Historical Introduction* (Louisville, KY: Westminster/John Knox Press, 1993), 32.

<sup>33</sup> Daryl J. Charles, *Between Pacifism and Jihad: Just War and Christian Tradition* (Downers Grove, IL: InterVarsity Press, 2005), 36.

<sup>34</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 31.

<sup>35</sup> *Ibid.*, 32.

being seditious to the crown; rather they were obediently following a much larger and more just authority, to the benefit of everyone in the Empire.

And this we do in obedience to the injunction of the apostle, "I exhort, therefore, that first of all, supplications, prayers, intercessions, and giving of thanks to be made for all men; for kings, and for all that are in authority"; and the more anyone excels in piety, the more effective help does he render to kings even more than is given by soldiers, who go forth to fight and slay as many of the enemy as they can.<sup>36</sup>

Origen's argument was an important one, as it did not only decry violence by Christians, but proposed Christianity as an alternate form of military service. While Origen, as a Christian, was still a member of a community outside of the Roman law, he was proclaiming that Christians offered a valuable service, reducing the amount of sin in the Empire. His rejection of the Emperor was not nearly as vehement as Tertullian's. He even went as far as arguing that it was possible that military might fight for a righteous cause.<sup>37</sup> Origen's work is indicative of the way Christianity began edging toward the mainstream culture, while maintaining its differences on specific important issues, such as military service.

### **The Edict of Milan and the Influence of Cicero**

In 313 C.E. the Edict of Milan was issued by Constantine, making Christianity a tolerated religion in the Empire. This was a critical moment in the development of Christianity. At least officially and legally, it was no longer a fringe movement, disliked and repressed. The adoption of Christianity by Constantine completely entwined it with the Roman imperial governance, which had a major influence on the development of later Christian theology. It was also a turning point on the issue of Christians in the armed forces. Following the edict, military service became more legitimate to the Christian leadership.<sup>38</sup> One of the reasons for this was that Christianity, moving toward the mainstream, began to be influenced by Roman tradition and philosophy. As Christians struggled with

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<sup>36</sup> Ibid.

<sup>37</sup> J. Daryl Charles, *Between Pacifism and Jihad: Just War and Christian Tradition* (Downers Grove, IL: InterVarsity Press, 2005), 36.

<sup>38</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 5.

the issue of warfare, and the need to legitimize it when becoming part of the Imperial power structure, one of the most compatible pagan sources of Just War thought was Cicero.

Marcus Tullius Cicero (106 B.C.E. – 43 B.C.E.) was one of the foremost Stoic writers of the first century B.C.E. His writings were widely read long after his death, and became very influential to Christian thinkers. A Roman senator, lawyer, and orator, his writings were legalistic but concerned with ethical behavior. This led him to create one of the first full-fledged sets of guidelines for just warfare, mainly recorded in his works *De Officiis* (Of Duties, written in 44 B.C.E.) and *De Re Publica* (On the Commonwealth, written between 54 and 51 B.C.E.). The Stoics, borrowing from Plato and Aristotle, understood the universe in terms of Natural Law. In the words of Marrin,

a principle of rationality pervades the cosmos, governing all things, animate and inanimate, in a manner congruous with the nature of each. Thus in man the Natural Law signifies those eternal and unalterable principles of morality engraved upon the heart and perceived by reason.<sup>39</sup>

There is an eternal and objective universal law, above human law, which must be deciphered. Part of this law, argued Cicero, governed how nations and soldiers should conduct themselves in wartime.<sup>40</sup> Humans are rational beings, and therefore able to perceive and interpret the universal Natural Law. Stoics, including Cicero, carried this idea further, imagining that the ideal type of society would be fully made up rational citizens. He idealized politics, seeing the state as the highest form of society. As such it must be protected and preserved: "There is some similarity between the overthrow, destruction, and extermination of a State, and the decay and dissolution of the whole universe."<sup>41</sup> It is the state's role to maintain, as summarized by Bellamy, "a balance between nature and law in order to facilitate the pursuit of justice and hence happiness."<sup>42</sup> Failure to protect the state would be a detriment to the human race at large, causing chaos and suffering.

Stoicism understood humankind to be a brotherhood. If all humans are brothers, all killing is fratricide. Like Plato before him, Cicero also divided the enemy into the "guilty" and "innocent."

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<sup>39</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 49.

<sup>40</sup> Larry May, *War Crimes and Just War* (New York: Cambridge University Press, 2007), 49.

<sup>41</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 14.

<sup>42</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006) 19.



Later, Christian Just War thinkers would turn this concept into the distinction between combatants and non-combatants. Cicero, however, did not define that division, merely distinguishing between "innocent" and "guilty," but not specifying that the "innocent" were not to be harmed.<sup>43</sup> This was because, for Cicero, the idea that all humanity is a brotherhood was tempered by his belief in the superiority of Romans over all other people. He felt that Roman rule was often better for the ruled than if they were left to rule themselves. He saw it as just for Romans to rule inferior peoples, because "the license to do wrong is taken away from wicked men."<sup>44</sup> The defeated were to be incorporated into the state, for their own good. Inferior people were worthy of human rights and of honorable communication in times of war, but only to a point. Believing the safety and happiness of the many outweighed the death of a few, he usually ended up placing the state, especially the Roman state, in a higher echelon of importance than the brotherhood of humans. Of course, this positioning of the state meant almost any act could be justified in its defense. There were exceptions to his limitations on war, most notably the fate of the Carthaginians, whom he declared to have been barbarous, behaving in such a way as to negate their own rights.<sup>45</sup> Cicero's ideal state was one which was just to its inhabitants, and thus they remained loyal, but he recognized that it could be threatened by injustice from without. If the state is an ideal one, with justice at its center, how can it respond to such threats? It was this question which fueled Cicero's examination of Just War.

The guiding principle for Cicero, was *humanitas*. Bainton describes this principle, saying that humans are endowed with excellence and dignity: "Decorum, civility, and refinement are becoming to him and should govern his deportment. In his dealings with others he should exhibit benevolence, magnanimity, and mercy. Harmony and concord should prevail in his society."<sup>46</sup> Humans, behaving

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<sup>43</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 41.

<sup>44</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 16.

<sup>45</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 42.

<sup>46</sup> *Ibid.*

morally, can bring about order and civility, even in times of chaos. Cicero believed that there should be a "strong presumption against war," even when at war.<sup>47</sup> As a Roman, a citizen, and a senator of the strongest and most militarized society in existence, he did not deny that wars would happen. Rather, he set out to create a set of guidelines by which a nation could go to war justly. As he states in *De Re Publica*, "A war is never undertaken by the ideal State, except in defense of its honor or its safety."<sup>48</sup> This presupposes that if a nation is to go to war for a just cause, it must be to correct some wrong or offense perpetrated by an opponent. "Those wars are unjust," he said, "which are undertaken without provocation."<sup>49</sup> Wars cannot be undertaken justly unless the state is responding to something. This does not mean, however, that all wars must be defensive.

Just action in response to provocation did not only include defense of property and honor, but also revenge, or "punitive actions," as John Mattox calls them.<sup>50</sup> Once provoked, the Roman legions were acting justly in punishing the enemy. Cicero included the protection of allies in his provision of "honor." "There are two kinds of injustice – the one, on the part of those who inflict wrong, the other on the part of those who, when they can, do not shield from wrong those upon whom it is being inflicted."<sup>51</sup> Humanitarian wars, which defend those who cannot defend themselves, are just. It seems a noble sentiment, as indeed it was in the Roman worldview, but it bears mentioning that Rome had a tendency to step in to "shield" many allies, and in the process begin to annex these other countries into the Empire. This practice was completely in line with the Roman view of themselves as benevolently superior. Cicero noted, with an ambiguity that Mattox argues is satisfaction, that "Our people by defending their allies have gained dominion over the whole world."<sup>52</sup> Such a motive was seen by Cicero as one of ethical purity.

Motive was key to his understanding of Just War, determining its justness. At the same time, Cicero was a legal mind, and he saw a spectrum of justness in motives. Wars fought for honor, for

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<sup>47</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 15.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

instance, could include wars fought for the glorification of Rome, but they were less just than wars of revenge or defense. "When glory is the object of war, it must still not fail to start from the same righteous motives which I said a moment ago were the only righteous grounds for going to war. But those wars which have glory for their end must be carried on with less bitterness."<sup>53</sup> A war for glory is not completely unjust, but it is less just, and it must conform to Cicero's other rules of warfare. Authority was a major issue for Cicero. As legalist politician, he demanded that wars were unjust without the proper legal actions carried out by the proper authority, specifically a forewarning, a request for satisfaction over the wrong, and a formal public declaration of war.<sup>54</sup> Warfare must be declared between two proper authorities, and between them proper conduct was important.<sup>55</sup> Rome was called upon to give 33 days notice to the enemy. This was part of the *fetial* code, a Roman religious code for Just War, and one which Cicero used as a starting point many times.<sup>56</sup> Other popular motivations for going to war, such as territorial expansion, Cicero viewed as unjust. He was in the tradition of Aristotle, and Plato before him, when he argued that the only object of war must be "that we may live in peace unharmed."<sup>57</sup>

Cicero was also concerned with just behavior once a war, just or not, had begun. No action by a rival state, could justify unrestrained violence on the part of the State. Cicero felt there must be limits to the way war is conducted to keep it just.

There are certain duties that we owe even to those who have wronged us. For there is a limit to retribution and to punishment; or rather, I am inclined to think, it is sufficient that the aggressor should be brought to repent of his wrong-doing, in order that he may not repeat the offense and that others may be deterred from doing wrong.<sup>58</sup>

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<sup>53</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 51.

<sup>54</sup> *Ibid.*

<sup>55</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 20.

<sup>56</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 14.

<sup>57</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 16.

<sup>58</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 51.

This is the beginning of what later Just War thinkers would call proportionality. Excessive punishment is unjust. It was argued then, as it is now, that extreme punishment would deter offenders from repeating their actions more than a measured response. Cicero addressed this by offering a specific set of principles. Soldiers of the enemy who surrender and cease hostile actions should be given some immunity from punishment, as they were not acting upon their own behalf, but rather as instruments of the state.<sup>59</sup> They were not operating under the moral codes of an individual, but rather acting as a soldier, entitled to fight by a higher authority.<sup>60</sup> Treating an enemy's soldiers honorably was part of the good faith that Cicero believed the authorities in a conflict must maintain with each other.<sup>61</sup> There must be trust. Treaties must not be made or broken dishonestly. Inhabitants of lands invaded must also be treated honorably. Protection must be offered to all who lay down arms.<sup>62</sup> This would apply, as long as they have not behaved in such a way as to negate that protection, as Cicero believed that Carthaginians had.

It is extremely unlikely that Cicero would have believed a preemptive attack to be just. While he might have subscribed to a motive of defense, based on speculation of future attack, at the same time he was very specific that the enemy must cause offense first. Warfare could only be used as a reaction. Any rush to war with a country that had not made first attack would be seen as dishonorable, possibly even dishonest. If the opponent was building an army, making acts of aggression, and implying that an attack is on the way, those actions might be seen, under Cicero's rubric, as actions for which a demand of satisfaction might be made, and thus an attack could be called just, but at the same time it would mean redefining the enemy's actions as acts of war. Such redefinition would run contrary to Cicero's Stoic belief in reason and objective Natural Law. Further, his belief in proportionality would prevent minor offenses from being used to rationalize an armed attack against the offender.

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<sup>59</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 18.

<sup>60</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 20.

<sup>61</sup> *Ibid.*, 18.

<sup>62</sup> *Ibid.*, 20.

## Lactantius

The work of Lucius Caelius Firmianus (ca. 240C.E. – 320 C.E.), or Lactantius as he was commonly called, spanned the changes brought on by Constantine. His two most famous works are *The Divine Institutes* (ca. 304), predating the Edict of Milan, and *The Deaths of the Persecutors* (ca. 314), postdating the Edict.<sup>63</sup> The latter is simply a collection of stories detailing the deaths of many who had persecuted Christians. It was popular literature written to emphasize the ethical inferiority of those who would attack Christians, and what doom befell them.<sup>64</sup> Because it followed the Edict, it was allowed to circulate widely in a way that was never before possible. While *The Divine Institutes* predate the Edict, they show that Christian theology was changing. The *Institutes* were dedicated to Constantine as "the greatest of emperors,"<sup>65</sup> though at the time Christianity was still outlawed. It was an argument for Christianity over paganism. The dedication shows the growing movement for mainstream acceptance in Christianity. Lactantius' work is one of the earliest examples of a Christian openly using pagan thinkers like Cicero to create new theology. His attitudes toward violence and warfare owe more to the Stoicism of Cicero, than to the early Christian traditions.<sup>66</sup>

Lactantius shared Cicero's beliefs in the brotherhood of humankind, including the aversion to violence it implied. While Lactantius used Cicero's Just War thought to condemn warfare, he usually adhered to Cicero's logic and reasoning. There were differences, however, due to his Christian theology. He looked to God as a source of law and authority more powerful than human law and Imperial authority. "The first head of [the divine] law is, to know God Himself, to obey Him alone, to worship Him alone."<sup>67</sup> Divine law is justice. Human laws, by comparison, are devised "not by justice, but by utility... which varies everywhere according to customs."<sup>68</sup> For Lactantius, a Christian's duty is to divine law:

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<sup>63</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 35.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid., 36.

<sup>68</sup> Ibid.

The first office of justice is to be united with God, the second with man. But the former is called religion; the second is named mercy or kindness; which virtue is peculiar to the just, and to the worshipers of God, because this alone comprises the principle of common life.<sup>69</sup>

God and justice outstrip human law and human divides, such as differentiated nations. He condemned nationalism as "prideful and selfish."<sup>70</sup> Similarly, he deplored the position that "might makes right," or that success in warfare means that "God is on our side."<sup>71</sup> All of these things are human folly and based on an ignorance of God's will. He strongly disagreed with Cicero on the issue of Carthage. Borrowing from Gaius Sallustius Crispus (86-34 BCE), Lactantius argued that Rome's destruction of Carthage was based on, in the words of Bainton, "cruelty, ambition, pursuit of luxury, and debauchery."<sup>72</sup> Roman pretense at a just cause was merely an excuse. While usually following in the footsteps of the Stoics and Cicero, Lactantius was generally suspicious of Roman ideas of Just War, which had subjugated the Empire.<sup>73</sup> There were more important things than ideas of empire and sovereignty. He saw the human brotherhood as divine law:

Kindness is the greatest bond of human society; and he who has broken this is to be deemed impious, and a parricide. For if we all derive our origin from one man, whom God created, we are plainly of one blood; and therefore it must be considered the greatest wickedness to hate a man even though guilty.<sup>74</sup>

Killing was against the rule of God and the "bond of human society" because of the brotherhood that God taught humans "never to do evil, but always good."<sup>75</sup> Further, God prescribed how to do good. Lactantius said good actions consist of "affording aid to those who are oppressed and in difficulty, and in bestowing food on those who are destitute. ... Therefore humanity is to be preserved, if we wish rightly to be called men."<sup>76</sup> War, including preemptive war, is sin at its most disrespectful to divine law. While it may be allowed by human law, it is not by God's law.

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid., 35.

<sup>71</sup> Ibid.

<sup>72</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 75.

<sup>73</sup> Ibid.

<sup>74</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 38.

<sup>75</sup> Ibid., 39.

<sup>76</sup> Ibid.

The works of Lactantius represent a link between early Christian nonviolence and Imperial Christian ideas of Just War. He condemns warfare but largely uses Just War thought from Cicero to do it. The Christian emphasis on a greater spiritual reality is important to Lactantius, as it would be for Augustine, but he is addressing the very earthly subject of war in detail. His Just War thought, while still condemning war, is engaging in the political realities of Imperial existence much more than his predecessors had. Within a generation of Lactantius, official Church doctrine turned away from the nonviolent nature of its roots, and toward the realities of power, creating the Christian Just War tradition.

## Chapter 2

### Just War in the Christian Empire

With the Edict of Milan and the conversion of the Emperor, Christianity became part of the Roman, soon to be Byzantine, Empire. The ethical systems of Tertullian, Origen, Clement, and especially Jesus simply did not fit with the immense power that Christianity held as part of the Empire. The inclusion of pagan sources, such as Cicero, became more and more common, creating a paradigm shift in Christian theology. Radical new reinterpretations evolved. Bainton suggests that the change was so dramatic that it casts doubt on the prevalence of pacifism in pre-Constantinian Christianity, but suggests that it is really proof that there had been change afoot for a while.<sup>77</sup> There had been earlier conversions to Christianity by officials in other parts of the empire, such as Abgar IX, king of Edessa in 202 CE, and Christians who rose to some power, such as Bishop Paul of Samosata who became a civil magistrate, but they were the exceptions.<sup>78</sup> Such precursors were insignificant compared to post-Constantinian Christian power.

Mainline Christianity began with the Edict of Milan, in 313 CE, when pluralism of belief became more codified under Imperial influence. The result was a unified official Christianity, with power, prestige, and political influence. This meant that there was a great dilemma which Christian leaders had to face, as noted by Richard Regan: "On one hand, their religion was antithetical to the use of killing force; on the other, their failure to use killing force would entail dire consequences for the community."<sup>79</sup> The Empire was built on expansion, often through the use of war. The rise of Christianity had not changed this. Without a military the Empire would quickly begin to crumble. The Christian leaders had to find a way for war and Christianity to co-exist. Augustine of Hippo (354 CE – 430 CE) created the most influential synthesis of these two seemingly opposed entities, but he was

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<sup>77</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 85.

<sup>78</sup> *Ibid.*, 70.

<sup>79</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 17.



not alone, nor was he the first. He was preceded by several theologians, most notably Ambrose of Milan (338 CE – 397 CE). The full Christianization of the military was not complete for almost two centuries, but the changes that allowed the process to take place began with these theologians.<sup>80</sup>

### **Ambrose of Milan**

Ambrose had been born into a Roman Christian family of some prestige. He lived in the post-Constantinian Empire, and the blurring of Christian and pagan beliefs was apparent throughout his work. He was never a pacifist, even serving as a praetorian prefect in northern Italy.<sup>81</sup> In 374 CE he was made bishop of Milan, where he began theologically melding the Church and Empire, as well as reifying doctrine that best supported this new relationship. In his *On the Duties of the Clergy* he blended Christian and pagan sources, owing much to Cicero, into a new interpretation of traditional Stoic ethics, as noted by J. Ian McDonald,

Ambrose presented a Christian reinterpretation of the tetrad of virtues which he drew primarily from Cicero and the Stoics (*De Officiis* 1.27). Wisdom and piety are now theologically based. Courage is related to the withstanding of temptation, although more traditional senses are not excluded. Self-control seems to be taken over without qualification, while justice was extended (as in Cicero) to comprehend benevolence.<sup>82</sup>

This new ethical framework could be applied to wartime situations. Violence, Ambrose declared, was not only justified in the Old Testament, but sometimes required on moral grounds or under the command of God.<sup>83</sup> He relied fairly heavily on Cicero's rules of warfare, but warned against full adoption of Cicero's philosophy as it presumed killing in self-defense was legitimate, which contradicted Jesus' teachings. Ambrose understood Jesus to have been speaking of the individual only, when he forbade killing in defense of one's self. The defense of others was noble and mandatory, and killing was legitimate in that situation. He called it an act of love, and said that the "turning the other cheek" was an internal disposition of the heart rather than a rule for outward

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<sup>80</sup> David Bachrach, *Religion and the Conduct of War: 300-1215*, Rochester, NY: The Boydell Press, 2003), 10.

<sup>81</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 89.

<sup>82</sup> J. Ian McDonald, *The Crucible of Christian Morality* (New York: Routledge Press, 1998), 204.

<sup>83</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 24.

behavior.<sup>84</sup> Expanded to a national level, the defense of the defenseless was Ambrose's central criterion for going to war justly, a direct echo of Cicero, because to defend the Empire was to protect the defenseless within its borders. The other criteria were defense of the religious orthodoxy and divine commandment. His concern with the religious orthodoxy is due to the times in which he lived, when a great variety of Christian theologies were struggling for dominance. His definition of "Christian love" demanded defending Christian society, specifically the one he considered orthodox.<sup>85</sup> His Just War criteria, however, were more generalized. War, he said, should be conducted justly, and priests and monks should abstain as it was not their vocation to participate.<sup>86</sup>

Ambrose's war theology was a modification of Cicero's rules of war, but he was the first major post-Constantinian theologian to address the issue. The loose framework he developed by putting Cicero's Stoicism in Christian terms would be highly influential to later thinkers, specifically Augustine. Like Cicero, Ambrose would have seen an unprovoked attack on another nation as immoral, though he would have understood it in terms of sinfulness. Since defense is the only just reason for warfare, other than divine commandment, there must be a previous action to defend against. Again, however, the definition of previous action is debatable, as antagonism is highly subjective. Ambrose would have been against any type of attack which he understood to be preemptive, as unjust and counter to the internal stance of turning the other cheek. He was a military man, however, and during his tenure as bishop he cracked down upon the Arian Christians, whom he viewed as heretics, with little restraint. This shows a willingness to act when he believed there was a danger to what he valued, but these things do not necessarily contradict his Just War criteria.

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<sup>84</sup> Ibid.

<sup>85</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 112.

<sup>86</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 91 and Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 25.

## Augustine of Hippo

Augustine became a priest in 391 C.E., while the Christian Church was still evolving under the new influence of the Roman Empire, and he became a key figure in this process. Using the works of Ambrose and his sources, Augustine created Just War theology that was foundational to the tradition. He was the source to which everyone who followed would look. In the words of John Mattox, "The whole Western Just War tradition that follows from the fifth century AD on, in both its Christian and secular varieties, traces its roots not to Plato or Aristotle, nor even to earlier Church fathers, but rather to Augustine."<sup>87</sup> Albert Marrin declares that the synthesis of Ciceronian and Christian thought which Augustine developed is "at the base of both Roman Catholic teaching and the teaching of leading Protestant denominations."<sup>88</sup> The next 1700 years of Christian Just War theory can be viewed as exercises which adhere to the parameters set by Augustine.

His works have been interpreted and reinterpreted by those struggling with the ethics of warfare, despite the fact that he never wrote a comprehensive treatise on the subject. Rather, his conclusions are scattered throughout the body of his work, which spans several decades of change and development.<sup>89</sup> Mattox, on the other hand, argues that just because Augustine presented no systematic treatment of Just War, it does not follow that he did not have a system in mind: "Although when viewed separately, his Just War statements appear to be fragmentary, when woven together, they constitute a remarkable tapestry. Upon careful inspection of that tapestry, one cannot but be struck by the unity that is readily apparent in his Just War thought."<sup>90</sup> However, Mattox perceived this unity after studying many documents created over many years. Alex Bellamy disagrees with Mattox: "within his work there is no coherent ethics of war. Instead references to war and military service are dotted throughout his writings, and it was his commentators from Gratian onwards who

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<sup>87</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 2.

