Just War and Iraq: Examining the Limitations of the Just War Tradition and the Supplementary Benefits of Just Peacemaking

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Summary

This study examines the inconsistencies and limitations of the just war tradition as a contemporary means of moral wisdom among international western actors. This study suggests that the inconsistencies and limitations of the modern tradition exemplify a certain requirement to supplement just war discourse with the just peace paradigm. The relevance of this work stems from the historical underpinning of the just war tradition within the international framework of war and peace, with modern examples including the presence of just war grammar within the *Charter of the United Nations* and the *Geneva Conventions*. Just war thought has similarly been shown to influence the behaviour of states, broadly through foreign policy and narrowly through events like the Iraq War. The 2002-2003 Iraq invasion debate broadly underscores the modern failure of the tradition to effectively guide international decision-making, as both the pro- and anti-war platforms utilised just war grammar in promoting their respective positions.

Based on a review of academic literature, there exists a post-Iraq War emphasis on reforming the character of just war, with examples such as the *Responsibility to Protect* documents (2001, 2005, 2009) reframing the tradition toward humanitarian causes. However, these and other reforms have failed in answering persistent concerns relative to certain limitations of the tradition stemming from divergent moral developments among the United States and the European continent. Therefore, this study suggests the utilisation of just peacemaking as a means of progressing beyond the political impasses created by the tradition's contemporary limitations.

A threefold inquiry is held across the breadth of this study, namely a critique of the relationship between morality and politics; a critique of the ethical foundations of modern political decision-making; and an exploration into peace studies. These are examined through an interpretive historical analysis, focusing on the moral grammar of western political actors. Primary source documents related to the outward expression of this grammar are held in high regard as a fundamental principle of the just war tradition remains the criterion of right authority. In asserting a recourse to force, modern democracies, such as the United States, are subject to the will of the citizenry. As such, the outward expressions of justifying arguments for and against war are vital in

order to explore the moral philosophies of individual actors. Similarly, the Holy See, while not a modern democracy, sources its own authority, in part, from the membership of the Catholic Church as an indirect expression of soft power internationally. Therefore, the use of primary documents depicting the outward expression of moral grammar by political actors remains vital in depicting the sources and influence of moral wisdom.

This division of labour within this study is borne across three parts. First, this study demonstrates the inconsistent nature of the just war tradition relative to historical examples of the tradition's relationship with politics, economics, and power. This relationship has developed a modern, twofold tradition in which force either remains a tool of statecraft or is denied outside of narrow exceptions. This depiction of the tradition features within the definitions of relative and exhaustive last resort which underpin modern just war grammar, a feature present both in the tradition broadly and in the case of the Iraq invasion debate.

Second, the contemporary limitations of the modern just war tradition are traced to the fundamentally opposing origins of moral discourse present within the United States and Europe. The presence of religious and political narratives in the United States has organised force as a tool of justice, while the respective European experience with violence has underscored a broad avoidance to use force without first meeting specific benchmark criteria. This difference in historical experience has provided an unbridgeable gap between transatlantic partners among the permissibility of force, as expressed within the Iraq invasion debate.

Third, this study proposes the just peace paradigm as a supplementary source of moral wisdom within war and peace discourse. Historical uses of just peacemaking practices are abound, including within later periods of the post-Iraq War reconstruction. The differing models of coercion between just peace and just war denote a primary difference between the two paradigms, insofar as the moral authority underpinning just peace coercion remains uninhibited by the narrow focus of negative peace which defines much of just war. This allows for the mitigation of conflict in zones where international agreement on traditional forceable means cannot be achieved. However, the study notes the requirement of community and international actors within the just peacemaking process as vital in allowing just peace to aid in overcoming political and moral impasses.

Acknowledgements

Table of Contents

Abbreviations

CPA: Coalition Provisional Authority
ECHR: European Convention on Human Rights
ECSC: European Coal and Steel Community
EEC: European Economic Community
EKD: Evangelical Church of Germany
EU: European Union
Gardaí: An Garda Síochána
HRC: Human Rights Council
HRW: Human Rights Watch
ICC: International Criminal Court
ICISS: International Commission on Intervention and State Sovereignty
IDF: Irish Defence Forces
IRA: Irish Republican Army
Iran Nuclear Deal: Joint Comprehensive Plan of Action
ISIS: Islamic State
MPE: Market Power Europe
NATO: North Atlantic Treaty Organization
NIWC: Northern Ireland Women's Coalition
NPE: Normative Power Europe
NSC-68: United States Objectives and Programs for National Security
NSS: The National Security Strategy of the United States of America
NTC: National Transitional Council
RUC: Royal Ulster Constabulary
R2P: Responsibility to Protect
SDI: Strategic Defense Initiative
SOTU: State of the Union Address
TEU: Treaty on European Union
TRC: Truth and Reconciliation Commission of South Africa
UK: United Kingdom
UN: United Nations
UNMOVIC: United Nations Monitoring, Verification and Inspection Commission
UNSC: United Nations Security Council
US: United States
USCCB: United States Conference of Catholic Bishops
UVF: Ulster Volunteer Force
VFW: Veterans of Foreign Wars
WCC: World Council of Churches