<sup>88</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 52.

<sup>89</sup> *Ibid.*

<sup>90</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 5.

were most responsible for articulating a systematic Augustinian account of war."<sup>91</sup> Mattox counters that "Augustine's rhetorical method itself obscures theoretical structure that becomes discernible upon close examination."<sup>92</sup> At the same time, he goes on to admit that "we impose classification" in creating a systemized theory of Just War for Augustine.<sup>93</sup> This means that any attempt to create a system of Just War thought from Augustine, including this chapter, is a work of interpretation.<sup>94</sup> Regardless of unity or interpretation, Augustine's works and thoughts influenced many, and a tradition of Just War analysis that might be called "Augustinian" emerged, which rejected nonviolence and examined how warfare may be carried out justly.<sup>95</sup>

As with any discussion of Augustine's thought, the subject of war must be placed in the context of his overarching theology. Central to his view of the cosmos was the fallen state of humankind, in which humans were no longer perfect, and no longer capable of perfection in life. To Augustine, the world and all matter was imperfect, corrupt, and sinful. The spiritual realm, the Kingdom of Heaven, was pure, clean, and holy. This neo-platonic division informed his thought on every issue, including warfare. Since humans are incapable of pure justice, it is impossible for any human to be completely just. All human justice is on a continuum, never reaching absolute justice, which is the province of the divine alone. However, this did not mean that humans should not strive toward perfection. Augustine wrote that this was the duty of all humans, but the only way to do it was to love God and be a Christian. In his book *The City of God*, Augustine declared,

In regard to mankind I have made a division. On the one side are those who live according to man; on the other, those who live according to God. And I have said that, in a deeper sense, we may speak of two cities or two human societies, the destiny of one being an eternal kingdom under God while the doom of the other is eternal punishment along with the Devil.<sup>96</sup>

This division is highly important because it shows not only how Augustine viewed the people of the

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<sup>91</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 25.

<sup>92</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 5.

<sup>93</sup> *Ibid.*, 7.

<sup>94</sup> *Ibid.*, 4.

<sup>95</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 3.

<sup>96</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 323.

“City of God” but also how he viewed the others, those of the “City of Man.”<sup>97</sup> An act of a people or nation that loved God was an attempt to be just, even if that act was warfare. As Mattox points out, “there is substantial ideological ground to be gained by either the state or the Church identifying itself with the City of God.”<sup>98</sup> Christian love was the foundation of any attempt at earthly justice, and a Christian state would be a just state, or at least attempt to be. In contrast, the City of Man would be guided by earthly desires, such as wealth, revenge, greed, pleasure, and power. This group was clearly, in the eyes of Augustine, evil, even if it was simply due to ignorance of the Word of God. They, like all humans, were sinners, and capable of little else due to their failure to recognize the redemption in Christ. Their lives were a collection of continuing sins. In Augustinian thought, a sin was an injury against God, deserving retribution.<sup>99</sup> Augustine took this argument as far as suggesting that to kill a sinner was a good deed for the soul of the sinner because it prevented him or her from sinning further. For these reasons, Augustine’s theology became more than a highly biased cultural description; it clearly labeled the citizens of the “City of Man” as Other, different from the Christians and defined by what they lacked. The Roman cultural superiority complex meshed well with Augustine’s belief that there was only one way to be just and that was to be a Christian. He was working within a Christian tradition that had been, until very recently, deeply pacifist, and while he would not have admitted it, he was creating an imperial synthesis with Christian values.

Augustine stripped early Christian theology down to the basics and reinterpreted that theology in light of Roman values. He viewed the Roman cardinal virtues of prudence, justice, courage, and temperance as coming from love, but believed that the ends were temporal and perishable.<sup>100</sup> Love, therefore, is not a perfect force in the mortal world. It drives people to action, but those actions are not always good and the results are always imperfect. Paul Ramsey points out

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<sup>97</sup> Augustine’s “Two Cities” metaphor is flexible, paradoxical, and vast. William Stevenson offers a good slim primer in the varieties of interpretations in the first chapter of *Christian Love and Just War*. William Stevenson, Jr., *Christian Love and Just War: Moral Paradox and Political Life in St. Augustine and his His Modern Interpreters* (Macon, GA: Mercer University Press, 1987), 11.

<sup>98</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 27.

<sup>99</sup> *Ibid.*, 46.

<sup>100</sup> Jean Bethke Elshtain ed., *Just War Theory* (Washington Square, NY: New York University Press, 1992), 9.

that Augustine criticized the earthly loves as “not only vain, but also selfish.”<sup>101</sup> The only love that can conquer this problem is the love of God. This Christian love was, to Augustine, more than an emotion. It was what defined Christianity as a group. It was not enough to be a member of the Roman Empire to be just; a person must have the love of God. As Mattox explains, "Augustine defines a ‘people’ as ‘the association of a multitude of rational beings united by a common agreement on the objects of their love’ such that the character of a people can be determined by examining the objects of their love.”<sup>102</sup> The formation of a people united in love of God was the goal. This society would be just, righteous, and worthy of their reward in the Kingdom of Heaven. The earthly goals brought about by such a people were order and peace. Augustine, for all his criticism of the Empire, was a patriot and believed it was a Christian empire. He believed that its very existence, and the peace and order it created, were proof of God’s approval. While he never considered his “City of God” as a synonym for the Empire, he felt that the Empire was nearly always the “juster” side of international disputes.<sup>103</sup> His main reason for this, theologically, was that the other side was threatening the peace and order which the Empire created. By analogy, if the Empire was the City of God, his concept of the City of Man was often associated with the enemies of the Empire. The enemy was seen as unjust and allied with earthly sin. Thus, love of God demanded action. Love must not only be seen as compassion, but also as the only true motive for war.<sup>104</sup>

Before the Fall all humanity lived within a “bond of peace,” but Original Sin destroyed this in people, making true earthly peace impossible, even an oxymoron, but Augustine still considered the nearest equivalent to true peace of great value, and believed that it should be the goal of all Christians.<sup>105</sup> Augustine’s understanding of peace was both specific and wide-ranging. In *The City of God*, Augustine denotes three kinds of peace possible on the temporal plane. As summarized by

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<sup>101</sup> Ibid.

<sup>102</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 26.

<sup>103</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 328.

<sup>104</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 15.

<sup>105</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 295.

Mattox, the three kinds of peace were "the ultimate and perfect peace which exists exclusively in the City of God, the interior peace enjoyed by the pilgrim citizens of the City of God as they sojourn on earth, and the peace which is common to the two cities."<sup>106</sup> At best, the three types of peace were goals to be pursued, but never captured.<sup>107</sup> The earthly varieties of peace were approximations of true peace, which was the universe as ordered and bonded to God. Earthly peace was, therefore, not just a lack of war, but a state of being defined by order. Political societies were the means and source of order and peace in the earthly world. "He [God] left no part of this creation without its appropriate peace. ... How, then, can anyone believe that it was the will of God to exempt from the laws of His providence the rise and fall of political societies?"<sup>108</sup> To Augustine, God was politically active and responsible for earthly peace through the societies he supported, but that support could be revoked if the society deserved punishment. Augustine understood the Empire, for all its faults, to be the greatest political society in existence, and thus in charge of creating and maintaining earthly peace. The success and longevity of Roman society, based upon the peace that it upheld, the *Pax Romana*, proved God's favor. To Augustine, this implied that Imperial society was, at least comparatively, just. Since the Empire was charged with protecting the innocent, the peace, and the moral order, foreign invasions, attacks, and other hostilities were violations of the Empire's peace, and thus God's peace. He viewed violations of the moral order, the earthly representative of God's order, as violations of the laws of God, and therefore sinful. Human law and God's law were not identical, as not all God's laws were codified in human law, but violating either was a sinful act, as both types of law created order and peace.<sup>109</sup> Such sins were worthy of violent response.<sup>110</sup>

Just as Augustine believed that humans were not capable of perfection or true peace, he also believed it was impossible for humans to be truly and completely just. This would seem to

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<sup>106</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 37.

<sup>107</sup> *Ibid.*

<sup>108</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 111.

<sup>109</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 46.

<sup>110</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 29.

immediately make every human action unjust, but Augustine clearly stated that humans can be on the side of justice, at least to some extent, appearing to create a continuum. Humans could never reach absolute justice, as it is the province of the Divine alone. Augustine never explicitly wrote about a continuum, and the subject is widely debated. The most notable evidence comes from *The City of God*: "When victory goes to the side that had the juster cause it is surely a matter for human rejoicing, and the peace is one to be welcomed."<sup>111</sup> The word "juster" implies one side could be just, but not as just as the victor. Ronald Bainton, however, argues that Augustine believed that only one side in a war could be just, and Mattox supports this argument with another citation from *The City of God*: "It is the injustice of the opposing side that lays on the wise man the duty of waging wars."<sup>112</sup> This argument conflicts with Augustine's fundamental belief in the fallen nature of human beings. Earthly governments cannot be truly just. If justice is absolute, and neither side is just, neither side could win. Reversing his earlier implication, Mattox writes that Augustine likely believed in the continuum of justice for two reasons: first, he used the term "juster cause;" second, because "it is difficult to imagine Augustine arguing for anything that sounds like absolute justice in favor of any mortal."<sup>113</sup> Mortals are simply incapable of true justice. Mattox goes on to suggest that Augustine adopted the idea of comparative justice in order to avoid "rendering his entire treatment of the question of Just War nonsensical."<sup>114</sup> Justice, as defined in absolutes, made any discussion of a just approach to warfare impossible. A continuum of justice allows earthly powers to fight, one more just than the other. This not only allowed for more complex analysis of human behavior in war time, it also allowed the Empire and Church to work together in time of war.

Augustine believed that the essence of God's law was the Ten Commandments, which expressly forbid killing. War was a necessity for the Empire to survive, and it was a necessity for the faith to survive. In his creation of a solution, Augustine looked back at the Old Testament and noted

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<sup>111</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 328.

<sup>112</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 51.

<sup>113</sup> *Ibid.*, 53.

<sup>114</sup> *Ibid.*



that there were wars sanctioned by God, even after the Ten Commandments had been handed down. Augustine believed that all of God's acts were acts of love, including wars, and the acts of those who loved God were just and in accordance with God's love. Therefore, war must have a purpose for God. Mattox summarizes:

God, in His providence, constantly uses war to correct and chasten human wrongdoing, but also to train people in a more 'righteous and laudable way of life.' Some of the righteous thus either chastened or trained are permitted to escape death so that they may be of 'further service' in this particular state. Others are removed to a 'better state' as a reward for their labors.<sup>115</sup>

Wars are a warning to humanity, reminding them to live a righteous life. The wicked will be punished and the righteous will get their reward, even if they perish. This understanding, combined with Augustine's suggestion that killing an evildoer was a merciful act as it prevented further damnation, seems to theologically negate the arguments suggesting that war was evil due to the necessary loss of life and the need to kill to participate, but that is an oversimplification. Augustine believed that there was a type of war which may be considered just in God's eyes. In the words of Mattox,

just war is a coping mechanism for use by the righteous who aspire to citizenship in the City of God. ... It is a coping mechanism for righteous sovereigns who would ensure that their violent international encounters are minimal, to the greatest extent possible a reflection of the divine will in the specific case at hand, and, in any case, just.<sup>116</sup>

Yet, Augustine still believed war was something that needed limitations, both in conception and in execution. He also viewed warfare as a defining characteristic of the fallen earthly human existence. Human attempts at peace were imperfect and would unavoidably lapse. It was up to the City of God to restore order. As Augustine explains, "It is wrong to deny that the aims of human civilization are good, for this is the highest end that mankind of itself can achieve. For, however lowly the goods of earth, the aim, such as it is, is peace."<sup>117</sup> This goal is, in many ways, the foundation of Augustine's thoughts on what might make a war just, both in conduct and intent.<sup>118</sup> Human corruption and

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<sup>115</sup> Ibid., 32.

<sup>116</sup> Ibid., 35.

<sup>117</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 327.

<sup>118</sup> James Turner Johnson, *Morality & Contemporary Warfare* (New Haven, CT: Yale University Press, 1999), 211.

imperfection meant that more rules and guidelines were needed to lead the world toward a type of warfare that could be just.

The Edict of Milan, and the continued mixing of the Empire with Christianity, created a situation where it was easy to proclaim the Empire to be a Christian empire. This led many who read Augustine to join the concepts of the City of God and the Empire into one entity, which would suggest that any war the Empire entered into was just. Augustine, however, never argued this. To him, the City of God was a group of people defined by belief and action, not earthly citizenship. However, he did believe that the Empire was to be a force for justice and peace in the world, which often demanded warfare. It was not always just, however, and Augustine knew it. His limits on war were directed more at his own nation than at the enemy, as his nation not only should strive to be just, but had the greatest potential to make gains on the goal of an earthly peace. To do this, the nation must fight Just Wars in a way that resulted in the nearest equivalent to an earthly peace possible.

As with many Just War theorists, the causes of a war were very important to Augustine, in many cases taking precedence over his *jus in bello* theology. He believed that what began a war was vital to the entire nature of the war. As Mattox points out, it is "a basic assumption of Just War theory that all *jus ad bellum* conditions recognized by the tradition ... must be fully satisfied prior to the initiation of hostilities and remain so throughout the period of hostile engagement."<sup>119</sup> Any attempt to describe a war as "just" that had failed to start justly was propaganda or worse. Augustine was searching for a set of criteria that would define what situations called for a response of warfare which could be considered just.

In his *Questions on the Heptateuch*, Augustine wrote that "as a rule Just Wars are defined as those which avenge injuries, if some nation or state against whom one is waging war has neglected to punish a wrong committed by its citizens, or to return something that was wrongfully taken."<sup>120</sup> This is the classic definition of just cause. It is a reinterpretation of Cicero's redress of crimes theory, which broadened the idea to allow victors in war to demand punitive damages beyond a simple

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<sup>119</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 45.

<sup>120</sup> *Ibid.*, 46.

return to the pre-war status quo.<sup>121</sup> Augustine also recognized, however, that not all cases can allow such restitution, and in such a case the aggrieved party must settle for something short of “a compensation in revenge.”<sup>122</sup> The reasoning behind this was based in his theology of sinfulness. He drew a fine line between appropriate revenge and inappropriate revenge. Punitive damages were just, and thus sinful, but it was unjust to take delight in the suffering of the punished. A country, itself, need not be the victim of an affront to avenge and punish it. In his *Reply to Faustus the Manichaeon*, Augustine wrote,

What is the evil in war? Is it the death of some who will soon die in any case, that others may live in peaceful subjection? This is mere cowardly dislike, not any religious feeling. The real evils in war are the love of violence, revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power, and such like; and it is generally to punish these things when force is required to inflict the punishment, that, in obedience to God or some lawful authority, good men undertake wars, when they find themselves in such a position as regards the conduct of human affairs, that right conduct requires them to act or to make others act in this way.<sup>123</sup>

In this statement Augustine laid out examples of sins and vices he considered to be most dangerous in warfare, stating that they should be punished. If they were witnessed by a third party of “good men,” these “men” were required to act to stop the violations and punish those responsible, even if they had not suffered directly.<sup>124</sup> Interpretations of this theology vary. It can be the basis for humanitarian action by one nation helping another nation that cannot defend itself. However, this does not allow for a variety of moral systems. One nation’s judgment that it is being just in its actions against another may ring false to a third nation who then attacks based on its belief that the first nation was acting sinfully. Here, as elsewhere, Augustine’s theology was influenced by Byzantine ideas of cultural superiority. After all, according to Augustine, it is a just act to prevent sinners from sinning, even if they do not realize that they are doing so. However, Augustine still believed that war should be a last resort. The world is imperfect, and few sins are of such a

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<sup>121</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 34.

<sup>122</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 46.

<sup>123</sup> *Ibid.*, 47.

<sup>124</sup> James Turner Johnson, *Morality & Contemporary Warfare* (New Haven, CT: Yale University Press, 1999), 75.

magnitude to justify war.<sup>125</sup> This theology also posits that all Just Wars are defensive, if not of territory, then of God. Defense of one's land, people, and culture is understood by most Just War thinkers to be just.<sup>126</sup> Augustine, though usually very critical of Rome's expansionist militarism, excuses historical instances which he sees as a fight in defense of the *patria*, or "fatherland", as a fight "to defend their life and liberty."<sup>127</sup>

The other just cause for war Augustine derived from his study of the Old Testament. As God is indisputably just, all of His actions will be just, thus any war directed by God must be just. As Augustine stated in *Reply to Faustus the Manichaean*:

When war is undertaken in obedience to God who would rebuke, or humble, or crush the pride of man, it must be allowed to be a righteous war; for even wars which arise from human passion cannot harm the eternal well-being of God, nor even hurt His saints; for in the trial of their patience, and the chastening of their spirit, and in bearing fatherly correction, they are rather benefited than injured.<sup>128</sup>

Here Augustine reiterates his belief that wars may be used by God to teach humanity a lesson, but he also says that any war ordered by God "must be allowed to be a righteous war."<sup>129</sup> The wording suggests a war might lose its righteousness when humans subvert it. Augustine was a pragmatist, as well as a historian and theologian. He understood that wars may start justly, but become unjust in the execution. If God commands a war, however, the war must stay on the righteous path. While all wars should be just, one under God's order is of special importance. Augustine believed that there were two specific means by which God might authorize a war: directly or through an oracle, such as Moses or Joshua. To Augustine, the instances of Israel going to war in the Old Testament were all just for reasons unrelated to God's inherent justness. They were messages. In his *Reply to Faustus the Manichaean*, Augustine writes, "God, in giving the command, acted not in cruelty, but in

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<sup>125</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 47.

<sup>126</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 191.

<sup>127</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 47.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

righteous retribution, giving to all what they deserved, and warning those who needed warning."<sup>130</sup> He argued that war may have a divine purpose: punitive action for mankind. This is where Augustine departed furthest from the earlier Christian pacifists. Their argument that all killing was sinful was absolutely repudiated by Augustine's conception of a divinely inspired war. It also, however, served to overpower all other *jus ad bellum* criteria. God's demand trumps all other measures.<sup>131</sup> Of course, the opposite would be true. If all other criteria were met, but God demanded that a country stop fighting, then its only just path would be to cease fighting back. Augustine used this idea in his support of the *Pax Romana*, which he and many others believed to be divinely instituted.<sup>132</sup> Just cause, then, is either an issue of provocation or divine commandment.

Even if there is a just cause, the criteria of right intention must still be met for a war to be just. In a letter, Augustine defined a rightly intended war as one which is "waged by the good in order that, by bringing under the yoke the unbridled lusts of men, those vices might be abolished which ought, under a just government, to be either extirpated or suppressed."<sup>133</sup> This was somewhat general, but it does define war as a governmental task, and one that must be done with higher goals in mind. He discounted some goals which had been common in Roman history, especially expansion, but he does not do it uncategorically. The pursuit of more territory, victory, and glory are earthly goals, unworthy of war, and sinful. Any war based on such goals was unjust. However, Roman expansion was rarely explained so easily, and Augustine viewed the empire as generally good, though deeply flawed and human. It was an instrument of God, in most cases, and therefore if the Empire entered the war with the intention of bringing order and morality to those conquered, it was just, as the intent was peace.<sup>134</sup>

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<sup>130</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 60.

<sup>131</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 48.

<sup>132</sup> *Ibid.*, 53.

<sup>133</sup> *Ibid.*, 54.

<sup>134</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 219.

According to Augustine, earthly peace was order, lawfulness, and the lack of revolt. When a Just War was won by the "juster" opponent, the new situation would be just. Roman order would be spread, bringing good to everyone. As Mattox summarizes:

Although the rightly intended person might deem the conquest of unruly – even unjust – neighbors as a case of extremely good fortune, such a person would at the same time recognize that the good fortune stemmed from the fact that a Just War thus fought would serve to ensure that the unjust would not rule over the just. He or she would never view even a Just War as anything to be desired in and of itself, but only as a 'stern necessity', which is better than the less just alternative.<sup>135</sup>

The Empire, by going to war either on behalf of its own citizens or the victims of some abusive power, was just in its attempt to bring order and peace to the region. This excuses much of the expansion in Roman history. Peace and the vindication of justice should be the goals of all wars, and the causes for which people should fight.<sup>136</sup> Trespasses are addressed and punished, and tensions are equalized. Without that function, peace could not exist after the war. Tensions would stay high. Augustine argued that, when entering the war, a just country must act as a judge. A judge cannot see into others' minds, and so cannot know for certain who broke the law. Therefore, the judge must rely on other methods, such as testimony, oral argument, and even torture. In the end, the judge can never know for sure, but he can pronounce a verdict. This judgment, however, is only correct if he works in the sight of God with correct intentions.<sup>137</sup> Just as the judge is only mortal, in the end, so is the ruler who begins the war. He must remember that he is only human, and operate with right intention.<sup>138</sup>

The final aspect of Augustine's criteria, when entering war, was competent authority. While he did criticize the Empire, and its history, he also believed that God ordained governments for the benefit of humanity. As Mattox summarizes, "there is no power but of God, who either orders or permits. Therefore, Augustine considers the political sovereign to occupy the role of God's lieutenant

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<sup>135</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 55.

<sup>136</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 452.

<sup>137</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 56.

<sup>138</sup> Augustine, *The City of God*, trans. Gerald G. Walsh, Demetrius B. Zema, Grace Monahan, and Daniel Honan (Garden City, NY: Image Press, 1958), 447.

on earth whose decisions to wage war are, in some sense, reflections of the divine will."<sup>139</sup> This perspective was not far from the traditional Roman idea of an Emperor, though readjusted for Christian monotheism. The Emperor was endorsed by God, and had the power to declare war. It was the exclusive right of monarchs to wage war:

For the natural order which seeks peace for mankind ordains that the monarch should have the power of undertaking war if he thinks it advisable, and that the soldiers should perform their military duties on behalf of the peace and safety of the community.<sup>140</sup>

The Emperor's authority originated with God. However, Augustine was careful to remind the rulers that they were only human. He was adamantly against the idea that any war ordered by a monarch who had been endorsed by God was automatically just. He emphasized the goals of peace and safety for the community, arguing that a just government would have these goals, but reiterating that not all rulers are just.<sup>141</sup> However, he also says that it is the duty of the population to serve the monarch, even if the monarch is not righteous:

Since, therefore, a righteous man serving it [i.e. the state] may be under an ungodly king, may do the duty belonging to his position in the state in fighting by the order of his sovereign, ... how much more must the man be blameless who carries on war on the authority of God, of who everyone who serves Him knows that He can never require what is wrong.<sup>142</sup>

The citizen must obey the monarch; it is his duty to God, even if the monarch is ungodly. In this way, Augustine endorsed following unethical orders and delegitimized the idea of a conscientious objector. He believed that it kept order to have people follow a monarch, regardless of his or her fitness for the role.<sup>143</sup> Mattox points out, however, that Augustine stopped short of excusing soldiers from the burden of responsibility, reminding everyone, including the monarch, that God will judge them for their deeds.<sup>144</sup> The real reasons for Augustine's insistence that only a competent authority could declare war were two-fold. First, a war based on just cause, but not declared by a legitimate

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<sup>139</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 56.

<sup>140</sup> *Ibid.*, 57.

<sup>141</sup> *Ibid.*

<sup>142</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 60.

<sup>143</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 97.

<sup>144</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 58.

and competent authority, was tantamount to revolution, which he believed to be ungodly. It violated the order of a society, and the emperor was charged by God to keep order. Second, Augustine argued that the definition of a Just War was that it be conducted between the forces of two recognized authorities, and not just anyone could declare it. He defined a Just War as a conflict between organized nations.

While his *jus ad bellum* thought was much more thorough than his *jus in bello* thought, Augustine understood that even if a war began justly, it may not stay that way. For this reason, he defined other limitations to warfare, most of which are extensions of his *jus ad bellum* thought and his larger theological concerns of sin. He believed that war may be used as a punitive action, but he understood that, in the heat of warfare, a sense of proportionality might be lost and the punishment might cross over the line into abuse. The goal of punishment must be reconciliation: to “lead them back to the advantages of peace.”<sup>145</sup> If the punishment were too brutal, this would no longer be possible due to the resentment in the population of the losing nation. This would violate the goal of peace, and Augustine believed it would mean that the army had become sinful, enjoying the pain of others. Massacres, wanton violence, profanation of sanctuaries, and attacks on women and children were forbidden.<sup>146</sup> No war in which these things happened could be just. Augustine acknowledged that, in war, it was not that simple. Some objectives necessitate pain and punishment in excess of proportionality. Later Christian Just War thinkers would call this the principle of “necessity.” He suggested that armies can take actions, regardless of their violence, that are necessary to accomplish their mission, but they must remember that their larger mission is to re-establish a lasting peace and order. The question of human responsibility arises here, but Augustine suggested letting “necessity, therefore, and not your will, slay the enemy who fights against you.”<sup>147</sup> In this way, Mattox says, he “specifies the upper bounds of permissible violence.”<sup>148</sup> While this is

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<sup>145</sup> Ibid., 61.

<sup>146</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 31.

<sup>147</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 61.

<sup>148</sup> Ibid.



debatable in practice, it is clear that Augustine was attempting to place an emphasis on goals rather than on the enemy, thus removing the bloodlust from the equation.

Augustine also created the principle which would come to be known as “discrimination” by later Just War thinkers. Soldiers had to be careful who they were killing. They were agents of the law, following commands, and thus they were fulfilling their duty.<sup>149</sup> The soldier did not kill for his own sake, but rather for the state, “having received the power lawfully and in accord with his public character.”<sup>150</sup> This is different than other killing, which might have been considered manslaughter or murder,

for when a soldier kills a man in obedience to the legitimate authority under which he served, he is not chargeable with murder by the laws of his country; in fact, he is chargeable with insubordination and mutiny if he refuses. ... Thus he is punished if he did it without orders for the same reason that he will be punished if he refuses when ordered.<sup>151</sup>

Augustine was, in many facets of his theology, interested in authority and obedience. In this case, however, it also serves to distinguish the soldier from all other people. Under the orders of a legitimate competent authority, soldiers have the right to kill, but they do not have the right to kill indiscriminately or with passion, which Augustine viewed as sinful.<sup>152</sup> As Mattox summarizes, “A soldier is only justified in taking those lives whose loss will facilitate the restoration of peace and order.”<sup>153</sup> This became the division between combatant and non-combatant in later Just War thought. Augustine did not, however, define any guidelines for who is to be considered a non-combatant. Instead, he once again focused his attention on military goals and the eventual goal of peace, “as violence is used toward him who rebels and resists, so mercy is due to the vanquished or the captive, especially in the case in which future troubling of peace is not to be feared.”<sup>154</sup> People who do not stand in the way of the military goals, do not resist, and do not threaten to destroy peace

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<sup>149</sup> Ibid.

<sup>150</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 28.

<sup>151</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 62.

<sup>152</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 33.

<sup>153</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 62.

<sup>154</sup> Ibid., 63.

following the war should be treated with mercy. This concept can be applied to surrendering enemies, and was by later theologians, but it fails to separate civilian and military personnel in any defined way. While Augustine did say that non-soldiers are not justified in taking up weapons, regardless of the situation, the only group he defined as unconditionally non-combatant was the clergy. In most cases, clergy were to “share in common” with their people during times of danger. As with other non-soldiers, he warned them not to resist, as to do so would be an act of passion and self-assertion that would result in a loss of Love.<sup>155</sup> Even fleeing was preferable to taking up arms.<sup>156</sup> Only soldiers have authorization to take life.<sup>157</sup> Because the non-combatants were not soldiers under a legitimate competent authority, Augustine argued that they were not justified in any violent acts, as such acts were sinful.

The final *jus in bello* subject about which Augustine wrote in depth was good faith between powers at war. For any war to remain just, there must be a certain amount of trust between the opponents and an agreement on some level that both sides will abide by the understood rules of warfare. This, of course, raises the question of military deception, a fundamental strategy used by all armies which would seem to violate the trust between warring powers. Augustine wrote that such things were, in fact, simply part of warfare, referencing God’s direction to Joshua to ambush the Canaanites in the Old Testament:

This teaches us that such things are legitimate for those who are engaged in a Just War. In these matters the only thing a righteous man has to worry about is that the Just War is waged by someone who has the right to do so because not all men have that right. Once an individual has undertaken this kind of war, it does not matter at all, as far as justice is concerned, whether he wins victory in open combat or through ruses.<sup>158</sup>

So if a war is just, such deception does not harm its status. However, Augustine also believed that “when faith is pledged, it is to be kept even with the enemy against whom the war is waged.”<sup>159</sup> A

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<sup>155</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 97.

<sup>156</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 64.

<sup>157</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 97.

<sup>158</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 64.

<sup>159</sup> *Ibid.*, 65.

pledge between nations is inviolable. Here Augustine echoed Cicero, arguing that deception is not a violation of good faith, simply a normal part of Just Warfare. Still, Augustine acknowledged that it is not always possible to maintain good faith and protect lands and peoples. Good faith must be striven toward, or peace will be harder to restore. At its core, all of Augustine's *jus in bello* theory aimed to maintain relations, both in public opinion and diplomacy, between the nations fighting, so that the war might be brought to a conclusion.

Augustine did not write about the results of war in any depth, nor how to maintain peace, but the restoration of order and peace was covered by his arguments for right intention. The eventual goal of all warfare must be to bring a lasting peace. It is also clear that he felt that by following the just path in war, peace could be reestablished with greater ease. Resistance and revolution would be less likely to be inspired against the new ruling power. It can be argued that the ethical system he developed for warfare, especially in the context of the common Roman practice of expansion, would guide the reconstruction period. General concepts, such as respecting non-combatant civilians, avoiding excessive punishment, respect for authorized authorities, and the wish to create order and peace would clearly influence the outcome of hostilities.

Preemptive attack, in Augustine's Just War theories, was a matter of perception. What constitutes a threat or an action deserving of punishment? In many ways Augustine, as a good citizen, left such decisions to the politicians. However, he opened up the field to other justifications, such as defense of a neighbor and defense of an ethical or religious position. Arguments for what constitutes just cause have grown much more ambiguous as a result. War launched before any action by the opponent would be seen as strictly unjust and sinful, as it wantonly destroyed peace and order. Augustine would have most likely seen preemptive attack as resulting from bloodlust and passion, two of the great symptoms of the fallen nature of humankind. Since such an attack was unjust, Augustine would argue that the aggressor should lose, since the victim, in defending itself and its population, would have the "juster" cause. Augustine's theories would further suggest that revolution and revolt were sure to follow any victory gained in a truly preemptive attack. The

aggressor would deserve punishment, possibly in the form of yet more war, for their unjust behavior. The use of Augustine's just cause criteria worked well for Rome, whose sense of moral superiority was vast and easily violated.

While much of Augustine's Just War thought was deeply influenced by Cicero, Augustine's additions were important. Augustinian Just War theology created the fundamental rationale for an armed Christian state, the precursor to Christendom, and the elasticity of Augustine's just cause thought would turn defense of the faith into crusade. The time between Augustine and the crusades of the tenth century were hardly the dark ages often depicted, especially for the Church. As the Roman-Byzantine Empire relinquished control of the West, new socio-political structures took hold and evolved in Europe. Smaller kingdoms replaced imperial rule, and within those smaller kingdoms the feudal system rendered landholders into aristocrats. The loss of the Empire had created a power vacuum. Various feudal lords and kings put a great deal of time, energy, and blood into fighting their neighbors. Through conversion, organized missionary work, the rise of the religious orders, and war, Christianity had spread throughout the remainder of Europe by the end of the first Millennium C.E., though it would not dominate some areas for another three hundred years. The Church became the common element throughout Europe. Theology developed rapidly in many areas, including developing meticulously drawn views of both the universe<sup>160</sup> and the afterlife.<sup>161</sup> It also enabled, through its system of bishops, priests, and monks, the ability to spread information quickly to large numbers of people, wielding power that it did not understand, as the First Crusade

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<sup>160</sup> Looking at the world around them, monks would often write on the world in a way which reflected the religious texts in physical ways. For instance, a red rose was red for Christ's blood on the thorns and the center of the world was Jerusalem. Such theological observations were widespread, but collected by Isidore of Seville into his *Etymologies*, which became highly influential. Isidore of Seville, *The Etymologies of Isidore of Seville* trans. Stephen Barney, W.J. Lewis, J.A. Beach, and Oliver Berghof (New York: Cambridge University Press, 2006) 342 and 278.

<sup>161</sup> This vast and ordered system of the afterlife reached its apex in common thought during the 13th century, not in official theology, but rather in the images of Dante's *Commedia*, which displays a world so concrete as to have known geography. The *Commedia* departed from church teachings in several areas, including the nature of purgatory, but it had a huge impact over the centuries after it was published. Some of this, no doubt, came from Dante's use of the common language of Italian, whereas the Church used Latin. Ricardo J. Quinones *Dante Alighieri, Updated Edition* (New York: Twayne Publishers, 1998), 168-172.

would show.<sup>162</sup> During this time, however, there was hardly any active development of Just War theology. Arguably, this was due to the Church's loss of influence on military might. Without the empire, it had no direct official power over such issues of war. By the first Millennium, however, things were changing. The Church's role as ethical and spiritual guide to the royalty and conflict mediator was evolving into a new role: that of a world political power. Europe became Christendom, under the leadership of the Church. The first large scale military action instigated by the Pope—the one that cemented the Church's role in politics—was the First Crusade.

### **Pope Urban II and the First Crusade**

In 1074 Pope Gregory VII had proposed personally leading a force of 50,000 volunteers to fight off the Turks, but it was not until twenty years later that Pope Urban II (1042 - 1099) created the First Crusade. He was of noble French blood, well educated at the school attached to the cathedral at Reims, and a product of Cluny, the center of ecclesiastical affairs in Europe, and an ambitious politician. In 1088, Urban became Pope.<sup>163</sup> He was a product of the church system, and while he was not a Just War theologian, he was assuredly well-acquainted with the tradition, and his theology of warfare makes him vital to the study of Christian Just War theology.

Urban launched his call at the council of Clarendon on November 27, 1095. Ostensibly, the call for crusade was a response to a letter from the Emperor Alexis of Constantinople, who was worried about the encroaching Turks, but Urban enlarged the parameters of the fight to include the Holy Land and the metaphysical realm. There are five major versions of his speech, most dating

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<sup>162</sup> When the call for crusade went out, the Church believed it was sending it to knights, lords, warriors, and soldiers. In reality, it just went out for general broadcast, and they ended up with a mass migration of peasants in what became known as the Crusade of the People, which disrupted villages, agriculture, families, economies, and the entire social structure of Europe. It traveled ahead and separately from the actual armies, and was eventually exterminated by the Turks. Edward Peters, ed., *The First Crusade: The Chronicle of Fulcher of Chartres and Other Source Materials* (Philadelphia: University of Pennsylvania Press, 1998), 102.

<sup>163</sup> Jonathan Riley-Smith, *The Crusades* (New Haven, CT: Yale University Press, 1987), 2.

from within thirty years of the actual event, all of which disagree to some extent.<sup>164</sup> However, there are commonalities, and the theology of Crusade as put forth by Urban is one of them. Using Robert of Rheims's account (he was the only author who might have been physically present at Claremont), Urban appealed first to divine validation of warfare.<sup>165</sup> He referred to the Franks, who were the original intended audience, as "chosen and beloved by God,"<sup>166</sup> setting them in direct contrast to the "race from the kingdom of the Persians," which are "an accursed race, a race utterly alienated from God."<sup>167</sup> He did, however, begin to appeal to some Augustinian Just War thought when he described, in lurid detail, the atrocities carried out in the Holy Land by the Muslims. It was not just propaganda; it was the basis of his argument as to why a crusade would be just, as these offenses deserve punishment.

On whom therefore is the labor of avenging these wrongs and of recovering the territory incumbent, if not upon you? You, upon whom above other nations, God has conferred remarkable glory in arms, great courage, bodily activity, and strength to humble the hairy scalp of those who resist you.<sup>168</sup>

The crusade would not only avenge wrongs, it would be God's will, and God would assure victory. In fact, Urban even declared that "it is the will of God!" should be the battle cry of the troops.<sup>169</sup> As the fervor increased, especially after the Crusade lost cohesion south of Constantinople, the political understandings were lost. The idea that God willed the destruction of Muslims, and that the Holy Land should be held by Christians became far more important. Nearly every tenet of Augustinian Just War theology was violated. It is unclear whether Urban endorsed this, but he started the crusading fervor by redefining the march to war as a pilgrimage in arms:

Whoever, therefore, shall determine upon this holy pilgrimage and shall make his vow to God to that effect and shall offer himself to Him as a living sacrifice, holy, acceptable unto God, shall wear the sign of the cross of the Lord ... [This] will fulfill the precept of the Lord, as He

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<sup>164</sup> Edward Peters, ed., *The First Crusade: The Chronicle of Fulcher of Chartres and Other Source Materials* (Philadelphia: University of Pennsylvania Press, 1998), 25.

<sup>165</sup> *Ibid.*, 26.

<sup>166</sup> *Ibid.*

<sup>167</sup> *Ibid.*, 27.

<sup>168</sup> *Ibid.*

<sup>169</sup> *Ibid.*, 29.

commands in the Gospel, "He that taketh not his cross and followeth after me, is not worthy of me."<sup>170</sup>

To go on crusade was to fulfill the commandment to pilgrimage, to do penance for your sins, and to be the instrument of God in warfare. The implication was that this was beyond earthly Just War criteria; crusading was a divine commandment in itself. This was a war ordered by God, and while none of the various reports of Urban's speech duplicate each other, the language of all the reports use the rhetoric of divine instigation.<sup>171</sup>

For Urban II, the concept of preemptive attack, at least in the crusade, did not matter, as he clearly thought that the Crusade was just, in and of itself, as it was God's will. However, he portrayed it as a mission to avenge wrongs and to free lands unethically occupied, perhaps showing some instinct to use Augustinian criteria. He exaggerated the anti-Christian sentiments of Muslims, the treatment of the holy places, and the need for immediate action to protect what was divinely valuable. How much of this was propaganda by an ambitious politician building a world power and how much of it was a genuine call for justice is highly debated. The likely truth is somewhere in the middle. Clearly, however, he argued that God's command was a response to the Muslim occupation of Jerusalem and to the Turkish threat to Constantinople. The result was protracted, bloody, and only partially successful. Augustine had pointed out that wars, even begun justly, can go astray, and the First Crusade most assuredly did so, whether or not it was begun justly. The crusader state was born and died in the space of three centuries, leaving scars which continue to influence modern relations between the Western world and the Middle East nearly one thousand years later. At the time, however, it was seen more positively in Europe.

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<sup>170</sup> Ibid.

<sup>171</sup> If anything, the report of Robert of Rheims may be one of the more subdued versions of the speech, possibly reflecting its relative proximity to a primary source, but the other versions manage to reflect the passion and theologies which quickly developed around the call to crusade, and are therefore bloodier, more strident, and more theologically based. Edward Peters, ed., *The First Crusade: The Chronicle of Fulcher of Chartres and Other Source Materials* (Philadelphia: University of Pennsylvania Press, 1998), 25-37.

## Thomas Aquinas

By the time of Thomas Aquinas (ca. 1225-1274), the crusader state had all but vanished, and taken with it the stabilizing force of common cause. While it was true that the infighting and bickering among lords had been put aside, to some extent, after the call to crusade, that tentative peace did not last. By the time the Crusade reached the Holy Land, there was increasing conflict among the factions, often leading to inter-Crusade violence. However, the increased power of the Church worked to keep the peace in Europe. After the Crusades, Europe was much more unified, but with the fall of the crusader kingdom, and the failure of later crusades, fighting among European leaders began to increase. For this reason, a theology of Just War became more important. Most notable in this revival are the studies of Aquinas. Aquinas came from aristocratic roots, and studied at Naples, then Paris, finally joining the newly founded Dominican order in 1244.<sup>172</sup> His education influenced his thought greatly, and much of his theology was an attempt to blend Christian thought with Aristotelian thought. This synthesis would have enormous impact on the Church. His writings often dove deeply into both traditions, and became foundational to Catholic theology. In the case of just war, Augustine was his primary source.

It is widely debated how much Aquinas was reviving Augustinian thought and how much he added to it. Dino Bigongiari goes as far as to suggest that Aquinas "did not add anything to them [Augustine's ideas] or take anything away" from Augustine's theology.<sup>173</sup> Marrin suggests that "Aquinas evidently believed that Augustine had said the last word about war," and simply incorporated the preexisting ideas into his own work.<sup>174</sup> Marrin does, however, point out that Aquinas' advocacy of Augustine's Just War thought is important since it revived Augustinian thought, redeveloping it for Aquinas' times.<sup>175</sup> He put his interpretation of Augustine's ideas into his *Summa*

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<sup>172</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 68.

<sup>173</sup> John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum Press, 2006), 4.

<sup>174</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 68.

<sup>175</sup> James Turner Johnson, *Morality & Contemporary Warfare* (New Haven, CT: Yale University Press, 1999), 45.



*Theologica*, in what came to be considered the normative text on Just War by the Roman Catholic Church.<sup>176</sup>

The position that Aquinas made no changes to Augustine is difficult to disprove if the only thing being examined is his direct writings on warfare, but his recontextualization of Augustinian ideas is important. Richard Hartigan suggests that Aquinas, lacking much in the way of personal experience, never came to grips with the practical aspects of warfare. Instead he approached the subject as a theologian:

He was still concerned to square the existence of war ("This great physical evil" - Augustine) with Christian love. Thomas was not dealing with war in the abstract only; however, as a speculative theologian he was more concerned with the morality of war in general than the specifics of its conduct.<sup>177</sup>

This may help explain his adherence to Augustine's thought on the subject's specifics. Much like Augustine, Aquinas described a set of requirements for a war to be just. Unlike Augustine, he purposely stated his criteria as an examination of Just War, and he narrowed it down to three general conditions, as summarized by Richard J. Regan: "(1) legitimate, that is, constitutional, authority should make the war decision; (2) war should be waged for a just cause; (3) statesmen should resort to war with right intention."<sup>178</sup> These things are all in agreement with the general rules that had been derived from Augustine's writings. Considered in the context of Aquinas' greater theology, however, these conditions reveal changes to Augustine's Just War thought.

Aquinas reformulated moral law to re-emphasize the potential of human rational thought. For him, the ultimate form of law was eternal law, the mind or reason of God. Humans cannot know it, but can see its effects in creation as Natural Law.<sup>179</sup> While this did not alter the qualifications of a Just War, it changed the context and paved the way for Just War theory to become more universal.

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<sup>176</sup> Albert Marrin, ed., *War and the Christian Conscience: From Augustine to Martin Luther King Jr.* (Chicago: Henry Regnery Company, 1971), 69.

<sup>177</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 44.

<sup>178</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 17.

<sup>179</sup> Philip J. Wogaman, *Christian Ethics: A Historical Introduction* (Louisville, KY: Westminster/John Knox Press, 1993), 88.

Aquinas viewed goodness in terms of potentiality, or *telos*. Good was judged by fulfilling the potential. Evil, conversely, is "in the fact that a thing fails in goodness."<sup>180</sup> Further, potential can, to some extent, be judged by human reason. This modified Aristotelianism means that divine revelation is not needed to analyze the *telos* in the natural world. Humans, according to Aquinas, are both spiritual and biological having both a spiritual *telos* and a biological *telos*, which means human ethical matters must cover both spheres.<sup>181</sup> Having a much more positive view of human beings than Augustine, Aquinas believed that humans are able to make sense of these things on their own, though perhaps not fully. He believed in the Aristotelian idea of human rationality, but understood it to be more limited than Aristotle did. Humans could never, while in life, decipher divine law or the spiritual realm, but they could understand Natural Law through their natural reason.<sup>182</sup> As Bellamy explains,

unlike Augustine, it is not essential to agree with Aquinas' belief in God in order to accept his arguments. Moreover, Aquinas' account of the Just War was much more 'earthly' than Augustine's and addressed many of the practical dilemmas with which the canonists wrestled.<sup>183</sup>

Moral law does not rest on special Christian revelation. Theoretically it can be understood by all cultures, and may be used as a criticism for human law when they conflict.<sup>184</sup> This gave ethical meaning and power to non-Christians in cultural dialog.

One of the many effects of this redefinition of moral law was to open up Just War theory to the world, where many of its tenets would become internationally accepted in the next eight hundred years. However, it did more than that. While Aquinas did not purposefully change or contradict Augustine, his impact can be deeply felt in the Christian Just War tradition, as well as later secular thought. Paul Ramsey argues that Aquinas made two important changes to Augustinian Just War thought:

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<sup>180</sup> Philip J. Wogaman, *Christian Ethics: A Historical Introduction* (Louisville, KY: Westminster/John Knox Press, 1993), 84.