Introduction

You will never get true security from the barrel of a gun. Anything war can do, peace can do better. — Desmond Tutu.[1]

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[1] Desmond Tutu, Comments at the World Affairs Council in Portland, Oregon, April 2003, quoted in Episcopal News Service, "Tutu Still Believes Iraq War is 'Immoral'," *The Episcopal Church*, 10 April 2003, https://www.episcopalchurch.org/library/article/tutu-still-believes-iraq-war-immoral.

Introductory Remarks

The purpose of this study is to examine the inconsistencies and limitations of the just war tradition as a contemporary means of moral wisdom among international western actors. Across three parts, this study will identify inconsistencies within the historical and modern just war tradition, the limitations of the tradition relative to contemporary, transatlantic historical development, and what supplementary advice is available within just peacemaking in the face of these limitations.

The 2003 invasion of Iraq provides a recent example of international failings to prevent unnecessary suffering. These failings evolved from a breach of international norms stemming from tensions among transatlantic allies, whereby the United States (US) led a coalition to overthrow Saddam Hussein, while major European allies and non-state actors remained sceptical that the use of force outweighed the potential costs. This transatlantic division presents itself as an obstacle within the contemporary war and peace discourse.[2] The Iraq invasion debate offers a case study in which the factors relating to the American and European divide come to an explicit and identifiable climax. Both secular and religious authorities in Europe—with a war experienced pope, a French preference for collectivism, and a German historical memory of moral bankruptcy at the hands of nationalist sentiments—failed to counter the US alignment of evangelical political theologies, neoconservatism, realist individualism, and American military interests that justified the invasion of Iraq.

The Iraq debate remains a compelling case for examination as the suffering caused by the war informs us upon the dangers of international ineptitude. According to a 2004 John Hopkins University survey, an estimated excess mortality rate of more than 98,000 civilians occurred within the first eighteen months following the invasion.[3] Over half of these deaths were the result of violent causes. A second survey released by John Hopkins University in 2006 revealed an escalation in mortality rates, with 654,965

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[2] Transatlantic division between the United States and Europe is not a new concept but has remained increasingly demonstrable since the end of the Cold War. For a discussion see: Gret Haller, *Limits of Atlanticism: Perceptions of State, Nation, and Religion in Europe and the United States*, trans. Alan Nothnagle (Oxford: Berghahn Books, 2007), 16-17.

[3] Gilbert Burnham et al., "Mortality After the 2003 Invasion of Iraq: A Cross-sectional Cluster Sample Survey," *The Lancet* 369 (October 2006): 1421, doi: 10.1016/S0140-6736(06)69491-9.

estimated excess deaths, around 601,027 of which were due to violence.[4] Their data highlighted that the most common cause of death was the result of gunfire (56%).[5] It is estimated that the population of Fallujah, once 450,000, was reduced to a mere 50,000 as a result of violence and displacement by 2007.[6]

The additional human costs of war outside the bounds of mortality exist to demonstrate the subsequent failed status of the Iraq invasion. From 2003 to 2007, nearly 4 million Iraqis have been displaced, including an approximate 1.9 million Iraqis displaced within the country, according to statistics produced by the United Nations (UN) High Commissioner for Refugees.[7] A vast majority of externally displaced Iraqis have fled to neighbouring states, such as Syria and Jordan, further increasing the humanitarian crisis across the region. Within those externally displaced includes a large portion of the educated population. This is most evident when observing that 12,000 of Iraq's 34,000 physicians have fled the country.[8]

The consequences of intervention were not unknown to the instigating coalition. French Foreign Minister Dominique de Villepin (2002-2004) claimed that the intervention could have "incalculable consequences for the stability of [the] scarred and fragile region".[9] Additionally, Villepin noted that the intervention "would compound the sense of injustice, increase tensions, and risk paving the way to other conflicts" in the region.[10] From a German perspective, Michael Naumann, a close associate of German Chancellor Gerhard Schroeder (1998-2005), argued in an article for the New York Times that many in Europe remained fearful of the intervention in Iraq stemming from the European experiences of the First and Second World Wars. He noted European scepticism over the possibility of "slipping into a conflict, with no clear moral sense of

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[4] Ibid, 1426.