<sup>181</sup> *Ibid.*, 85.

<sup>182</sup> *Ibid.*, 90.

<sup>183</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 37.

<sup>184</sup> Philip J. Wogaman, *Christian Ethics: A Historical Introduction* (Louisville, KY: Westminster/John Knox Press, 1993), 89.

First, a shift from voluntarism to rationalism in understanding the nature of political community, and therefore an increasing emphasis upon the natural-law concept of justice in analysis of the cause that justifies participation in war. ... Secondly, rules for the right *conduct* of war were drawn up, particularly for the protection of non-combatants. (emphasis his)<sup>185</sup>

The shift to rationalism allowed for wider international relations, based on the understanding that humans were rational creatures and thus, at some level, equals. This did not put an end to belief in cultural superiority, but it more readily recognized the political realities in which the Church operated. In placing the emphasis on human reason, the shift toward rationalism deemphasized the metaphysical aspects of Just War doctrine. Any war declared just by God must be considered just, but under Aquinas' theology, the divine commandments, as law, can be seen in Natural Law by human reason. Thus, the justness of war, even a divinely commanded one, is to be deciphered by humans. Without excising God from the equation, Aquinas has put human decision making in control of warfare.

Aquinas' other alteration to Augustinian Just War thought would become the *jus in bello* principle of proportionality. Actions cannot be met justly with overblown reactions: that was a violation of Natural Law. The players in a war must measure and re-measure their actions, with an eye toward keeping their responses proportional to the instigation. He applied this idea to civil unrest as well as warfare. As Wogaman summarizes, Aquinas asserted that "revolution against a tyrant should be undertaken only if the continuing submission to the tyrant were more harmful than the foreseeable damage from a revolution."<sup>186</sup> Not only does this disagree with Augustine's unequivocal anti-revolution stance, it implies that some rulers are deserving of revolution. Augustine had suggested that, no matter how corrupt, rulers were in place due to divine will. Again, Aquinas asserted human rational judgment as the deciding principle. He did see this as contradictory to the idea that God decides on rulers, as human rational judgment is based on deciphering God's will, through Natural Law.

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<sup>185</sup> Jean Bethke Elshtain ed., *Just War Theory* (Washington Square, NY: New York University Press, 1992), 19.

<sup>186</sup> Philip J. Wogaman, *Christian Ethics: A Historical Introduction* (Louisville, KY: Westminster/John Knox Press, 1993), 92.

This emphasis on the human ability to decode divine will had its problems. Humans are fundamentally fallible and limited in knowledge and foresight. No interpretation of Natural Law can possibly be perfect, by definition. Because of this, Aquinas addressed the problem of intent. When addressing the issue of killing in self-defense, he states that "nothing hinders one act from having two effects, only one of which is intended, while the other is beside the intention."<sup>187</sup> The one that counts, morally, he said, is the intended one. If the intent is to save your own life, that is lawful and morally correct. The unintended side effect of the death of your aggressor does not count against you, unless you use disproportionate violence. While he was not addressing this as a Just War criterion, it became important to the tradition in the centuries that followed. As Wogaman puts it, "this principle of 'double effect' helped define, in succeeding centuries, the requirement that the means used in war may not be contrary to moral law."<sup>188</sup> A government, acting in accordance with moral law, following the guidelines of Just War, is not morally responsible for unintended consequences. However, to act in accordance with moral law is to weigh all the possibilities. As Bellamy summarizes, "for their part, governments must demonstrate that they intend to promote the common good and must act only when they have a just cause. ... War must only be waged if the injustice it is being waged to halt outweighs the likely injustices of the war itself."<sup>189</sup> It changed the question of war, fundamentally, from measuring the gains that could be made, the vengeance needed, or the people protected to deciding if the benefits would outweigh the costs, morally.<sup>190</sup> At the same time, it reinforces Aquinas' belief in proportionality as a moral necessity. The actions, consequences, and responses must be continuously judged at all times during warfare.

Aquinas, like most Just War theologians, would condemn any attack that was purely preemptive. He held that determining if the actions or threat of the opponent were extreme enough to warrant military action is highly subjective, as maintained in all Just War thought. Aquinas, however, added a few extra layers of consideration. Whether or not the attack is going to be a just

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<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 39.

<sup>190</sup> Jean Bethke Elshtain ed., *Just War Theory* (Washington Square, NY: New York University Press, 1992), 200.

reaction, it must not use disproportionate violence. Whereas his "double effect" theory seems to alleviate the guilt that might come from a military action which causes much suffering, as long as the intention was good, the rule of proportionality calls for the aggressor to thoroughly examine the action and all possible results. If an attack might destroy excess property, kill civilians, or destroy infrastructure, then it would be hard to argue that the original intention was worth the cost. As a believer in the ability of human beings to rationally interpret Natural Law, Aquinas would have suggested that any attack, preemptive or not, must be thoroughly thought out, in a moral sense. Ignorance of the secondary effects should not be used as an excuse, especially if it is a willful ignorance. On a less theologically complex level, however, a truly preemptive attack would fail the just cause criteria, as there was nothing to react to. Aquinas did consider war to be an evil, and it is hard to see him suggesting that such a thing would ever be just. Unlike his precursors, however, Aquinas put the moral weight directly on the heads of the policy makers and rulers.

Christian Just War theory evolved out of the need to support national war powers, and yet limit them. Ambrose and Augustine worked at the very beginning of the Church's affiliation with political power, while Aquinas worked at the height of the Church as an independent power, but all of them saw the need for limitations on the abuses that were possible when nations went to war. Ambrose set the stage, combining Roman thought with biblical interpretation. Augustine created complex theological ways of addressing the problem of war, and identified specific issues of concern. Aquinas took the ideas of his predecessors, added his own more positive view of human reason and morality, and created an organized set of principles. This formulation of Just War became as important to the Christian Just War tradition as Augustine's works. By ordering his Just War thought, Aquinas inspired the creation of what would become the classic form of Christian Just War theory. The works of Ambrose, Augustine, and Aquinas were widely read throughout the remainder of the medieval period and the Renaissance, and the Christian Just War tradition became highly influential. It was adopted, though not always followed, by the governments of Europe, even after the Church lost much of its political power.

## Chapter 3

### The Modern Era

In the 800 years that followed Aquinas, the structures of power changed in Europe and worldwide. The Catholic Church, so long the central bastion of intellectualism in Europe, was splintered by the Reformation. Christendom receded, and the Church's political power became more oblique. In the process, it lost its near monopoly on Just War thought in Europe. As an increasingly secular political world struggled with the issue of warfare, many approaches were developed, only one of which was Christian Just War theory. While more powerful means of killing on the battlefield were developed, the tactics stayed, in general, similar to what they had been for the past two millennia: armies formed and marched against each other using weapons that needed proximity. This changed with the advent of mechanized warfare in the 20th century. Two world wars, trench warfare, mines, the legacy of Hitler, aerial attack, tank warfare, incendiary attack, and nuclear weapons fundamentally changed the way wars began and were fought, forever changing how people viewed the need to limit and avoid warfare. Christian Just War thought continued to evolve and have influence, but it was one theory among many. Alex Bellamy identifies three generalized categories of Just War thought present at the beginning of the twentieth century: Realism, Positive Law, and Natural Law.<sup>191</sup> These three approaches to warfare defined armed conflict in the nineteenth and twentieth centuries, while evolving a great deal.

#### Realism

Realism, according to Anthony Coates, "regards the 'ethics of war' as a self-contradictory notion."<sup>192</sup> It evolved out of the works of Georg Wilhelm Friedrich Hegel (1770-1831), who argued

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<sup>191</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 117.

<sup>192</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 208.

that there were "no *a priori* moral standards governing combat".<sup>193</sup> However, he also said that there were only two types of war that were justifiable: "wars of self-defense and wars waged by 'higher' civilizations against lower ones."<sup>194</sup> The core of the Realism approach became *raison d'état*, or national self-interest. This approach is notable for negating the institutions of international law, as it does not allow all nations to be equals. It suggests a hierarchy of morality. Still, Friedrich Meinecke (1862-1954) argued that a nation's pursuit of its interests should not be unconstrained. The remaining religious laws and the newer military codes of conduct governed war, but even they could be overruled if the *raison d'état* called for it.<sup>195</sup> Realism suggests that war is limited only by political goals.<sup>196</sup> This approach to warfare was dominant in the 19th and early 20th centuries, and continues to hold considerable influence.

Realism shares little with earlier theories of Just War, ignoring many of the moral issues that had been foundational to the Christian Just War tradition. *Jus in bello* concerns are not addressed in depth, as the philosophy of self-interest and power politics lends itself to an emphasis on results and an implicit belief that "might makes right."<sup>197</sup> Realism is nearly entirely concerned with the right to war, not how it is fought, arguing that morality is, in fact, a poor guide to military decision making. Realists prefer decision making strategies that favor "pragmatic considerations of power and interest."<sup>198</sup> Hegel's two types of moral wars did emphasize defense as a just cause, but it also allowed any civilization that found itself to be "higher" than its opponent to be just in attacking.<sup>199</sup> Any country with a moderate amount of patriotism and a national ego might attack any other country they found to be "lower." Further, the emphasis on *raison d'état* allows nearly all other constraints to be ignored if needed. Concepts such as preemption and illegal aggression do not fit into this system, since the concept of self-interest acts as a moral imperative. If it is in a country's self-interest to

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<sup>193</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 90.

<sup>194</sup> *Ibid.*

<sup>195</sup> *Ibid.*, 91.

<sup>196</sup> *Ibid.*, 94.

<sup>197</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 21.

<sup>198</sup> *Ibid.*, 23.

<sup>199</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 90.

attack, invade, or annex another country's territory, then it is allowable. As a system, Realism does not try to limit warfare, nor does it attempt to create any real system of guidelines. Instead, it is a system that understands nations to be in a state of constant conflict of interest, places the national right to wage war ahead of any regional rights to peace and diplomacy, understands *raison d'état* to trump international law and treaties, and emphasizes military strength. This philosophy would later come to be identified with the Fascist and Nazi movements of the mid-twentieth century.

### Positive Law

In contrast, the Positive Law tradition places its emphasis on legal means based on human laws. This tradition operates on the assumption that,

the best way of creating an authoritative legal regime governing war [is] to accept the centrality of the state as a basic social fact and insist on state consent as the basis for a limited yet authoritative international law.<sup>200</sup>

While states have a legal right to wage war, a compulsory arbitration system must be put in place to solve problems peaceably. This is the concept governing the United Nations, and the League of Nations before it, which established legal precedents ruling that the only type of warfare permitted is defensive.<sup>201</sup> This tradition developed out of military codes, liberal humanitarianism, and international treaties created "a partial law of war," according to Bellamy.<sup>202</sup> At the 1899 Hague peace conference, F.F. de Martens, the Russian delegate, suggested that "populations and belligerents remain under the protection of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of public conscience."<sup>203</sup> This was an important change in the legalist tradition, adding new criteria which must be met when determining the legality of a weapon or technique of warfare. The letter of the law, however, is not enough to declare something legal. It must also meet the requirements of

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<sup>200</sup> Ibid., 94.

<sup>201</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 118.

<sup>202</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 94.

<sup>203</sup> Ibid.



public conscience. Cohen refers to this type of law as customary law, shaped by cultural assumptions and customs.<sup>204</sup> As Bellamy argues, the Martens clause “demonstrates the continuing role of Natural Law within a broadly Positive Legalists approach to Just War.”<sup>205</sup> This is not, however, to imply that legal systems were not constantly evolving to address the issue of warfare. Military codes were developed specifically to limit warfare from within a military context, usually attempting to balance wartime need with restraint. A very good example of this was *General Orders No. 100*.

*General Orders No. 100*, also known as the "Lieber code", was issued by the U.S. government at the height of the Civil War, on April 24th 1863. The code was intended to strengthen the limits on warfare set down in the public conscience of Western civilization.<sup>206</sup> The Civil War defied the traditional boundaries of warfare. From the perspective of the Northern government, no other nation was involved. The primary purpose for fighting was a lasting reunification. This would be impossible if the behavior of the Union troops caused great resentment in the South. Echoing Augustine, Francis Lieber redefined military necessity as "those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of law."<sup>207</sup> Striving for clarity, he went on to define the law in article 44 of *General Orders No.100*,

all wanton violence committed against persons in the invaded country, all destruction of property not commanded by the authorized officer, all robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under the penalty of death.<sup>208</sup>

While some terms, such as "wanton violence" and even "invaded country" remained ambiguous, post-battle abuses, often part of warfare, were strictly limited. In article 15, he regulated the treatment of non-combatants: "Military necessity admits of all direct destruction of life and limb of *armed* enemies, and of other persons whose destruction is incidentally *unavoidable* in the armed

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<sup>204</sup> Sheldon M. Cohen, *Arms and Judgment: Law, Morality, and the Conduct of War in the Twentieth Century* (Boulder, CO: Westview Press, 1989), 12.

<sup>205</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 95.

<sup>206</sup> James Turner Johnson, *Morality & Contemporary Warfare* (New Haven, CT: Yale University Press, 1999), 56.

<sup>207</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 95.

<sup>208</sup> Ibid.

contests of war" (italics are Bellamy's).<sup>209</sup> This clearly defines combatants as being armed, but still allows for limited collateral damage to the community. However, all collateral damage must be guided by military necessity. Lieber understood captured combatants to be part of the enemy's community and prohibited mistreating them.<sup>210</sup> His navigation and reinterpretation of legal tradition was an attempt to create a warfare that could be recovered from, socially. At the same time, the necessity of victory was maintained as a legal precedent, allowing tactics like Sherman's "March to the Sea," which had, as its mission, the destruction of the private property of many citizens.

The Positive Law tradition evolved as time went on, and continues to evolve to this day. The common law tradition of reinterpretation, using legal precedents to find new applications of the law, is highly elastic, creating laws which reflect the legal and ethical standards of the community. In 1864, the Red Cross was born in Geneva, and non-combatant status was widened to include medical personnel and wounded soldiers.<sup>211</sup> Following World War I, the Positive Law tradition moved from an emphasis on *jus in bello* to an emphasis on *jus ad bellum*.<sup>212</sup> Many attempts to create compulsory arbitration among nations failed to be adopted, but the need for some sort of arbitration led to the creation of the League of Nations. The assumption made by the League was that there were two types of war, both of which were to be averted: unjust wars of aggression and wars over genuine disputes. The first type would be prevented by the opposition of all other states, known as collective security.<sup>213</sup> The second type would be prevented by compulsory arbitration.<sup>214</sup> These rules did not seek to remove the sovereign right to warfare, but to find a way to prevent the wars from beginning. Ultimately, the League did not receive the international support needed for it to be viable. The major reason for this was that the majority of sovereigns who were producing the laws were Realists, who believed strongly in *raison d'état*.<sup>215</sup> Following World War II, the Positive Legalists were

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<sup>209</sup> Ibid.

<sup>210</sup> Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 183.

<sup>211</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 97.

<sup>212</sup> Ibid., 101.

<sup>213</sup> Ibid.

<sup>214</sup> Ibid., 102.

<sup>215</sup> Ibid., 103.

in a stronger position, and found support to create the United Nations. As Bellamy points out, however, the Positive Law tradition, including the United Nations itself, has continued to be politically constrained by the influence of Realists, as well as criticized for the inherent moral limits of law.<sup>216</sup> As Walzer argues, "legal treatises do not ... provide a fully plausible or coherent account of our moral arguments."<sup>217</sup> Human law is devised with specific interests and situations in mind, and can "fail to correspond to the world the rest of us still live in."<sup>218</sup> Legislating morality is an impossibility, as human law is limited by its creators and their cultural backgrounds.

### **Natural Law and Just War**

The legal systems which made up the basis for the Positive Law approach were firmly based in the cultures and legal traditions of the West. The concept of Natural Law and the Just War criteria developed in the Christian Just War tradition by Augustine, Aquinas, and later thinkers became part of the culture. When the Positive Legalists used either Natural Law or Just War, they often did so without referencing the sources. These ideas were simply understood as cultural moral tradition. Christian denominations had maintained their Just War traditions, but were no longer in direct political power. The Enlightenment had separated rational thought from religious thought. Governmental decisions, including international relations, were written in the language of secular rational thought, unaffected by religious sentiment or guidance.

However, the religious scholars of Just War were by no means silent. The Christian Just War tradition had become reified and was often criticized by thinkers who were influenced by the secular Enlightenment ideals, including Realism and Positive Law. Reinhold Niebuhr rejected the idea that any moral values were absolute. Individuals, he contended, may behave in a just fashion, but society never will. As summarized by Bainton, "the very best of Christians act differently as private

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<sup>216</sup> Ibid.

<sup>217</sup> Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), xii.

<sup>218</sup> Ibid., xiii.

individuals and as members of large groups."<sup>219</sup> Moral judgment of all kinds should be made by the individual based on the specific situation, with full knowledge of the immorality of society. Immorality must be resisted. While he saw a need to limit, or preferably stop, warfare, he argued that Just War criteria was easily abused, making ideas like just cause dangerous.<sup>220</sup> Just War criteria were indeterminate and could not constrain action.<sup>221</sup> While Niebuhr believed peace to be the morally superior choice, he did not rule out violence as a last resort.<sup>222</sup> Niebuhr believed countries should act in self-interest, as suggested by the Realists, but their actions must be tempered by moral considerations cemented in legal structures, facilities that will allow alternative means of reconciliation between parties, or punishment if either transgresses. When that punishment is warfare, it must be limited by moral thought. He referred to the total-war mentality as "nauseous self-righteousness."<sup>223</sup>

The Natural Law tradition held that there are moral absolutes which come from a higher source, can be deciphered by human reason, and define certain acts as objectively right or wrong. It emphasized the moral elements of decision making in times of conflict. The Christian Just War tradition is very much part of the Natural Law tradition. Natural Law theorists had not vanished after the Enlightenment, and indeed the concept of Natural Law continued to have many supporters, but it had less political force. Realism and Positive Law had become dominant, though influence of Natural Law tradition, and specifically the Christian Just War tradition, was a vital part of Positive Law. Whereas Realism rejected many of the traditional moral concerns of the Christian Just War theory in favor of an ideology of national power, the Positive Law tradition was very receptive to these same concerns, which had long since become part of the culture of Europe and America. The Positive Legalists shared many of the concerns of Natural Law, but believed human law could

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<sup>219</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 216.

<sup>220</sup> Reinhold Niebuhr, *Moral Man and Immoral Society: A Study in Ethics and Politics* (New York: Scribner Publishing, 1960), 76.

<sup>221</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 106.

<sup>222</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 216.

<sup>223</sup> Jean Bethke Elshtain ed., *Just War Theory* (Washington Square, NY: New York University Press, 1992), 329.

govern. For much of the 18th, 19th, and early 20th centuries, the Christian Just War tradition was most important as cultural background.

### **The Impact of World War I**

Warfare had changed in many ways since the days of the Romans, but the nature of it had remained stable. Armies fought each other with weapons limited in their destructive ability by technology. These armies had to be within proximity, and there was often a sense of honor employed by the parties fighting. Even as technology expanded, developing such inventions as the crossbow, longbow, trebuchet, catapult, rifle, and cannon, the rules of war remained somewhat consistent. In fact, many military tacticians continued to fight wars the same way regardless of the new technologies, leading to higher and higher casualty rates.<sup>224</sup> The strategies and tactics were still familiar, and the Just War concerns could still be applied in roughly the same way. The growing destructive power of war had not drastically affected Just War thought by the beginning of the twentieth century. Following World War I, however, Just War thinkers began to reexamine the criteria in light of the devastation possible with modern weapons.<sup>225</sup> Following World War II, it became clear that the destructive power of weaponry was growing exponentially, which led to radical reinterpretations of Just War theory.<sup>226</sup>

World War I, "the Great War," began as a series of diplomatic ties collapsed following a clash between Austria-Hungary and Serbia. Austria-Hungary believed itself to be a superior power, and believed punishing Serbia for infiltrating Albania, Austria-Hungary's ally, to be in its national

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<sup>224</sup> James McPherson explains this phenomenon and the effects of it in the U.S. Civil War in his book *Battle Cry of Freedom*. James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Ballantine Books, 1998), 473.

<sup>225</sup> Richard Regan records the costs of World War I as 8.5 million military dead, 28 million civilian dead, 7.73 million missing persons, and 21 million wounded, with the monetary costs estimated to be 186 billion dollars. Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 132.

<sup>226</sup> Sheldon M. Cohen, *Arms and Judgment: Law, Morality, and the Conduct of War in the Twentieth Century* (Boulder, CO: Westview Press, 1989), 48.

interest.<sup>227</sup> Serbia, however, had ties to Russia and France. To counter this, Austria-Hungary called in the support of its ally Germany.<sup>228</sup> The Positive Law ties, created to stabilize peace, legally obligated allies on both sides to fight, creating a war that decimated the population, scarred the land, and introduced aircraft, modern chemical weapons, and mechanized ground warfare. During the war, ethicists argued over the war, but often sided with their national affiliation. The churches endorsed their national interests in nearly every case.<sup>229</sup> These rationalizations were often put in the language of Christian Just War theory. In Germany, it was seen as just for "Germany to defend herself against their encirclement."<sup>230</sup> In England, the war was painted as a crusade, just in its righteous wrath. The Bishop of London called on soldiers to,

"kill Germans- to kill them, not for the sake of killing, but to save the world, to kill the good as well as the bad, to kill the young men as well as the old, to kill those who have shewn kindness to our wounded as well as those fiends who crucified the Canadian Sergeant. ... As I have said a thousand times, I look upon it as a war for purity, I look upon everyone who dies in it as a martyr."<sup>231</sup>

The implication of that speech, delivered from the pulpit, was that the war was endorsed by God, and thus just. It was a call to crusade.

Following the war, it became clear that everyone had underestimated what war could be. Four years of death, misery, and destruction had destroyed much of Europe. Technology had redefined warfare. How could anyone think such a war was just? The advocates of the war had subverted Christian Just War language. Critics questioned whether the Christian Just War theory had lost the ability to limit warfare. The use of poison gas was widespread by both sides, and killed many civilians.<sup>232</sup> In this type of warfare, there was no way to find the division between combatants and

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<sup>227</sup> Frederic Morton, *Thunder at Twilight: Vienna 1913/1914* (New York: Macmillan Publishing Company, 1989), 36.

<sup>228</sup> *Ibid.*, 209.