[5] Ibid, 1425.

[6] Thomas J. Craughwell, *Failures of the Presidents: From the Whiskey Rebellion and War of 1812 to the Bay of Pigs and War in Iraq* (Beverly, MA: Quayside Publishing Group, 2008), 286.

[7] Jack Redden, "Iraq Conference: UNHCR says Conference Agrees on Urgent Need to Help the 4 Million Iraqi Displaced," *Office of the UNHCR*, 18 April 2007, https://www.unhcr.org/en-ie/news/latest/2007/4/462621bb4/iraq-conference-unhcr-says-conference-agrees-urgent-need-help-4-million.html.

[8] Craughwell, *Failures of the Presidents*, 286.

[9] Dominique de Villepin, "Statement by France to Security Council," *The New York Times*, 14 February 2003, https://www.nytimes.com/2003/02/14/international/middleeast/statment-by-france-to-security-council.html.

[10] Ibid.

one's mission or of the likely military outcome".[11] Additionally, Pope John Paul II (1978-2005), speaking from his own post-war experience, denounced war as a "defeat for humanity".[12] These remain but a few of many arguments from various state, non-state, and religious actors, including those of the global Peace Churches, who condemned the invasion as a breach of international peace and an illegitimate usage of force as a tool of conflict resolution.

The instigators, a coalition of nations led by the United States, insisted that the invasion and subsequent reconstruction of the Iraqi government was as much an act of self-defence as it was humanitarian. The US levelled a three-pronged justification of cause, contending that the war aimed "to disarm Iraq of weapons of mass destruction, to end Saddam Hussein's support for terrorism, and to free the Iraqi people".[13] The necessity for military action was maintained as a temporary requirement in the pursuit of international peace.

In expressing a favourable view of the invasion, President George W. Bush (2001-2009) and his Administration utilised language which encompassed aspects of the just war tradition, the essence of which outlined the necessity of military action for the achievement of justice and peace. Historically, as Mark Totten notes, the just war tradition has provided "the grammar for how the vast majority of Americans discuss, debate, and make decisions about war".[14] Modern American military academies hold classes on the just war tradition as a matter of "commonplace", while references to the tradition can be found throughout US foreign policy.[15]

For example, the so-called Caroline standard originally articulated by US Secretary of State Daniel Webster (1841-1843, 1850-1852) has provided a historical point of reference in relation to just cause and last resort. In a letter addressed to British

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[11] Michael Naumann, "Why Europe is Wary of War in Iraq," *The New York Times*, 18 February 2002, https://www.nytimes.com/2002/02/18/opnion/why-europe-is-wary-of-war-in-iraq.html.
[12] John Paul II, "Address of His Holiness Pope John Paul II to the Diplomatic Corps," *Liberia Editrice Vaticana*, 13 January 2003, http://w2.vatican.va/content/john-paul-ii/en/speeches/2003/january/documents/hf_jp-ii_spe_20030113_diplomatic-corps.html.
[13] George W. Bush, "President Discusses Beginning of Operation Iraqi Freedom," *The White House*, 22 March 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2003/03/20030322.html.
[14] Mark Totten, *First Strike: America, Terrorism, and Moral Tradition* (New Haven: Yale University Press, 2010), 80.
[15] Ibid, 82.

Ambassador to the United States Henry Fox (1836-1843), Webster noted that the standard for pre-emptive action was based upon the imminence of a threat:

> it will be for Her Majesty's Government to show . . . a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation . . . [and] justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it . . .[16]

Later generations would heed this red-line, as can be seen under the Truman Administration (1945-1953) in the Cold War. The National Security Council document entitled "United States Objectives and Programs for National Security" (NSC-68) argued against the utilisation of a preventive first-strike on the Soviet Union, carrying modern examples of Webster's principles:

> a surprise attack upon the Soviet Union . . . would be repugnant to many Americans . . . the shock of responsibility for a surprise attack would be morally corrosive. Many would doubt that it was a "just war" and that all responsible parties for a peaceful settlement had been explored in good faith.[17]

Contemporary usage of the tradition's language can be seen in the claims of President Bill Clinton (1993-2001) that the armed intervention in Kosovo was a "moral imperative" with a focus on the proportionality of the NATO response and that the actions of NATO were a last resort.[18] Similar just war arguments were advanced by Secretary of Defence Donald Rumsfeld (1975-1977, 2001-2006) regarding the American possession of a just cause to act in response to the terrorist attacks of 11 September 2001.[19] As a result of historical and contemporary trends of just war language in the US discourse of war and peace, it remains possible to discuss the American expressions of invasion in reference to the tradition.