<sup>229</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 207.

<sup>230</sup> *Ibid.*

<sup>231</sup> *Ibid.*

<sup>232</sup> Sohail H. Hashmi and Steven P. Lee, ed., *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives* (New York: Cambridge University Press, 2004), 118.

non-combatants, nor to limit the casualties.<sup>233</sup> The idea that it was a war to end all wars was some comfort, but proved, almost instantaneously, to be untrue.<sup>234</sup> For many, it was clear that war was too dangerous to be allowed. Many movements, each with their own approach, worked to outlaw warfare. Although Realism and Positive Law had failed to prevent war, and had arguably contributed to it, they grew in popularity. Positive Legalists worked to produce treaties and international legal bodies, such as the League of Nations, which met with resistance in the U.S. Baptists, Methodists, and Presbyterians argued that you could not outlaw defensive wars or wars of higher ideals, as they were just.<sup>235</sup> Other denominations, however, went on record that they could not and would not bless any war. Some Catholics openly doubted that a modern war could be just.<sup>236</sup> This pacifism lasted into the beginning of World War II. In February 1941, 85% of the U.S. populace favored abstention. Amongst Catholics, the rate was 97%.<sup>237</sup>

## The Impact of World War II

Following World War II, the world was not the same place, politically or philosophically. Not only had Hitler begun the most aggressive attempt to conquer Europe in more than a century, but diplomacy had failed to stop him. The war had affected the entire world, and the end had seen the beginning of the age of nuclear weapons. War was no longer a simple matter of two countries contending over land or resources. War was now something that could affect everyone, either through diplomatic ties and trade, or through fallout from a nuclear warfare. The power to endanger non-combatants a world away and to threaten the very continuation of human civilization was now in the hands of the two largest political powers.<sup>238</sup> Both *jus ad bellum* and *jus in bello* criteria needed

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<sup>233</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 118.

<sup>234</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 212.

<sup>235</sup> *Ibid.*, 215.

<sup>236</sup> *Ibid.*

<sup>237</sup> *Ibid.*, 219.

<sup>238</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 101.

to be changed drastically. The dangers had grown so large that even some of the Realists began to look back to the Christian Just War tradition, and incorporate it into their philosophy.

Bellamy suggests that there were three main issues that contributed to the changes in the Realist school. The first was the increased danger of nuclear warfare, without inherent limits.<sup>239</sup> The second was that Hitler had shown the world that unbridled *raison d'état* was not only possible, but more excessive than previously imagined.<sup>240</sup> Hannah Arendt went as far as to argue that Nazi Germany was the logical consequence of Realism.<sup>241</sup> She believed that self interest needed to be guided by moral judgments, and that "*raison d'état* and necessity were not self-evident and did not 'compel' political leaders to pursue certain courses of action."<sup>242</sup> The third contributing factor was that many Realists began to combine "an interest in the betterment of the human condition with a deep sense of the tragic nature of human life."<sup>243</sup> This new openness to empathy allowed many of the old Just War concerns to become part of the new Realism. Reinhold Niebuhr, who had been arguing for increased moral awareness twelve years earlier, became one of the foremost figures of this form of Realism due to the influence of *Moral Man and Immoral Society*. He maintained his rejection of Christian Just War theory, but emphasized the moral aspects of political decisions and many of the same concerns which had been previously addressed by the Christian Just War tradition.<sup>244</sup>

Others turned to this new Realism because the Positive Law approach had failed to prevent Hitler's expansion and failed to morally restrict tactics during the war. Hans Morgenthau argued that this had been due to, in the words of Bellamy, "the lack of correspondence between Positive Law and the nature of international politics at the time."<sup>245</sup> Positive Law simply failed to fully comprehend the political machinations. He said that the Just War tradition in general, including both the Positive and

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<sup>239</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 104.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid., 106.

<sup>245</sup> Ibid., 105.



Natural Law elements, had lost its ability to govern warfare for two reasons. First, the aristocracy, which had been the model of competent authority, had eroded.<sup>246</sup> The moral values which the aristocracy held dear, namely honor and chivalry, had also eroded, loosening the boundaries of what was justifiable in warfare. Now all that was necessary to have power, in the words of Richard Harries, was the "consent of those who hold the guns."<sup>247</sup> Positive Law's reliance on public conscience created opportunities for abuse. Second, the rise of nationalism destroyed the needed sense that a country belonged to a larger whole, rendering mediation bodies powerless.<sup>248</sup> Morgenthau further argued that, in Bellamy's words, "the lack of constraint on the exercise of state power was the defining characteristic of the twentieth century."<sup>249</sup> The Positive Law constraints had failed, and Morgenthau believed them to be an unworkable solution. For this reason, he believed that states needed to maximize their military power and be prepared to use that power in an unrestrained manner if required.<sup>250</sup> He was defending "the autonomy of the political sphere against its subversion by other modes of thought."<sup>251</sup> Religious, philosophical, and moral thought confused political and military situations and must be removed from the equation. He was not suggesting that there was not a moral element to war, but rather that "to know with despair that the political act is inevitably evil, and to act nonetheless, is moral courage."<sup>252</sup> While, on the surface, this seems a deeply cynical view of the issue of warfare, Morgenthau did not see it that way. He was giving up on the concept of justice and attempting to define a more reachable goal: to limit warfare.<sup>253</sup> Military power should be amassed in the hands of the state and stand ready to be deployed, but he believed that the political leaders needed to weigh the moral issues before launching a war. The reason for this was not entirely moral, but also based on the need for legitimacy. Bellamy argues that

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<sup>246</sup> Ibid.

<sup>247</sup> Richard Sorabji and David Rodin, ed., *The Ethics of War: Shared Problems in Different Traditions* (Burlington, VT, Ashgate, 2006), 224.

<sup>248</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 105.

<sup>249</sup> Ibid.

<sup>250</sup> Ibid.

<sup>251</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 21.

<sup>252</sup> Ibid., 33.

<sup>253</sup> Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 111.

Morgenthau believed that "hegemonic peace was easier to maintain in an anarchic world when others believed that the hegemon acted legitimately."<sup>254</sup> Secondly, for all his doubts, Morgenthau did allow room for Positive Law to have some influence, specifically in creating international relations and communities.<sup>255</sup> The Positive Law relationships between nations needed to be backed up by military power, however, as "a rule, be it legal, moral or conventional, is valued when its violation is likely to be followed by an unfavorable reaction, that is, a sanction against its violator."<sup>256</sup> For Morgenthau, the threat of punishment was what maintained order.

During World War II, Christian Just War thought continued changing. The crusading ethic prevalent in World War I did not rise to the top, though it was present. The traditional positions of the Christian Just War theory were rejected too, as they failed to meet the requirements of modern warfare.<sup>257</sup> Something else was needed, an update of Christian Just War theory that would both validate the war and limit it. This was not fast in coming. The venerable Protestant magazine, *The Christian Century*, openly declared that it could find no meaning or morality in the war.<sup>258</sup> Bainton suggests this rejection of Just War criteria had more to do with an existential confusion in the face of the war, rather than the actual extinction of the Christian Just War tradition.<sup>259</sup> He argues that "when full consciousness returned, the Just War theory was revived in terms of the edge of justice."<sup>260</sup> One of the thinkers who revived it, in this limited sense, was Reinhold Niebuhr. In 1941 Niebuhr wrote,

we do not find it particularly impressive to celebrate one's sensitive conscience by enlarging upon all the well-known evils of our western world and equating them with the evils of the totalitarian systems. It is just as important for Christians to be discriminating in their judgments, as for them to recognize sin in all human endeavors.<sup>261</sup>

There were wars worth fighting, and the war against totalitarianism was one. The Nazi Party, and totalitarianism in general, were a force for injustice. Niebuhr was not suggesting that the traditional

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<sup>254</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 105.

<sup>255</sup> Ibid.

<sup>256</sup> Ibid.

<sup>257</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 222.

<sup>258</sup> Ibid.

<sup>259</sup> Ibid.

<sup>260</sup> Ibid.

<sup>261</sup> Ibid.

Christian Just War system be revived, but he was recognizing the need for war in the cause of justice. This is, of course, still the majority opinion on World War II, and why it is often called the "Good War." Richard Norman, however, points out that the defeat of Nazism was not the reason that the Allies went to war. Once again, it was primarily treaty obligations and self-defense.<sup>262</sup> The moral component of defeating Nazism was, politically, an afterthought. Further, Norman argues that the direct result of the war was forty-five years of cold war, dividing Europe and threatening a nuclear catastrophe.<sup>263</sup> His views are pessimistic, as the war had other effects that many, including Niebuhr, saw as positive, such as stopping the Nazis and ending the Holocaust. Norman's arguments do, however, illustrate how difficult it is in the age of modern warfare to assign any sort of moral purity or justice to a war, no matter how "good" it is.

## Nuclear Weapons

At the end of the war, the age of atomic weaponry arrived. Following the bombings in Nagasaki and Hiroshima, the reports of devastation and pain stunned the world.<sup>264</sup> Nuclear weapons defied limits. There was no way to target only combatants with something as destructive as the atomic bomb. It flattened, burned, sickened, and killed everyone in the area, without discrimination. This was not, in itself, new. During World War II, most sides had carpet bombed civilians. Some attacks killed as many people as the bombs in Nagasaki and Hiroshima.<sup>265</sup> The frightening elements of the destruction of these cities were that devastation was done with only two weapons, and at blinding speed.<sup>266</sup> Also frightening was the fact that these bombs were only the beginning. A global arms race followed. Technological advances increased the destructive power of

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<sup>262</sup> Richard J. Norman, *Ethics, Killing and War* (New York: Cambridge University Press, 1995), 209.

<sup>263</sup> Ibid.

<sup>264</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 228.

<sup>265</sup> Sohail H. Hashmi and Steven P. Lee, ed., *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives* (New York: Cambridge University Press, 2004), 19.

<sup>266</sup> Ibid. Also, Harold Freeman includes a terrifying summary, from 1985, of the damage that could be done by a nuclear war, included in *The Ethics of War and Nuclear Deterrence*. James Sterba, ed., *The Ethics of War and Nuclear Deterrence* Belmont, CA: Wadsworth Pub. Co., 1985), 68-79.

nuclear arms, and more nations acquired them. Furthermore, as the bombs grew larger and more plentiful, it was discovered that a nuclear war might affect the environment of the entire planet, causing a nuclear winter and spreading fallout radiation clear around the globe. The fate of every living thing, regardless of national affiliation or combat status, was at risk.<sup>267</sup> This meant nuclear war must be avoided at all cost. Even the theory behind the arms race was, to its adherents, an attempt at preventing the use of nuclear weapons. It was believed by both superpowers that their opponent would never start a nuclear war, because, in the words of Susan Martin, "the destructive power of nuclear weapons is so great, the threat of a nuclear attack is thought to outweigh any possible gains for which an aggressor may hope."<sup>268</sup> This restraint has been called, by Scott Sagan, the "nuclear taboo," which he says corresponds to the prudential norm, the "tradition of nonuse."<sup>269</sup> This became the Realist approach to the issue. Realists argued that nuclear weapons provided more strength for national interest. During the Cold War, the U.S. and U.S.S.R entered into a long nuclear arms race, both arguing that it was the only way to keep the other from attacking, a plan Winston Churchill called the "balance of terror."<sup>270</sup> Part of this strategy was to have intercontinental ballistic nuclear missiles aimed at the most populous regions of the enemy. As Richard Regan points out, each super power was effectively holding "the other's civilian population hostage." He goes on to argue, as most Christian Just War theorists did, that this tactic violated the principle of discrimination, as if any attack were made, it would be targeted on noncombatants.<sup>271</sup>

However, nuclear weapons did not significantly alter the diplomacy of international politics.<sup>272</sup> Many conventional wars were launched, including proxy wars between the U.S. and U.S.S.R, but nuclear weapons were never used. Even after the fall of the U.S.S.R, nuclear weapons

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<sup>267</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 124.

<sup>268</sup> Sohail H. Hashmi and Steven P. Lee, ed., *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives* (New York: Cambridge University Press, 2004), 20.

<sup>269</sup> *Ibid.*, 483.

<sup>270</sup> Richard J. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 101.

<sup>271</sup> *Ibid.*

<sup>272</sup> Robert L. Phillips, *War and Justice* (Norman, OK: University of Oklahoma Press, 1984), 72.

remain the most destructive force available to the military, and their strength is sought by a new generation of states, among them Iran and North Korea. Mostly, these regimes strive to create political strength, rather than to create weapons for use. The Positive Legalists have worked to create non-proliferation treaties and international laws to prevent nuclear attack. The Realists have rallied for more nuclear weapons to use as symbols of strength, but have not suggested anyone actually use them. Natural Law thinkers, including those in the Christian Just War tradition, have condemned them for their violation of the principles of proportionality and discrimination. In their pastoral letter *The Challenge of Peace: God's Promise and Our Response* (1983), the National Conference of Catholic Bishops stated it this way: "In simple terms, we are saying that good ends (defending one's country, protecting freedom, etc.) cannot justify immoral means (the use of weapons which kill indiscriminately and threaten whole societies)."<sup>273</sup> In the context of nuclear warfare, any attack, preemptive or responsive, is unjust due to the magnitude of damage that would be done.

## **Terrorism**

Following the end of the Cold War, the nuclear issue subsided somewhat from political discussion. Rather than two superpowers contending for nuclear dominance, the main issue faced by countries worldwide became non-proliferation. This is a diplomatic process, rather than a military one, and as such is further from the realm of Just War thought. Still, in the 1990s, terrorism was on the rise. Terrorism is a very old form of political violence, but it was brought to the center of the political stage following the September 11th, 2001, attacks on the World Trade Center and the Pentagon. These attacks were most easily dealt with by the Realists, who argued successfully that the U.S. should extend its power and counter attack to preserve its self-interest. The Positive Legalists have struggled with the issue, as terrorism, by definition, operates outside of legal constructs. The Natural Legalists were quick to condemn the attacks on civilians as immoral, but in

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<sup>273</sup> Jean Bethke Elshtain, ed., *Just War Theory* (Washington Square, NY: New York University Press, 1992), 158.

the context of Just War thought, including Christian Just War thought, the issue is far more complicated.

Walzer says that the word "terrorism" is "used most often to describe revolutionary violence," but goes on to point out that it is much more complicated than that.<sup>274</sup> The Reagan administration understood terrorism as "a direct threat to the national interest, and defined it as both an attack on democracy and a form of surrogate warfare practiced by states."<sup>275</sup> This was a definition based very specifically in the ideology and political situation of that administration. Bellamy attempts to create a broader understanding of terrorism, beginning by summarizing Tony Coady's 1985 definition of terrorism as "the deliberate targeting of non-combatants for political purposes."<sup>276</sup> This definition has been highly influential, but Bellamy says that it creates two issues. First, he argues that terrorism can be committed both by states and by non-state actors. This first issue means that a revised understanding of legitimate competent authority is needed to address the *jus ad bellum* criteria.<sup>277</sup> Second, he argues a definition is needed that demarks the point at which terrorist tactics undermine what would otherwise be a justifiable recourse to violence.<sup>278</sup> In attempting to create such a definition, he differentiates between acts of terrorism and terrorist organizations, defining terrorist organizations as "those organizations that either make widespread and systematic use of terrorist tactics or persistently refuse to attack military targets."<sup>279</sup> Not only can the *jus ad bellum* criteria of competent authority be measured against an organization, but so can the criteria of proportionality. This definition of a terrorist organization is popular among those who argue that terrorism is done primarily by non-state actors.<sup>280</sup> This is a particularly important qualification if sovereign states are understood to be the only form of competent authority capable of authorizing political violence. As Bellamy points out, "this presumption was embedded in the positive law of war,

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<sup>274</sup> Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 197.

<sup>275</sup> Lang et al., *Ethics and the Future of Conflict: Lessons from the 1990s* (Upper Saddle River, NJ: Pearson, 2004), 32.

<sup>276</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 135.

<sup>277</sup> Ibid.

<sup>278</sup> Ibid.

<sup>279</sup> Ibid.

<sup>280</sup> Ibid., 137.

which did not, until 1977, grant rights to irregular combatants."<sup>281</sup> Coates, however, warns against the definition of irregular combatants, because the distinction between combatants and non-combatants exists only in a state of war. A battle against terrorism does not usually fit that model, since terrorist groups are not always states. For this reason, terrorist groups usually demand their right to wage war.<sup>282</sup>

However, Bellamy argues that there are two ways to justify the use of force by non-state actors. First, there is a widely recognized right for subjects to rebel against an oppressive government, as sovereignty is bestowed by the will of the people.<sup>283</sup> Second, the use of force by non-state actors is widely argued to be just in cases where the sovereign has dissolved or been overrun by a foreign power.<sup>284</sup> This does not mean that they are exempt from *jus ad bellum* criteria. Non-state actors must have high levels of support within a readily identifiable community, with constituency that share their political aspirations and endorse their strategy of violence, and they must be able to control their members as well as make agreements, such as peace accords, with other organizations.<sup>285</sup> While the *jus ad bellum* criteria can be met by many terrorist organizations, the *jus in bello* criteria are much harder to navigate. The intention of terrorism is to spread fear. This "threatens the welfare of civil society as a whole and therefore indirectly breaches the discrimination principle."<sup>286</sup> Terrorism is often directed toward non-combatants, rendering it unjust. Any attack on non-military targets fails the criteria of discrimination. In the Christian Just War tradition, terrorism is considered to be unjust for those reasons. However, many terrorist organizations attempt to justify their deeds publically.

Bellamy defines four types of justification: consequentialism, collective responsibility, supreme emergency, and divine mandate. The consequentialists argue that the acts should be judged in the light of their outcomes—that is if the terrorism is successful in creating the change

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<sup>281</sup> Ibid.

<sup>282</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 123.

<sup>283</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 137.

<sup>284</sup> Ibid.

<sup>285</sup> Ibid., 138.

<sup>286</sup> Ibid.

sought, then the means do not matter.<sup>287</sup> Andrew Fiala is quick to point out that consequentialist arguments are made by states as well as terrorist organizations. He says that such arguments are dangerous because they can "lead us to make exceptions to the basic principles of Just War theory."<sup>288</sup> When the ends justify the means, everything in between can be excused. Some terrorist organizations argue that their acts are justified due to the collective responsibility for oppression shared by the citizens they have attacked.<sup>289</sup> Since terrorist organizations are not states, there cannot be a normal state of war between the terrorist and victim. As a result, Coates argues, the combatant/non-combatant differentiation is non-existent. He asks why "the deaths of civilians at the hands of terrorists should fill us with any greater moral revulsion than the deaths of soldiers or policemen."<sup>290</sup> Any death caused by the terrorist is unjust. The supreme emergency argument says that there are situations in which the danger is great and options are limited, in which case acts of terrorism may be justified.<sup>291</sup> Finally, there is the argument of divine mandate. This is the only justification that intersects with Christian Just War criteria, which has always left open the option of divine commandment to war. The problem with this is that it can be claimed by anyone and is impossible to disprove.<sup>292</sup> It is a matter of faith, which makes it non-negotiable, and highly inflammatory to debate.

The issue of preemption in terrorism is complex, since terrorism does not fit the Christian Just War criteria well. Terrorism is rendered unjust by its refusal to adhere to proportionality and discrimination, so the preemptive nature of their attack is irrelevant. From the perspective of the terrorist, however, the issue of preemption is simply not applicable, because terrorism is almost always a reactionary movement. To the terrorist, the act committed is an act of retaliation. However, this does not always mean it is a reaction to a military attack. It may be a great number of other

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<sup>287</sup> Ibid., 140.

<sup>288</sup> Andrew Fiala, *The Just War Myth: The Moral Illusions of War* (New York: Rowman & Littlefield Publisher, Inc., 2008), 99.

<sup>289</sup> Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Malden, MA: Polity, 2006), 142.

<sup>290</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 124.

<sup>291</sup> Ronald H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville, TN: Abingdon Press, 1979), 143.

<sup>292</sup> Ibid., 144.



initial offenses which are understood as assaults against the terrorists' nation, religion, morals, ideologies, politics, or family. This is the reasoning behind the collective responsibility argument for terrorism. The citizenry, while not actively engaging in oppression or violence, are responsible for the actions of their government, army, or society as a whole. They benefit from the oppression which terrorism attempts to overthrow.<sup>293</sup> Both the supreme emergency argument and the consequentialist argument imply oppression as the root cause for the terrorism.<sup>294</sup> The divine mandate argument shares its justification with the Christian Just War theory's concept of war by divine command. God is just, and any war or violence He commands is just. The terrorists are fighting for God because He told them to. God is, by definition, the most legitimate competent authority. Terrorism is most often adopted by people who feel they have little choice. There is not a legitimate human authority that they can join to fight against the oppression or offense which is they feel deserves retribution. Once again, like a lot of *jus ad bellum* thought, it is very hard to define preemptive attack, as it is subjective. When the terrorist attacks of September 11, 2001 happened, many Americans saw them as unprovoked, and believed the military actions in Afghanistan to be defensive and punitive, because Afghanistan had allowed al-Qaida to operate from inside its borders. The terrorists, however, viewed the entire history of colonial rule, oil law, and the stationing of U.S. troops in Saudi Arabia as offenses, highly deserving of reprisal.

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<sup>293</sup> Ibid., 142.

<sup>294</sup> Ibid., 141 and 143.

## Chapter 4

### Modern Preemptive Wars: Two Cases

Many wars have been called "preemptive" by one side or the other. Seen from some perspectives, nearly all wars begin with a preemptive action, usually argued to be a just response by the attacker and unprovoked violence by the attacked. Preemption, especially in Christian Just War theory, can be most easily understood in terms of historical context, political rhetoric, and military intention. The historical context informs how the actors saw themselves. Were they responding to some previous act, or at least rationalizing their actions based on one? Were they making a completely unforeseen attack? What precedents have been set between the participants? The political rhetoric is important when attempting to understand the intentions of the opponents and what concerns they are addressing by attacking preemptively. Why do they want to attack? How are they explaining it to the public, the international community, and their adversary? What intentions might be obscured by the rhetoric? While the others are important, military intention is one of the most prominent factors when judging right intention. What was the military goal of the attack? Why was it decided that a military action was worth the human cost? How might the stated goals conflict with the goals of the actions that followed?

The two wars discussed in this chapter are nearly universally understood to be preemptive in nature. The Arab-Israeli Six Day War came from a history of contention which obscured the line between defense and attack. The Iraq War came out of conflicting interpretations of international law following the terrorist attacks of September 11th, 2001. In both cases, arguments were made that the actions were defensive, yet also in both cases the very minds that ordered the attack believed themselves to be launching a preemptive action. Given that preemption is widely considered to be unjust, the rhetoric surrounding the beginning of hostilities is important.

## The Historical Context of the Six Day War

The Six Day War in June of 1967 began as a preemptive attack by Israel against Egypt, but the politics and recent history of the region made labeling any action as purely "preemptive" nearly impossible. Israel and its Arab neighbors had been in conflict, ranging from diplomatic to violent, since Israel's inception in 1948. The Palestinian situation, Cold War alliances, and water rights had created an atmosphere of fear, marked by outbursts of warfare. Military posturing and threats, both rhetorical and military, were common. Even so, Israel's attack on June 5th is usually understood to be preemptive by scholars of Just War. An important question is, in this atmosphere, how could any military action be considered preemptive? Further, is it possible for more than one side in any war to be considered just, or is it possible that neither side has the just cause? The answer to the first question lies in Israel's intention and the processes it took to go to war. The answers to the second question remain widely debated. These questions remain vital, however, to understanding the political climate of the Middle East.

In Christian Just War theory, drawing upon the work of Aquinas, a war cannot be just if the instigator has not considered all possible moral implications, and if the intent is not to create order and peace. As Jeremy Bowen points out, the conflict was old by 1967, but,

it took on its current shape after the Middle East war of 1967, when Israel captured large swathes of Arab land, much of which it still holds. The Israeli government that prosecuted the war in 1967 said that it had no territorial ambitions, that it was fighting for security, not land. But since then hundreds of thousands of Israelis have been settled on the land that Israel's forces seized.<sup>295</sup>

This situation remains a key grievance among Israel, the Palestinians, and Israel's Arab neighbors. The possible future impact of the war was noted as early as its third day by President Johnson, following Israel's capture of Jerusalem and the West Bank, when he said that it would cause "festering problems," and that Americans were going to "wish the war had not happened."<sup>296</sup> The

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<sup>295</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 3.

<sup>296</sup> *Ibid.*

repercussions of the war continue, as generations have grown up in the fear and anger that followed, and perpetuate it.

Attempting to find a beginning to the various hostilities in the Middle East, especially those having to do with Israel, is nearly impossible. Before Israel was a country, there were tensions between the Jewish settlers who lived in Palestine and the Arabs.<sup>297</sup> Nearly every act of aggression can be argued by the aggressor to be a reaction to some other act of aggression, whether concrete or perceived. When Israel was founded in 1947, it was met with open anger from the surrounding Arab governments and displaced Palestinians. By 1967, the conflict had already erupted in two wars: the 1948 Arab-Israeli War, known to Israelis as the "War of Independence" and to Palestinians as "the Catastrophe," and the 1956 Suez War.<sup>298</sup> Even in the time between wars, tensions rarely subsided. By the mid-1960s, the Israeli-Arab conflict had become centered on the border between Syria and Israel.<sup>299</sup> Destroying Israel was the single stated military objective of the Syrian forces, though the military was untrained and ill-provisioned.<sup>300</sup> This was due to the instability of the Syrian government, which was in danger of being overthrown. After the coup of 1966, Syria became more paranoid of its neighbors, as well as Britain and the U.S.<sup>301</sup> The new government began to give the Palestinian terrorist group *Fatah* more funding and support.<sup>302</sup> Israel correctly saw Syria as a "radical politically aggressive state which encouraged and sheltered the first Palestinian guerrillas."<sup>303</sup> Making matters worse, Syria had formed a relationship with the U.S.S.R., who gave them military aid, adding the pressure of the Cold War to the conflicts in the region. However, Israel was not alone in its mistrust of other nations. The Israel Defense Force (*Zvah Haganah L'Yisrael*, or

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<sup>297</sup> Ibid.

<sup>298</sup> Richard B. Parker, ed. *The Six-Day War: A Retrospective* (Gainesville, FL: University of Florida, 1996), 13.

<sup>299</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 15.

<sup>300</sup> Richard B. Parker, ed. *The Six-Day War: A Retrospective* (Gainesville, FL: University of Florida, 1996), 127.

<sup>301</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 16.

<sup>302</sup> Eric Hammel, *Six Days in June: How Israel Won the 1967 Arab-Israeli War* (New York: Charles Scribner's Sons, Macmillan Publishing Company, 1992), 10.

<sup>303</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 16.

"Zahal") had been ideologically formed by the 1948 Arab-Israeli War. In 1949 Cham Laskov, head of the Zahal's instruction branch, set down the five precepts of the Zahal's mission: 1) "Few against many," based on the fact that Israel was outnumbered; 2) "A War of Survival," as a reaction against common Arab threats to wipe Israel from the face of the earth; 3) "A Strategy of Attrition," based on the fact that Israel was outnumbered; 4) "Geographic Pressures," meaning that geography mattered, and the Zahal could not give up ground to an advancing army even when they held the less desirable low ground; and 5) "A Short War," because Israel could not afford protracted warfare due to a small population.<sup>304</sup> While these rules laid out a military strategy, they also described a psychological stance which was distrustful of Arabs, fearful of destruction of Israel, and based somewhat on the idea that deception and trickery were not just allowed, but the preferred approach.

The atmosphere of mistrust between Israel and its Arab neighbors occasionally burst into fits of violence, as when Syrian forces responded to Israeli provocations by shelling Israel's border settlements.<sup>305</sup> In 1964, this situation turned into full military action over water rights, which left the region more unstable and directly contributed to the beginning of the Six Day War. Beginning in 1959, Israel had been building a complex system to carry water from the Sea of Galilee south to irrigate the Negev desert. This project reached completion in 1964, at which point Israel's Arab neighbors attempted to sabotage it by diverting two of the three sources which fed the river Jordan, and, in turn, the Sea of Galilee.<sup>306</sup> This water was felt to be "a lifeline" for Israel, because its destruction would have had a huge negative impact on the growing nation.<sup>307</sup> Syria's attempt to divert the water was seen as an attack on the existence of Israel as a whole. In response, Bowen argues, Israel "set up an incident," by provoking fire with a patrol that ventured just over the border,

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<sup>304</sup> Eric Hammel, *Six Days in June: How Israel Won the 1967 Arab-Israeli War* (New York: Charles Scribner's Sons, Macmillan Publishing Company, 1992), 57.

<sup>305</sup> Randolph S. Churchill and Winston S. Churchill, *The Six Day War* (London: William Heinemann Ltd., 1967), 29.

<sup>306</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 17.

<sup>307</sup> Richard B. Parker, ed. *The Six-Day War: A Retrospective* (Gainesville, FL: University of Florida, 1996), 106.

at which point Israel attacked.<sup>308</sup> This attack failed to do much damage to Syrian forces, so Israel created another incident ten days later. In response, the Syrians shelled Israeli settlements, prompting Israel to send in the Zahal air force.<sup>309</sup> This conflict continued, without ever becoming full-fledged warfare, into 1965, when the Arabs abandoned their attempts to divert the rivers. The battle over water was an important factor in the Israeli sense of insecurity which would contribute to their decision to begin the Six Day War. It is also illustrative of the violent atmosphere of the region, in which concepts of compromise and diplomacy were often neglected.

### **The Movement Toward War**

The year that preceded the Six Day War was filled with diplomatic and personal tensions, resulting in military presentations of strength, and hostile rhetoric. When looking for the final element, or elements, that caused the war, Brown points out that most studies center on one of three options: The Israeli "threat," the Soviet Warning, or the Egyptian Response.<sup>310</sup> Working from the research of Shimon Shamir, Bowen defines the Israeli "threat" in terms that apply both to Israel and its Arab neighbors. Israel felt itself to be in danger because of Arab refusals to acknowledge its right to exist and frequent threats to remove it. At the same time, the Arabs felt threatened by Israel, which had shown a willingness to use warfare, ignore U.N. demands, and retaliate against "attacks, large or small, in accord with the general Israeli antipathy to a static defense."<sup>311</sup> The Soviet Warning is a specific incident in which the Soviets warned Egypt that Israel was mobilizing forces on the Egypt-Israeli border on May 14th, 1967. This information was false, but it led Egypt to mobilize along the same border, heightening tensions. However, the Egyptian Response went further than the mobilizing of troops. President Gamal Nasser and his commanders believed that his troops needed freedom of action, and requested that the United Nations Emergency Force, present since the end of

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<sup>308</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 17.

<sup>309</sup> *Ibid.*, 18.

<sup>310</sup> Richard B. Parker, ed. *The Six-Day War: A Retrospective* (Gainesville, FL: University of Florida, 1996), 14.

<sup>311</sup> *Ibid.*, 14.

the Suez War, vacate the Sinai Peninsula.<sup>312</sup> On May 19th the United Nations Emergency Forces [U.N.E.F.] troops withdrew.<sup>313</sup> The effect of these three things was to destabilize the region even further, leaving both the Israelis and the Arab countries feeling threatened and on the defensive. War was generally acknowledged to be unavoidable. However, this war was without hope of being a just war. The concept of comparative justice had been lost, authority was disputed, intentions had long since become mired in hatred, other resorts had been abandoned, there was no good faith between the opponents, and both sides had already targeted civilians. Further, the very concept of proportionality had been abandoned decades earlier.

In the Israeli government, the debate on whether to go to war was heated. Many, including the majority of Israel's generals, saw war as unavoidable, felt that Israel had the superior military, and believed that it should be done as soon as possible.<sup>314</sup> Others, including David Ben-Gurion, first prime minister of Israel and leader of the 1948 war, believed that war must be avoided at all costs. He told Yitzhak Rabin, Chief of Staff of the *Zahal* and future prime minister, "We must not go to war. We are isolated!"<sup>315</sup> American and British intelligence estimates from this time show that Israel had the most powerful military in the region. The British attaché in Tel Aviv, himself a professional soldier, reported that "the Israeli army is more prepared for war than ever before. Well trained, tough, self-reliant, the Israeli soldier has a strong fighting spirit and would willingly go to the defense of his country."<sup>316</sup> As the month of May came to an end, both the Arab countries and Israel were waging propaganda campaigns aimed at their enemy, rife with "bloodthirsty threats."<sup>317</sup> Twenty-two years after the end of the Holocaust, threats of extermination had a profound hold on the people of Israel. This was not to be a war over territory, water, or even international relations. The popular

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<sup>312</sup> Ibid., 93.

<sup>313</sup> Eric Hammel, *Six Days in June: How Israel Won the 1967 Arab-Israeli War* (New York: Charles Scribner's Sons, Macmillan Publishing Company, 1992), 31.

<sup>314</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 51.

<sup>315</sup> Ibid., 50.

<sup>316</sup> Ibid., 53.

<sup>317</sup> Ibid., 69.

Israeli view was that they were fighting for the very survival of Israel.<sup>318</sup> This concern was one deeply set in the Israeli psyche, after what Hammel terms "two decades of 'normal war' with its neighbors."<sup>319</sup> Beyond the propaganda, however, this viewpoint has a few problems, the most notable of which is that Israel's existence was not, in fact, in danger. It had the most advanced army in the region, many times over, and the support of both the U.S. and Britain. These things were known by the military and political leadership, which calls into question the defensive nature of the war. This is not to say that the war was an Israeli trap, as common Egyptian belief would have it.<sup>320</sup> Rather, the evidence is that Israel was not under as much threat as the pro-war generals argued, and thus could not claim defense as their just cause.

### **Military Rationale**

As the war approached, the Israelis worked to hide the fact that they were about to attack. This effort was very successful, and by the time of the attack, Randolph Churchill argues, they had regained "the element of surprise."<sup>321</sup> Behind closed doors, however, on June 2nd, the generals presented their case for war to the cabinet defense committee.<sup>322</sup> Aharon Yariv, head of the *Zahal* intelligence branch, told the committee not to worry about the U.S., saying that it would take no action to prevent war, as it "knows we must act."<sup>323</sup> Egypt, the generals said, could not stand up to Israel. Egypt's army, positioned by Nasser near the border, was not trained. Many lacked uniforms and they did not have enough food and water.<sup>324</sup> Ariel Sharon warned that, in the words of Bowen, "hesitation and delay' was eroding Israel's best deterrent, 'the Arab fear of us.'" Benjamin Peled

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<sup>318</sup> Richard B. Parker, ed. *The Six-Day War: A Retrospective* (Gainesville, FL: University of Florida, 1996), 24.

<sup>319</sup> Eric Hammel, *Six Days in June: How Israel Won the 1967 Arab-Israeli War* (New York: Charles Scribner's Sons, Macmillan Publishing Company, 1992), 34.

<sup>320</sup> Richard B. Parker, ed. *The Six-Day War: A Retrospective* (Gainesville, FL: University of Florida, 1996), 61.

<sup>321</sup> Randolph S. Churchill and Winston S. Churchill, *The Six Day War* (London: William Heinemann Ltd., 1967), 71.

<sup>322</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 85.

<sup>323</sup> *Ibid.*

<sup>324</sup> *Ibid.*



argued that Egypt was threatening Israel, even if the troops were in poor condition, to gain respectability in the Arab world.

We know that the Egyptian army is not yet ready for war ... they are relying on the hesitancy of the Israeli government. They did it out of confidence that we would not dare to attack them ... Nasser brought an unprepared army to the border and he is deriving all the benefits. The one thing working in his favor is that the Israeli government is not prepared to attack him. What has the army done to deserve these doubts about our capabilities?<sup>325</sup>

The state of the Egyptian troops was known, but they were soldiers, however badly provisioned, and they had been stationed on the border. The Israeli generals saw a clear strategic advantage to attacking Egypt before it was actually prepared to fight. Moshe Dayan argued for an Israeli first strike to avoid the prospect of Israeli casualties: "If we wait for seven to nine days, there will be thousands dead. It is not logical to wait. We'll start it. Let's strike first then look after the political side."<sup>326</sup> This was not, however, the unanimous feeling among the generals. There were those who urged restraint, but they were not in the majority. At 7:40 a.m., June 5th, 1967, Israeli planes attacked Egypt's Fayed Airbase, igniting the war. The air attack destroyed nearly all of the planes at the airbase, nine tenths of which never left the ground.<sup>327</sup>

### **The Preemptive Nature of the Six Day War**

Examining the Six Day War in its context of all the previous Arab-Israeli clashes, it could be argued that it was less an individual war than another battle in a long history of sporadic fighting. The parties involved, however, considered this to be an individual war, somewhat separated from what came before it. The nature of the Israeli attack on Egypt is generally agreed to have been preemptive, even by those who support it.<sup>328</sup> A.J. Coates even refers to the Six Day War as the "classic and most frequently cited example [of preemptive attack] from recent times."<sup>329</sup> Arguments

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<sup>325</sup> Ibid., 86.

<sup>326</sup> Ibid., 87.

<sup>327</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 159.

<sup>328</sup> Menachem Z. Rosensaft, *Not Backward to Belligerency: A Study of Events Surrounding the "Six-Day War" of June, 1967* (New York: Thomas Loseloff Ltd., 1969), 26.

<sup>329</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 159.

that the war was just have been in the language of just cause, specifically defense and security. To the Israelis, Arabic rhetoric, support for the Palestinian cause, and border shelling were unwarranted attacks, and crimes deserving of punishment.<sup>330</sup> A war with a decisive victory would cement Israel's status in the Middle East, making the Arab states recognize them as a superior force. This was an argument that the new military stature of Israel would create order, but it is hard to suggest that such order would be peaceful. This still fails Aquinas' principle of right intention.

While Israel may have launched the first attack in the Six Day War, there are many who suggest that the context removes the full responsibility of preemptive warfare. However, there are many other aspects of the conflict which do not serve this interpretation. The Arabic posturing, military maneuvers, and fiery rhetoric were common occurrences. There was little that could be said to be threatening Israel to the point where a preemptive attack would be a proportional response. Furthermore, direct diplomatic efforts had been neglected by all parties, Israel had a history of systematically employing military tactics of attrition that provoked violent response<sup>331</sup>, and the Israeli military, with help from the U.S., had assessed that it was the supreme military power in the region.<sup>332</sup> In addition to this, there were those within the government pushing to annex land, specifically East Jerusalem. These considerations form a very different picture of Israeli intentions. Provoking attack fails the principles of just cause, right intention, and last resort. Such behavior is a form of assault, creating an attack so that a counterattack is demanded. The military superiority of the Israeli forces, especially in comparison to the disorganized and untrained Egyptian forces, may not violate any of the *jus ad bellum* criteria by itself, but any attack on the Egyptian forces risked violating proportionality. The Egyptian military did not pose a drastic threat to Israel. Untrained soldiers, who do not even have enough food and water, were likely to suffer at the hands of a fully trained and equipped military. Defense cannot have been the intention of military leaders who had

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<sup>330</sup> Menachem Z. Rosensaft, *Not Backward to Belligerency: A Study of Events Surrounding the "Six-Day War" of June, 1967* (New York: Thomas Loseloff Ltd., 1969), 19.

<sup>331</sup> Eric Hammel, *Six Days in June: How Israel Won the 1967 Arab-Israeli War* (New York: Charles Scribner's Sons, Macmillan Publishing Company, 1992), 57.

<sup>332</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 52.

the intelligence on Egyptian forces. Certainly war was not Israel's last resort. Finally, the goal of acquiring territory is never, in itself, reason for war in Christian Just War theory. As Coates points out, "from the moral point of view the idea of an anticipatory war of self-defense is fraught with danger, and the possibilities of abuse are obvious."<sup>333</sup>

These arguments, of course, do not address the question of divine commandment. This explanation has appeared in the time since the war, but it was not part of the governmental discussion at the time. While Israel and its neighbors regularly had violent exchanges, there is little more than paranoia to suggest that the Arab nations would have actually invaded Israel any time soon, had not Israel attacked first.<sup>334</sup> Egypt and its allies simply were not in any position to mount a military action of that size. While the rhetoric of defense may have been used, the U.S., Britain, and Israel itself had already assessed that Israel's military was above and beyond what was needed for defense and was the superior military in the entire region. For all these reasons, the Six Day War can be considered a preemptive war, though one that many people had seen coming for a long time. The war established Israel as a military power and allowed Israel to gain territory, but it continued the region's instability and predictably failed to create peace or stable order. The historical record shows that these goals were not primary to the intentions of the Israeli military, although they were discussed. Rather than using Aquinas' principle of right intention, the Israelis were subscribing to the Realism of Morgenthau. In doing so, they rendered the war unjust, regardless of its preemptive nature, in Christian Just War theory, as well as proving Morgenthau's Realism to be problematic in application.

### **The Historical Context of the Iraq War**

The Iraq war began for very different reasons. The Bush administration sought to overthrow Saddam Hussein for a variety of reasons, among them humanitarian and religious, but in doing so

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<sup>333</sup> A.J. Coates, *The Ethics of War* (Manchester, NY: Manchester University Press, 1997), 159.

<sup>334</sup> Jeremy Bowen, *Six Days: How the 1967 War Shaped the Middle East* (New York: St. Martin's Press, 2005), 53.

they violated many of the principles of the Christian Just War tradition. The invasion that marked the beginning of the Iraq War began on March 19th, 2003, but the international debate as to the legality of that invasion began much earlier. Unlike the Six Day War, the debate was public for more than a year, in the media, in Congress, and at the U.N. There was little secrecy, other than exact military tactics. Like the Six Day War, however, there was a history of violence and mistrust. While the U.S. and the international community had been in conflict with Saddam Hussein's regime since the early 1990s, the movement toward invasion began in earnest following the terrorist attacks of September 11th, 2001. In the months that directly followed those attacks, there was, for the first time since the Cold War, a sense of bodily danger pervasive in U.S. media and political rhetoric. The previously named "War on Terror" became a much more active war. Since no nation was directly responsible for the terrorist attacks, the Bush administration, with the backing of the U.N., chose to attack Afghanistan, which had allowed al-Qaida to set up a home base and training facilities. In the wake of this popular, and seemingly highly successful, invasion, the administration began arguing that Iraq should be next. Very early on, Neo-conservatives Robert Kagan and William Kristol wrote in *The Weekly Standard* that it was simply the next step in the continuing "War on Terror."<sup>335</sup>

This rationale was but one, however, with many more to follow. The one that the Bush administration settled on, for a variety of reasons, was that this would be a preemptive attack against Iraq to stop possible future violence. It was not, however, an argument purely about preemption. Following the evolution of Just War thought in the 20th century, no longer would such a Realist argument convince the international community. The Christian Just War tradition, having influenced Realism, Positive Law, and the culture at large, became a backdrop to the Bush administration's rhetoric. Their arguments included that the attack would be punishment for infractions against international law, because Iraq had broken many U.N. rulings, and routinely violated the No Fly Zones<sup>336</sup> set up after the Gulf War; that Iraq was in league, or could be in the

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<sup>335</sup> Micha L. Sifry and Christopher Cerf, ed., *The Iraq War Reader: History, Documents, Opinions* (New York: Touchstone Books, 2003), 243.

<sup>336</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 2.

future, with terrorists<sup>337</sup>; that Iraq was a threat due to its nuclear ambitions<sup>338</sup>; and that it was the U.S.'s duty to spread democracy and the free market through "regime change."<sup>339</sup> However, these arguments were not specifically designed for use in the debate over Iraq. They were part of the new administration's vision for American foreign policy: The Bush Doctrine.<sup>340</sup> Iraq was the first major application of the Doctrine, and the U.S.'s history with Iraq created wider acceptance of these policies at home than might have been possible under other circumstances.

Following the Gulf War of 1991-1992, Saddam Hussein had remained in power. During the fighting, President George H.W. Bush had called on the Iraqi citizens to revolt against Hussein, but had decided against moving to remove him from power militarily. Following the departure of U.S. troops, Hussein's Republican Guard worked hard, and often savagely, to repress the revolts that had broken out.<sup>341</sup> Three months after the U.S. ceasefire, the C.I.A. received instructions from the President that they were to covertly "create conditions for the removal of Saddam Hussein from power."<sup>342</sup> This was part of a larger theory that Hussein would be displaced by a military coup following his defeat, which did not happen.<sup>343</sup> As a result, the U.N. created a complex system of sanctions and inspections to keep Hussein restricted. The sanctions, intended to impact the ruling leadership, devastated and impoverished the vast majority of the population.<sup>344</sup> The inspections were military in nature and uncovered a great number of clandestine efforts by the Iraqi military, including efforts to create nuclear weapons and the creation and use of chemical and biological weapons.<sup>345</sup> Throughout the 1990s, Iraq complied with the efforts of the inspectors unevenly,

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<sup>337</sup> David Miller, ed., *Tell Me Lies: Propaganda and Media Distortion in the Attack on Iraq* (Sterling: Pluto Press, 2004), 15.

<sup>338</sup> Bob Woodward, *Plan of Attack* (New York: Simon & Schuster, 2004), 48.

<sup>339</sup> Micha L. Sifry and Christopher Cerf, ed., *The Iraq War Reader: History, Documents, Opinions* (New York: Touchstone Books, 2003), 286.

<sup>340</sup> Chris J. Dolan, *In War We Trust: the Bush Doctrine and the Pursuit of Just War* (Burlington, VT: Ashgate, 2005), 4.

<sup>341</sup> Micha L. Sifry and Christopher Cerf, ed., *The Iraq War Reader: History, Documents, Opinions* (New York: Touchstone Books, 2003), 113.

<sup>342</sup> *Ibid.*, 91.

<sup>343</sup> *Ibid.*, 96.

<sup>344</sup> Tareq Y. Ismael and William W. Haddad, ed., *Iraq/The Human Cost of History* (Sterling: Pluto Press, 2004), 25.

<sup>345</sup> Paul Rogers, *A War Too Far: Iraq, Iran and the New American Century* (Ann Arbor: Pluto Press, 2006), 92.

sometimes allowing them in and sometimes barring them from sites.<sup>346</sup> There were also a few military confrontations, such as the June, 1993 attack by Americans in retaliation for a possible assassination attempt on former President George H.W. Bush.<sup>347</sup> The U.S. and Britain patrolled the No Fly Zones, occasionally shooting down Iraqi aircraft, and there were other bombings, averaging .025 tons of explosive per month.<sup>348</sup> In 2000 that average jumped to five tons per month.<sup>349</sup> Between 1990 and 2003, there was never a normative peace. When the administration of George W. Bush began its movement toward invading, it was working from within this history of sanction, inspection, and punishment, and that would affect not only how it viewed the entire Iraq issue, but also how it made its arguments to the international community.

### **The Bush Doctrine, American Exceptionalism, and the New World Order**

It is highly debated when the Bush administration began its effort to attack Iraq, with some citing the neo-conservative arguments during the Clinton administration, in the 1990s, and others suggesting it was personal due to a possible assassination attempt on George H.W. Bush.<sup>350</sup> Still, it is clear that candidate George W. Bush staffed his advisors with people who were eager to redefine U.S. relations with the rest of the world. In early 2000, Condoleezza Rice drafted a new approach to foreign policy, entitled "Promoting the National Interest." While this document dealt with international relations, rather than the War on Terror, which would become the focus of the Bush administration's foreign policy, it became the seed of the future policies. In this document she laid out five main points: 1) America should deter war by projecting power; 2) America should spread free market principles as a matter of national self-interest; 3) America should renew relationships with "allies who share American Values and can thus share the burden of promoting peace, prosperity,

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<sup>346</sup> Richard Butler, leader of the United Nations Special Commission (UNCOM) on Iraq, from July 1997 to June 1999, chronicles the history of inspections at this time in his article "The Inspections and the U.N.: The Blackest of Comedies." Micha L. Sifry and Christopher Cerf, ed., *The Iraq War Reader: History, Documents, Opinions* (New York: Touchstone Books, 2003), 174.

<sup>347</sup> *Ibid.*, 140.

<sup>348</sup> *Ibid.*, 167.

<sup>349</sup> *Ibid.*

<sup>350</sup> Bob Woodward, *Plan of Attack* (New York: Simon & Schuster, 2004), 187.

and freedom"; 4) The U.S. should focus on creating relationships with "big powers, particularly Russia and China;" and 5) The U.S. should "deal decisively with the threat of rogue regimes and hostile powers, which is increasingly taking the forms of potential for terrorism and the development of weapons of mass destruction (WMD)."<sup>351</sup> While she did not mention Iraq, this document began the transition from a very traditional Realism into what the administration would later term the "freedom agenda," which promoted spreading capitalism and democracy as a national interest and endorsed preemptive attack.<sup>352</sup> This change continued once the administration took power. Bush and his advisors favored a more unilateral approach to international relations, withdrawing from many treaties, refusing to sign others, and beginning a relationship with the U.N. that ranged from dismissive to hostile.<sup>353</sup> For the first eight months of the Bush administration, the policy on international relations was forming, but it lacked a crystallizing central tenet, which was provided by the September 11th, 2001, terrorist attacks.

The defining element of Bush administration foreign policy became the War on Terror. In his address on the evening of the terrorist attacks, Bush clearly laid out his worldview. The terrorists had attacked, not because of a complex and unfortunate history of Middle Eastern conflicts with the West, but because "we're the brightest beacon for freedom and opportunity in the world. And no one will keep that light from shining."<sup>354</sup> It is an ideological argument that makes the conflict less political, and more cosmic: the clash of light and darkness, good and evil. The power of this idea was enough to elevate the "freedom agenda" from modified Realism into a crusade. Bush, who identified as a Christian, even used the word "crusade" in remarks at the White House September 16th, 2001: "This crusade, this War on Terrorism is gonna take a while. And the American people must be patient. I'm gonna be patient."<sup>355</sup> While he later apologized for using the word "crusade," the rhetoric of cosmic good and evil continued throughout his term in office, and his rhetoric often

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<sup>351</sup> John John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 41.

<sup>352</sup> *Ibid.*, 40.

<sup>353</sup> *Ibid.*, 52.

<sup>354</sup> *Ibid.*, 58.

<sup>355</sup> Manuel Perez-Rivas, "Bush vows to rid the world of 'evil-doers'," *CNN*, 16 September, 2001, <http://archives.cnn.com/2001/US/09/16/gen.bush.terrorism/>. (accessed 14 October, 2007)

continued to resemble crusading, albeit in the language of American Exceptionalism, an ideology which combined the assertion of America's greatness with nostalgia for a time when moral decisions were black and white.<sup>356</sup> In his 2002 state of the union, he declared that,

our nation will continue to be steadfast and patient and persistent in the pursuit of two great objectives. First, we will shut down terrorist camps and disrupt terrorist plans, and bring the terrorists to justice. And, second we must prevent the terrorists and regimes who seek chemical, biological, or nuclear weapons from threatening the United States and the world. But some governments will be timid in the face of terror. And make no mistake about it: If they do not act, America will.<sup>357</sup>

This was the same speech that defined the "Axis of Evil," Iran, North Korea, and Iraq, and began the campaign for an invasion of Iraq.<sup>358</sup> In it Bush clearly states that America has the right to protect itself, but he goes further. America is the protector of the world and has the right to act when others will not. It is the language of a unilateral crusade, and was identified as such by much of the world and Bush's political enemies at home. In an effort to remove the administration's foreign policy from the inflammatory rhetoric of religious warfare, members of the Bush administration began to rephrase the War on Terror in historical terms. In April of 2002, Rice put it into a continuing narrative world politics. She argued that the international system had been "in flux" since the collapse of the Soviet Union, but that flux was now coming to an end.<sup>359</sup> She compared the situation to the aftermath of World War II, suggesting that America must take advantage of the opportunity to create a new "balance of power" that once again favors "freedom."<sup>360</sup> It was up to America to work toward a new world order, in a leadership position, acting occasionally as judge and enforcer:

America cannot impose its vision on the world – yet we will use our influence to favor freedom. There are right and wrong choices and right and wrong acts. ... We must recognize that some states or leaders will choose wrongly. We must recognize that truly evil regimes will never be reformed. And we must recognize that such regimes must be confronted, not coddled.<sup>361</sup>

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<sup>356</sup> Andrew Fiala, *The Just War Myth: The Moral Illusions of War* (New York: Rowman & Littlefield Publisher, Inc., 2008), 64.

<sup>357</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 60.

<sup>358</sup> Ibid.

<sup>359</sup> Ibid., 63.

<sup>360</sup> Ibid.

<sup>361</sup> Ibid., 64.



While this is not a religious argument, it shares a great deal with the language of crusade. The U.S. is portrayed as having a higher ethical understanding, able to tell right from wrong, and a mission to assert the correct views, with force if necessary. It also shares a great deal with Augustinian belief in cultural superiority.

### **The Rationale for War**

In the months that followed, members of the administration made an organized media push for an invasion of Iraq, using three major arguments: Iraqi connections to terrorism, American Exceptionalism and the duty to spread freedom and the free market, and human rights. To the Bush administration, the second two arguments were closely related. On June 1<sup>st</sup>, 2002, in his speech to the graduating class at West Point, Bush declared,

when it comes to the common rights and needs of men and women, there is no clash of civilizations. The requirements of freedom apply fully to Africa and Latin America and the entire Islamic world. The peoples of the Islamic nations want and deserve the same freedoms and opportunities as people in every nation. And their governments should listen to their hopes.<sup>362</sup>

The definition of “freedom” used by the administration was extremely Americanized, including the idea that freedom was an inalienable right granted by God. While the administration quickly realized that the religious aspect of this made many in the international community uncomfortable, it garnered great support in many parts of the U.S. In response, religious rhetoric was reduced, but not contradicted, by the administration. However, the American Exceptionalism which took its place was not well received by the international community either.

When the administration brought their arguments to the international community, they began to favor Iraqi links to terrorism and violation of international law. At this point, the cultural absorption of Christian Just War theory became very important. If attacking Iraq was due to its terrorist ties, then it was not completely preemptive. The administration had long attempted to link Iraq to the

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<sup>362</sup> Ibid., 67.

September 11th, 2001 attacks, arguing that invading Iraq was a defensive response. If an attack on Iraq was due to its violations of international law, however, then this was a punitive mission intended to bring order and peace. Both ideas are supported by the *jus ad bellum* principles in Christian Just War thought. Because of this, such ideas found greater support. Despite the international disapproval of such tactics, however, the administration also continued to argue that the attack on Iraq would be preemptive. The administration saw itself as setting down a new foreign policy framework, based on American military might, and situated within the freshly minted War on Terror. No option could be taken off the table. Setting a precedent of preemption would, theoretically, make sheltering terrorists or contradicting U.S. interests in general much more dangerous. In the *National Security Strategy of 2002*, published by the administration, they stated that "for centuries, international law recognized that nations need not suffer an attack before they can lawfully take action to defend themselves against forces that present an imminent danger of attack. ... To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively."<sup>363</sup> This position was met with much international trepidation, and because of this Rice elaborated, saying "Preemption is not a new concept. There has never been a moral or legal requirement that a country wait to be attacked before it can address existential threats. ... but this approach must be treated with great caution."<sup>364</sup> While the first part of that statement is inaccurate, as preemption has long been considered unjust by the Christian Just War tradition, the latter qualification shows that Rice understood how controversial the Bush Doctrine was. She further stated that preemption was a last resort that would only be used in a small number of cases.<sup>365</sup> She was acquiescing, somewhat, to the cultural and legal understandings of Just War held by the world community and influenced by the Christian Just War tradition.

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<sup>363</sup> Chris J. Dolan, *In War We Trust: the Bush Doctrine and the Pursuit of Just War* (Burlington, VT: Ashgate, 2005), 7.

<sup>364</sup> *Ibid.*

<sup>365</sup> *Ibid.*

## International Support

While the rhetorical arguments for war with Iraq had been present for a while, the international negotiations that would form the "coalition of the willing" began in earnest in July of 2002. That month British Prime-Minister Tony Blair met with his defense, intelligence, legal, and foreign advisors to discuss Iraq. The results of this meeting were made public with the leaking of the "Downing Street Memo" some time later. In this meeting, it was made clear that the U.S. wanted to attack Iraq and wanted support in that effort. Intelligence showed that the U.S. case, built on terrorist links, regime change, and weapons of mass destruction, was thin.<sup>366</sup> Rather than attack, Foreign Secretary Jack Straw suggested, an ultimatum should be sent to Hussein, demanding that he allow U.N. weapon inspectors back in to Iraq. This would either help alleviate the pressure from the U.S. to attack, or it would "help with the legal justification for the use of force."<sup>367</sup> Attorney-General Lord Goldsmith pointed out that "the desire for regime change was not a legal base for military action,"<sup>368</sup> and laid out three possible legal bases: "Self-defense, humanitarian intervention, or U.N.S.C. [United Nations Security Council] authorization."<sup>369</sup> These three criteria have their origin in Christian Just War theory, which had long since become part of British common law. The idea that this invasion might be preemptive was only tangentially addressed, and never made part of the discussion. The British government was working toward a legal solution to the issue that would either prevent war, or provide an acceptable legal precedent for an attack. The points made by Lord Goldsmith, however, had a great deal of influence on the Bush administration's rhetoric.

The U.S. push toward war continued in the fall of 2002, as positions were refined and redefined. A joint resolution authorizing an attack on Iraq began its way through Congress, raising the volume, if not the tone, of the debate. On October 7th, President Bush gave an address in support of the resolution, laying out the administration's argument as clearly as possible, but took a step back from the rhetoric of preemptive attack. He began by saying that Iraq was a "grave threat

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<sup>366</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 69.

<sup>367</sup> Ibid.

<sup>368</sup> Ibid.

<sup>369</sup> Ibid.

to peace," and it was America's "determination to lead the world in confronting that threat,"<sup>370</sup> going on to place the blame for the situation on Iraq, due to "its history of aggression, and its drive toward an arsenal of terror."<sup>371</sup> He argued that in the preceding 11 years the Iraqi regime had violated its obligations under international law to disarm. Finally, he laid out the threat to international safety: "It [Iraq] possesses and produces chemical and biological weapons. It is seeking nuclear weapons. It has given shelter and support to terrorism, and practices terror against its own people."<sup>372</sup> These things meet the criteria of just cause. Possessing and creating chemical, biological and nuclear weapons not only would make Iraq a dangerous state, it also put it in direct violation of international laws; thus an attack would be punitive. If Iraq supported terrorists then it shared responsibility for previous terrorist attacks, such as September 11th. This removes the preemptive issue altogether. By bringing up Hussein's attacks on the Kurds, which Bush labeled as "his own people," though both sides might object to that characterization, the argument for attack also becomes humanitarian. It is important to note that these statements correspond directly to the categories of Just War laid out in the "Downing Street Memo" three months earlier.

### **Limited Congressional Support**

While the administration's arguments never overcame the doubts in much of the American populace, not to mention the international community, they were persuasive enough to convince Congress to authorize the use of force on October 17th, 2002. The resolution was in punitive language, not preemptive. It listed Iraq's violations of international law and U.N. resolutions, as well as referenced the history of conflict between the international community and Iraq. However, it stated support for regime change, referencing the Iraq Liberation Act, passed by Congress and signed by President Clinton in 1998, which had "expressed the sense of Congress that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and

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<sup>370</sup> Ibid., 85.

<sup>371</sup> Ibid.

<sup>372</sup> Ibid.

promote the emergence of a democratic government to replace that regime."<sup>373</sup> It also supported the national security arguments made by the administration, even mentioning September 11th, 2001.<sup>374</sup> The influence of the administration's rhetoric was clear, and its policies were reflected with very little distortion in the bill, with one large exception. It expressly departed from the unilateralism favored within the administration:

Whereas on September 12, 2002, President Bush committed the United States to 'work with the United Nations Security Council to meet our common challenge' posed by Iraq and to 'work for the necessary resolutions,' while also making clear that 'the Security Council resolutions will be enforced and the just demands of peace and security will be met, or action will be unavoidable.'<sup>375</sup>

The bill authorized the President to use military force, but tied him to the United Nations Security Council, which Bush and his advisors believed to be ineffectual, arguing that it had failed to punish Iraq many times. As a result, the Bush administration intensified its push for a U.N. resolution against Iraq.

## **The United Nations**

Just over a month later, the U.S. and Britain presented Security Council Resolution 1441. Preceding the presentation had been intense and contentious negotiations with many parties, most notably France and Russia, who felt that U.S. policy on Iraq was far too eager to invade. The resolution was, in many ways, an ultimatum offering Iraq "a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council."<sup>376</sup> It gave Iraq 30 days to provide the U.N. and International Atomic Energy Agency [I.A.E.A] with,

a currently accurate, full, and complete declaration of all aspects of its programmes to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems ..., including any holdings and precise locations of such weapons, components, equipment, the locations and work of its research, development and production facilities, as

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<sup>373</sup> Ibid., 94.

<sup>374</sup> Ibid.

<sup>375</sup> Ibid.

<sup>376</sup> Ibid., 96.

well as all other chemical, biological, and nuclear programmes, including any which it claims are for purposes not related to weapon production or material.<sup>377</sup>

The rest of the resolution laid out the rights of the U.N. and I.A.E.A. to this information, requested intelligence and support from all Member States, and warned of "serious consequences as a result of its continued violations of its obligations."<sup>378</sup> This ultimatum, while brash, appears to agree with Christian Just War theory, specifically its inheritance from Cicero. It maintained the need for just authority, in this case the U.N., and warned a potential enemy of possible grievances, satisfying the good faith criteria. However, it has been argued that the resolution was specifically set up to fail, allowing a pretense for war. Before the resolution was even passed, France questioned the way that the administration was interpreting the phrase "serious consequences," believing the U.S. to be looking for an excuse to go to war.<sup>379</sup> If the resolution was put forth as pretense, then both the criteria of authority and good faith were abused. Worrying that this might be true, France and others repeatedly demanded that another Security Council resolution would be needed before any action was taken.<sup>380</sup> When Iraq failed to fully comply within the time limit, the Bush administration argued that the time had come to invade.

It became clear, almost immediately, that invading Iraq was still extremely unpopular internationally, and contentious, at best, in the U.S. The administration decided to attempt to obtain another resolution. On February 6th, Secretary of State Colin Powell addressed the Security Council. His arguments retained much of the punitive language, but also stressed the danger of Iraq, effectively renewing the push for a preemptive attack to effect regime change. He began by declaring that he had asked for the session for two purposes: "First to support the core assessments made by Dr. Blix [Head of the United Nations Monitoring, Verification and Inspection Commission] and Dr. El Baradei [Director General of the I.A.E.A.]."<sup>381</sup> Both men had reported that Iraq was not

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<sup>377</sup> Ibid.

<sup>378</sup> Ibid., 99.

<sup>379</sup> Ibid., 95.

<sup>380</sup> Ibid.

<sup>381</sup> Ibid., 99.

cooperating with weapons inspectors, though neither supported the proposed invasion. "My second purpose today," Powell continued, "is to provide you with additional information, to share with you what the United States knows about Iraq's weapons of mass destruction as well as Iraq's involvement in terrorism, which is also the subject of Resolution 1441 and other earlier resolutions."<sup>382</sup> It is important to note that terrorism was not the subject of resolution 1441: the true subject of the resolution was the behavior of Iraq in conflict with international law. This is where Powell's testimony began to deviate from earlier arguments. The punitive language was still in play, but he shifted the focus to possible future threats from Iraq, through terrorist ties, and the need to counter that threat preemptively. Powell began the body of his address drawing a picture of Iraq as dishonest, disobedient, and threatening, describing Iraq as having "disturbing patterns of behavior."<sup>383</sup> He said that U.S. intelligence pointed "to an active and systematic effort on the part of the Iraqi regime to keep materials and people from the inspectors in direct violation of Resolution 1441."<sup>384</sup> Resolution 1441, argued Powell, was an "early test," which they had failed, proving its unwillingness to work with the international community.

By this standard ... I believe that Iraq is now in further material breach of its obligations. I believe this conclusion is irrefutable and undeniable. Iraq has now placed itself in danger of the serious consequences called for in U.N. Resolution 1441. And this body places itself in danger of irrelevance if it allows Iraq to continue to defy its will without responding effectively and immediately.<sup>385</sup>

It was Iraq's fault that it was now in danger, but the U.N. must punish it or lose its ability to force countries to use international arbitration. Powell was reminding a legal body of its duty to punish a criminal state. "The issue before us is not how much time we are willing to give the inspectors to be frustrated by Iraqi obstruction. But how much longer are we willing to put up with Iraq's noncompliance before we, as a council, we, as the United Nations, say 'Enough. Enough.'"<sup>386</sup> By

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<sup>382</sup> Ibid.

<sup>383</sup> Ibid., 100.

<sup>384</sup> Ibid.

<sup>385</sup> Ibid.

<sup>386</sup> Ibid., 101.

attempting to gain the support of the U.N., Powell and the Bush administration were seeking legitimate authority in the eyes of the world, not to mention the citizenry.

For many, however, Iraq's failure to comply did not constitute enough of a cause to make a military invasion into a proportional response. Containment had worked for the previous eleven years, and continuing similar tactics was satisfactory. Furthermore, many countries argued that there was not sufficient evidence to link Hussein to al-Qaida, so an invasion could not be a just response.<sup>387</sup> While the humanitarian argument had evidence, the U.S. supported U.N. sanctions had caused a great deal of suffering, damaging any pretense of ethical superiority.<sup>388</sup> For these reasons, the administration and Powell returned to the argument that there was a future danger that could be averted through military action, specifically a preemptive attack. After laying out an inventory of possible weaponry in the hands of the Iraqis, biological, chemical, and nuclear, Powell said "Our concern is not just about these illicit weapons. It's the way that these illicit weapons can be connected to terrorists and terrorist organizations that have no compunction about using such devices against innocent people around the world."<sup>389</sup> Attempting to counter the doubts of the international community, he argued that Iraq did indeed have a history of consorting with terrorists, and that there was a "nexus between Iraq and the Al-Qaida terrorist network, a network that combines classic terrorist organizations and modern methods of murder. Iraq today harbors a deadly terrorist network headed by Abu Musab Al-Zarqawi, an associate and collaborator of Osama bin Laden and his Al-Qaida lieutenants."<sup>390</sup> This argument renewed U.S. claims of just cause. However, even at the time Powell gave his address this link was known to be unprovable, and he quickly moved on.

The threat was the regime of Saddam Hussein, itself, and Powell went on to emphasize this repeatedly:

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<sup>387</sup> David Miller, ed., *Tell Me Lies: Propaganda and Media Distortion in the Attack on Iraq* (Sterling: Pluto Press, 2004), 75.

<sup>388</sup> Tareq Y. Ismael and William W. Haddad, ed., *Iraq/The Human Cost of History* (Sterling: Pluto Press, 2004), 30.

<sup>389</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 101.

<sup>390</sup> *Ibid.*



We know that Saddam Hussein is determined to keep his weapons of mass destruction; he's determined to make more. Given Saddam Hussein's history of aggression, given what we know of his grandiose plans, given what we know of his terrorist associations and given his determination to exact revenge on those who oppose him, should we take the risk that he will not someday use the weapons at a time and the place and in the manner of his choosing at a time when the world is in a much weaker position to respond?<sup>391</sup>

Powell argued that Hussein and his regime were a threat to the entire world, one that must be destroyed. While regime change violates Just War principles of proportionality and good faith, the administration argued that Hussein had given up his rights to such consideration when he repeatedly broke international law. The nations of the U.N., Powell argued, needed to act now, militarily, to remove this possible future threat. "My colleagues, we have an obligation to our citizens, we have an obligation to this body to see that our resolutions are complied with. We wrote 1441 not in order to go to war, we wrote 1441 to try to preserve the peace. We wrote 1441 to give Iraq one last chance. Iraq is not so far taking that one last chance."<sup>392</sup> He blended the punitive argument and the preemptive argument, while answering the criticism of resolution 1441, and suggesting that the authority of the U.N. was at stake. It mixes classical Positive Legalism with the cultural background absorption of Christian Just War Theory. However, it later became clear that much of the intelligence used in the address was inaccurate, and that the Bush administration had, possibly knowingly, constructed an argument that would fit the above criteria, making the entire address into rhetoric cloaking the classical Realist emphasis on *raison d'état* prevalent in the "Bush Doctrine."

Powell's address was hailed as a success by the administration, but did not convince the Security Council at large, nor many of the administration's opponents. On February 12th, Senator Robert Byrd warned,

this nation is about to embark upon the first test of a revolutionary doctrine applied in an extraordinary way at an unfortunate time. The doctrine of preemption - the idea that the United States or any other nation can legitimately attack a nation that is not imminently threatening but may be threatening in the future - is a radical new twist on the traditional idea of self-defense. It appears to be in contravention of international law and the U.N.

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<sup>391</sup> Ibid., 102.

<sup>392</sup> Ibid.

Charter. And it is being tested at a time of world-wide terrorism, making many countries around the globe wonder if they will soon be on our - or some other nation's - hit list.<sup>393</sup>

Senator Byrd's concerns are clear, but he was incorrect in seeing this as a new tactic. He described the exact set of principles that had led Christian Just War theologians to declare preemptive attack unjust. While he used Positive Legalist language, as well as simple international relations, it was an argument that has its origin in Christian Just War theory. The administration's arguments were also confronted by several of the people they had cited in Powell's address, most notably Dr. Hans Blix. On March 7th, Dr. Blix briefed the Security Council on the state of Iraq's cooperation with inspectors. He noted that "In matters relating to process, notably prompt access to sites, we have faced relatively few difficulties ... This may well be due to the strong outside pressure."<sup>394</sup> Further, he stated that no evidence had been found of mobile weapons factories, hidden underground facilities, or Remotely Piloted Vehicles, all of which were specifically listed in the U.S. claims of illegal activity.<sup>395</sup> Finally, he reminded the Council that on February 14th, he had said that Iraq had "become more active in taking and proposing steps which potentially might shed new light on unresolved disarmament issues," and that they had done even more to cooperate since that time.<sup>396</sup> In essence, Blix removed the parts of the Bush administration's argument for invasion that were based in Positive Law and punitive just cause. Iraq was cooperating, and many of the allegations by the U.S. were seemingly unfounded. Following Blix's report, opposition to the Bush administration's view hardened. The Bush administration realized that it would not make more headway within the U.N., and returned to unilateralism.

### **Unilateral Preemptive Action**

On March 17th, 2003, President Bush issued an ultimatum to Iraq. In it he downplayed the controversy within the U.N., not to mention Blix's statements, and instead painted Iraq as a rogue

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<sup>393</sup> Ibid., 103.

<sup>394</sup> Ibid., 106.

<sup>395</sup> Ibid., 107.

<sup>396</sup> Ibid., 108.

state: "The Iraqi regime has used diplomacy as a ploy to gain time and advantage. It has uniformly defied Security Council resolutions demanding full disarmament. ... Peaceful efforts to disarm the Iraqi regime have failed again and again - because we are not dealing with peaceful men."<sup>397</sup> Bush repeated Powell's arguments that intelligence proved that Iraq was hiding weapons of mass destruction, and that it had a history of aggression.<sup>398</sup> He accused Iraq of sheltering terrorists, including members of al-Qaida.<sup>399</sup> Further, he declared the U.S.'s innocence, saying "The United States and other nations did nothing to deserve or invite this threat," and declared the U.S. right to use "sovereign authority to use force in assuring its own national security."<sup>400</sup> He quickly related the history of U.N. resolutions and Iraqi obstructionism, and condemned the U.N. for failing to act, implied it lacks the "resolve and fortitude," and suggested that other members of the Security Council were against Iraqi disarmament.<sup>401</sup> He then gave Saddam Hussein and his family forty-eight hours to leave Iraq, warning that "Should Saddam Hussein choose confrontation, the American people can know that every measure has been taken to avoid war, and every measure will be taken to win it." In claiming that he had attempted to avoid war, he was appealing to the Christian Just War principle of last resort.<sup>402</sup> He finished with a lengthy argument linking Iraq to terrorism, and demanding that "the security of the world requires disarming Saddam Hussein now."<sup>403</sup> This speech sought to declare the pending attack as just, in no uncertain terms, yet it ignored international authority, seemingly fabricated just cause under the disproved arguments of terrorism and weapons of mass destruction, and made a central demand so cavalier that it destroyed good faith. While it fails the Christian Just War principle of just cause on nearly every level, it is completely in line with the Realism of the "Bush Doctrine" and the neo-conservative movement. The fascinating paradox is that while his beliefs were clearly Realist, of a strain nearly pre-World War I in ideology, his

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<sup>397</sup> Ibid., 110.

<sup>398</sup> Ibid.

<sup>399</sup> Ibid.

<sup>400</sup> Ibid., 111.

<sup>401</sup> Ibid.

<sup>402</sup> Ibid., 112.

<sup>403</sup> Ibid., 113.

arguments were constructed, throughout the entire debate, to approximate cultural demands for just cause. In that rhetoric lies an admission that pure *raison d'état* would not be accepted by public conscience. Two days after his ultimatum, President Bush announced the beginning of the war, but his awareness of the public's need for just cause remained. In the announcement, President Bush added a warning, which may also be seen as one more rationale for war: "In this conflict, America faces an enemy who has no regard for conventions of war or rules of morality."<sup>404</sup> The war was carried out by a "coalition of the willing," "more than thirty-five countries" that sent troops at the U.S.'s request, in an attempt to avoid the stigma of being unilateral, though the U.N. did not take part.<sup>405</sup>

While the justice or injustice of the Six Day War on the Iraq War have been and will be debated for the foreseeable future, the debates highlight an important point in the evolution of Christian Just War thought. While politics of the world have become much more multicultural, and less overtly religious, the pluralism in religious and ethical belief has become more important. While most cultures and religions have developed ideas about the ethical meaning and existence of war, in the West Christian Just War theory has become part of the culture, no longer tied to the Christian theology that formed it. Its principles have become the *lingua franca* of wartime debate, and its teachings the ethical foundations of cultural thought on war. Both the Iraq War and the Six Day War were executed on both sides by people who were not part of the Christian Just War tradition, yet the rhetoric sought to convince the public using the categories and conclusions originated in that tradition. Some of these common categories and conclusions may be correctly argued to be evidence of similar patterns in human thought, rational investigations into the ethics of war, or even non-denominational Natural Law, but the history of the Christian Just War tradition positions it at the center of European and American cultural ethical teachings and thus in the development of the modern world. The irony is that, in these cases, the language and rationale of Just War, created

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<sup>404</sup> Ibid., 114.

<sup>405</sup> Ibid.

specifically to limit warfare and abuses of military power, has been manipulated by those wishing to instigate preemptive warfare, which is unequivocally unjust in Christian Just War theory.

## Conclusion

### The Application of Christian Just War Thought in the Debate Over Preemption

The central premise of Christian Just War theory is that war will happen and it must be limited and guided by justice. While this is far from a positive view of warfare, it is one that allows its existence and the possibility that it may be fought justly. For more than two thousand years (including its roots in the writings of Cicero) Christian Just War theory has been applied as an evolving formula used to measure the justice of wars, past, present, and future. When it is applied to wars that are in development, the intention is to guide them toward correct execution, limiting excesses and preventing atrocities. The central tenets of Christian Just War theory have become secular cultural norms, and are still applied when the issue of war is debated, creating a fairly concrete set of criteria which must be fulfilled in order for a war to be publicly accepted. These criteria have been successfully used as a checklist by those seeking public and international support for a preemptive attack. This is what the Bush administration did when it was arguing for an invasion. This raises the question, how effective is Christian Just War theory at limiting warfare? Has it lost its power, or did it ever have that power? Does it still serve a purpose, or is something new needed? Throughout this work, it has been shown that the justice of a tactic, battle, or war is highly subjective and may be rhetorically addressed in many ways. Preemptive warfare is no exception, even though it is strictly forbidden in Christian Just War theory.

The application of Just War tenets during the debate over the Iraq War was not monopolized by the Bush administration. Many critics routinely pointed out the administration's misuse of Christian Just War criteria and attempted to correct the usage. The most clear and concise of these was a March 9th, 2003 article written for *The New York Times* by former President Jimmy Carter. It intentionally provided a contrast in application of Just War theory to the way the Bush administration had been using it. Where the Bush administration agreed with many of the tenets of Realism, seeming to use Just War ideas rhetorically rather than substantively, Carter was a true believer in

Christian Just War theory as the ethical guidelines that should be addressed in the case of war. His article provided a contrast in application of those guidelines. Most notably, the Bush administration was attempting to get approval for a war using the rhetoric of just cause, whereas Carter was attempting to limit a war by applying the Christian Just War theory more fully.

Writing ten days before the invasion of Iraq, Carter began by stating that "profound changes have been taking place in American foreign policy, reversing consistent bipartisan commitments that for more than two centuries have earned our nation greatness."<sup>406</sup> Carter was attacking the "Bush Doctrine," including policies of preemption and unilateralism. He was arguing against Rice's statement that there had never been a moral or legal precedent against preemptive attack,<sup>407</sup> but he was attempting to make his argument palatable to more conservative readers by using the favored language of American greatness. Then, using the language of Positive Law, he argued that the policies the Bush administration was reversing were based in religion and a "respect for international law, and alliances that resulted in wise decisions and mutual restraint," and reminded the reader that "our apparent determination to launch a war against Iraq, without international support, is a violation of these premises."<sup>408</sup> The Positive Law approach, however, was not the focus of Carter's piece. As a devout Christian and a former President who was "severely provoked by international crises," he argued that he had a unique perspective. While in office, he "became thoroughly familiar with the principles of a just war, and it is clear that a substantially unilateral attack on Iraq does not meet these standards."<sup>409</sup> In the debate, President Bush had often used his personal faith as a rationale, whether it was using the language of crusade or telling a Palestinian delegation that "God would tell me 'George, go and end the tyranny in Iraq'" four months after the invasion.<sup>410</sup> Similarly,

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<sup>406</sup> Jimmy Carter, "Just War -- or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>407</sup> Chris J. Dolan, *In War We Trust: the Bush Doctrine and the Pursuit of Just War* (Burlington, VT: Ashgate, 2005), 7.

<sup>408</sup> Jimmy Carter, "Just War -- or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>409</sup> *Ibid.*

<sup>410</sup> Ewen MacAskill, "George Bush: 'God told me to end the tyranny in Iraq.'" *The Guardian UK*, 7 October, 2005, <http://www.guardian.co.uk/world/2005/oct/07/iraq.usa> (accessed 14 October, 2007)

his rhetoric of American Exceptionalism included the understanding that God was on the side of America, which He had blessed. If Bush's view was that it was his divine mission to attack Iraq, it fits the Christian Just War criterion of divine command. Rather than entering into that debate, Carter attacks the issue using the other aspects of Christian Just War theory.

Carter begins by stating that "for a war to be just, it must meet several criteria."<sup>411</sup> He was arguing for an objective set of standards to evaluate war, as the Bush administration had a tendency to shift between tactics depending on how the debate was trending. Carter argued that the Christian Just War theory was able to sort out the issues while reducing the impact of political pressures. He started with the *jus ad bellum* criteria of *last resort*, stating that war was only just if all other nonviolent options have been exhausted, including U.N resolutions.<sup>412</sup> To Carter, the idea proposed by the Bush administration, that it was carrying out the international will by enforcing a U.N. resolution without the support of the U.N.,<sup>413</sup> was ridiculous at best and deceitful at worst. He pointed out that the U.N. Security Council was against the war and had sought alternative action as recently as February 28th, 2003.<sup>414</sup> Further, Carter argued that U.S. national security was "not directly threatened and despite the overwhelming opposition of most people and governments in the world, the United States seems determined to carry out military and diplomatic action that is almost unprecedented in the history of civilized nations."<sup>415</sup> This is the central reason in the Christian Just War theory that preemptive attack is unjust. There was no just cause. The U.S. was not threatened by the government of Iraq. The Bush administration disagreed with this analysis, arguing that it could become a threat in the future and therefore should be stopped before it has time to create weapons that might be turned against the U.S.<sup>416</sup> This was a modification of defense as just cause. However, defense against an opponent that might become a threat in the future is not just cause in

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<sup>411</sup> Jimmy Carter, "Just War – or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>412</sup> *Ibid.*

<sup>413</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 102.

<sup>414</sup> Jimmy Carter, "Just War – or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>415</sup> *Ibid.*

<sup>416</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 101.



the Christian Just War tradition. In his piece, Carter did not specifically address the fear of a future threat, possibly because it was very influential among the President's supporters, or possibly because it is only one reason, among many, that the attack would fail to be just.

Like many Just War thinkers before him, Carter believed that before starting any war the *jus in bello* criteria must also be addressed. Carter's emphasis on it is especially important given the Bush administration's reluctance to address the issue, viewing it as divisive and preferring the ideological rhetoric of victory, freedom, and glory. In the case of the Iraq War, the military had announced in January that the attack would begin with a massive bombardment of Iraqi targets, termed "Shock and Awe."<sup>417</sup> Carter pointed out that this would be launched against "a relatively defenseless Iraqi population within the first few hours of an invasion with the purpose of so damaging and demoralizing the people that they will change their obnoxious leader, who will most likely be hidden and safe during the bombardment."<sup>418</sup> Since the war was planned as a preemptive one, it was likely that the bombardment would be a surprise, and the victims unprepared. This violates the Christian Just War theory's criteria of *discrimination*, endangering noncombatants. Carter pointed out that "extensive aerial bombardment, even with precise accuracy, inevitably results in 'collateral damage'," and that many of the targets were near civilian centers.<sup>419</sup> General Tommy Franks expressed his concerns about the issue, but it was not addressed by the Bush administration other than to place their faith in technology. The sheer size of the "Shock and Awe" campaign violated the *jus in bello* criteria of *proportionality*, argued Carter, not only because it would inevitably hurt noncombatants, but because Iraq had done nothing to deserve such a violent response. While the Bush administration had worked hard to tie Hussein to al-Qaida and the 9/11 attacks,<sup>420</sup> which

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<sup>417</sup> Sue Chan, "Iraq Faces Massive U.S. Missile Barrage." *CBS News*, 24 January, 2003. <http://www.cbsnews.com/stories/2003/01/24/eveningnews/main537928.shtml> (accessed 14 October, 2007).

<sup>418</sup> Jimmy Carter, "Just War – or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>419</sup> *Ibid.*

<sup>420</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 60.

would make proportionality less of an issue, Carter states that such efforts were "unconvincing."<sup>421</sup> This conclusion further delegitimizes the attack as being a response to anything worthy of beginning warfare, making its preemptive nature even clearer.

In the second half of his article, Carter attempted to measure the relative justice of an attack, addressing the possible outcomes of the war. He was concerned about what the state of international relations might be after the war ended. First, he addresses this in terms of the *jus ad bellum* criterion of *legitimate authority*. The U.S., he says, has broken from the Security Council, the source of international authority when it comes to warfare. Further, the Bush administration had announced that its goals were, in Carter's words, to "achieve regime change and to establish a Pax Americana in the region, perhaps occupying the ethnically divided country for as long as a decade."<sup>422</sup> The U.S. did not, he argued, have the "international authority" to do that.<sup>423</sup> In following this course, the Bush administration was not just flouting international law, but actively alienating the international community.<sup>424</sup> The Bush administration understood it differently, arguing that it was creating a new world order with American leadership, confident that others would follow and support the American standard.<sup>425</sup> To their minds, the outcome of the war was clear, as were the precedents it set. As Vice-President Dick Cheney said on *Meet the Press*, March 16, 2003, "My belief is we will, in fact, be greeted as liberators."<sup>426</sup> Carter was less convinced.

Carter was also concerned what the quality of life for Iraqis might be. "The peace it [the war] establishes must be a clear improvement over what exists," he wrote, "Although there are visions of peace and democracy in Iraq, it is quite possible that the aftermath of a military invasion will

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<sup>421</sup> Jimmy Carter, "Just War – or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>422</sup> *Ibid.*

<sup>423</sup> *Ibid.*

<sup>424</sup> *Ibid.*

<sup>425</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 64.

<sup>426</sup> Tim Russert, "Transcript for Sept. 14" *Meet the Press*, 14 September, 2003, <http://www.msnbc.msn.com/id/3080244> (accessed 28 March, 2008).

destabilize the region and prompt terrorists to further jeopardize our security at home."<sup>427</sup> This not only predicted what did happen, but turned the Bush administration's argument of security back on itself. If domestic security was the goal of the attack on Iraq, then the administration needed to look more realistically at the possibility that they might destabilize the region and radicalize its residents.

Finally, Carter believed that the U.S. was undermining the U.N. "as a viable institution for world peace."<sup>428</sup> The Bush administration felt that the U.N. was an intrusion on sovereignty and had never had a smooth relationship with it. In his address to the U.N. President Bush had issued a less-than-veiled threat in his October 7th, 2002 speech on Iraq, declaring that if the U.N. did not act against Iraq, it would "betray the purpose of its founding, and prove irrelevant to the problems of our time."<sup>429</sup> Carter saw this as deeply worrying, however, and closed his article by attempting to find a solution that would be acceptable for all parties. He suggested that the administration should use its power to force Iraq's compliance with the U.N. resolutions, with war as a final option. This, he said, would "enhance our own status as champion of peace and justice."<sup>430</sup> It was an argument that attempted to reach out to the American Exceptionalism of the administration, but keep the power of the U.S. military in support of international law.

While Carter and Bush clearly disagreed with each other, they both used arguments based in Christian Just War theory, or its cultural influence, though one was arguing against war and the other for it. Clearly, the effectiveness of the tradition as means to limit warfare is debatable. Application has always been an issue in the Christian Just War tradition. As technology progressed, the relevancy of Christian Just War theory has appeared to change. When the nuclear age arrived, many argued that such weapons made all warfare unjust, rendering Christian Just War theory extinct.<sup>431</sup> Soon afterward, however, it became clear that conventional warfare would continue, and the cultural

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<sup>427</sup> Jimmy Carter, "Just War – or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>428</sup> Ibid.

<sup>429</sup> John Ehrenberg et al., ed. *The Iraq Papers* (New York: Oxford University Press, 2010), 90.

<sup>430</sup> Jimmy Carter, "Just War – or a Just War?" *New York Times*, 9 March, 2003, <http://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html> (accessed 14 October, 2007).

<sup>431</sup> Richard Shelly Hartigan, *The Forgotten Victim: A History of the Civilian* (Chicago: Precedent Publishing, Inc., 1982), 124.

inheritance from Christian Just War theory remains intact. The argument over its relevance continues. Some theorists believe that it is time for a new alternative to it. Andrew Fiala claims that Just War principles are inherently inadequate, as they "are always applied by finite human beings who are tempted to believe the old lies of war: that war is a noble endeavor and that wars we fight are unequivocally just."<sup>432</sup> He goes on to suggest that "the best hope for progress beyond the myths of war is found in what is called the *democratic peace theory*,"<sup>433</sup> which argues that when democracy spreads, wars will diminish, as "liberal people have no reason to go to war with one another."<sup>434</sup> The problem with this theory is that democracies often take part in unjust wars. In answer to that, Fiala argues for the concept of "*shared responsibility*" for war. Citizens must realize that they share the guilt if their elected politicians go to war.<sup>435</sup> Alternatively, Michael Walzer favors nonviolence, which "abolishes aggressive war simply by virtue of the refusal to engage the aggressor militarily."<sup>436</sup> Using the example of Gandhi, Walzer argues that "the restraint of war is the beginning of peace."<sup>437</sup> While this is an admirable position, it faces a great uphill battle for acceptance in the First World.

Inherent in any attempt to limit warfare is the effectiveness of its application. Can war be limited if rhetoric can disguise the war's lack of just cause? Is it possible for finite humans to fully comprehend the possible outcomes? If so, can they be avoided? Can humans even comprehend justice and injustice? Such questions are part of the Christian Just War tradition, and have been since the beginning. They are what keep the tradition evolving. That central tenet, that wars happen and must be limited, is also an admission that limitation is the best possibility, since the end of war is beyond human means. However, since the tradition continues to evolve, other important questions must be asked. How might Christian Just War principles be used more effectively? Can

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<sup>432</sup> Andrew Fiala, *The Just War Myth: The Moral Illusions of War* (New York: Rowman & Littlefield Publisher, Inc., 2008), vii.

<sup>433</sup> *Ibid.*, 178.

<sup>434</sup> *Ibid.*

<sup>435</sup> *Ibid.*, 190.

<sup>436</sup> Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 329.

<sup>437</sup> *Ibid.*, 335.

the principles of Christian Just War theory be effectively reified in law or would that only risk further corruption? How does its continued influence on public conscience compare to the influence of Realism and Positive Law? What new principles might better adapt the tradition to modern concerns with terrorism? Christian Just War theory, as it now exists, is imperfect, but has had enormous influence in the morality of warfare. However, when an issue such as preemptive attack, unjust on many levels of Christian Just War theory, can be rhetorically justified using the language of the same tradition, there is clearly a chance of abuse. All Just War thought can be misused. As long as Christian Just War thought has vocal advocates of its correct usage, like Carter, it will provide an important part of the discourse. The debate over the effectiveness of the application of Christian Just War theory rarely includes the argument that the principles of the Christian Just War theory have expired. They are commonly agreed to be an admirable set of criteria. If the principles are sound, in what way might they be better applied? Both the Israeli government and the Bush administration emphasized just cause criteria, such as defense and punitive action, while intentionally neglecting right intention, last resort, relative justice, and proportionality. Just War thinkers, both Christian and secular, responded to this by reemphasizing the other criteria and working to remind the populace that these principles render the war unjust. While this tactic failed to stop either war, the critical analysis of both the Six Day War and the Iraq War will serve as reference in future debates, and may help to limit future wars.

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