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[16] Daniel Webster, "Mr. Webster to Lord Ashburton," 27 July 1842, quoted in Hunter Miller, ed. *Treaties and Other International Acts of the United States of America*, vol. IV (Washington: Government Printing Office, 1934), 449.

[17] National Security Council, "NSC-68: A Report to the National Security Council," *Naval War College Review* 27, no. 6 (1975): 97, https://www.jstor.org/stable/44641594.

[18] Bill Clinton, "Statement by the President to the Nation," *The White House*, 24 March 1999, https://clintonwhitehouse6.archives.gov/1999/03/1999-03-24-remarks-by-the-president-to-the-nation-on-kosovo.html.; Bill Clinton, "Statement by the President on Kosovo," *The White House*, 24 March 1999, https://clintonwhitehouse6.archives.gov/1999/03/1999-03-24-statement-by-the-president-on-kosovo-air-strikes.html.; Bill Clinton, "Remarks by the President on the Situation in Kosovo," *The White House*, 22 March 1999, https://clintonwhitehouse6.archives.gov/1999/03/1999-03-22-remarks-by-the-president-on-the-situation-in-kosovo.html.

[19] Donald Rumsfeld, "DoD News Briefing—Secretary Rumsfeld and Gen. Myers," *Department of Defense*, 22 October 2001, https://archive.defense.gov/Transcripts/Transcript.aspx?TranscriptID=2151.; Totten, *First Strike*, 82.

The continued use of the just war tradition in modern political discourse on war and peace can be viewed outside of US policy, as was the case with the vocal opposition to the invasion of Iraq. The Holy See maintained direct opposition to the visions of just war developed by the United States by highlighting various moral justifications including a lack of authority, just cause, right intention, and aim of peace. Meanwhile, the usual transatlantic allies to the United States, France and Germany, expressed reservations on issues of authority and cause to domestic and international audiences. Although not having employed the tradition outright, the grammar of just war nevertheless appeared within the French and German political discourses.

Despite the widespread usage, there remains a strong measure of disagreement as to what the just war tradition advises relative to modern uses of force for peacemaking. In their concluding statement, the 2016 Nonviolence and Just Peace Conference in Rome declared:

> We believe that there is no 'just war'. Too often the 'just war theory' has been used to endorse rather than prevent or limit war. Suggestions that a 'just war' is possible also undermines the moral imperative to develop tools and capacities for nonviolent transformation of conflict.[20]

The extent of this disagreement can be seen clearly within the result of the US-led invasion of Iraq, as the event has become synonymous with the failing moral discourse in the current international system. The unnecessary human suffering experienced by Iraq at the hands of the just war tradition not only points to political divisions in the West, but also, and perhaps most importantly, deep moral divides among states with common historical roots. Therefore, in respect to the information above, certain questions have arisen in relation to contemporary issues in war and peace discourse.

First, how has the historical and modern just war tradition demonstrated inconsistencies relative to issues of politics, economics, and power? The emergence of just war thought out of a shifting eschatology of the early Christian Church has offered a moral discourse on war and peace that cooperates with, rather than guides, the desire to use force. Throughout history, just war grammar has enabled the ambitions of

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[20] Nonviolence and Just Peace Conference, "An Appeal to the Catholic Church to Re-commit to the Centrality of Gospel Nonviolence," Concluding Statement, Nonviolence and Just Peace Conference, Rome, 11-13 April 2016, https://nonviolencejustpeacedotnet.files.wordpress.com/2016/05/appeal-to-catholic-church-on-gospel-nonviolence.pdf.

politics, economics, and power despite assertions that that tradition succeeds in limiting violence. For the tradition, the definition of justice ebbs and flows with the times, contributing to the tradition's inconsistency as a paradigm of moral wisdom.

Second, how have the inconsistencies present within just war thought converged with the historical development of the United States and Europe to form limitations on the contemporary use of the tradition? The Iraq invasion debate demonstrated the diversity of moral discourse present among transatlantic allies, the roots of which harken to a difference in the historical relationship between force and stability. Millennialist thought present in the nascent United States engendered a self-belief of exceptionalism that has been further solidified by victories in two World Wars and the Cold War. In this case, the use of force remains a morally permissible tool of good governance. Alternatively, the historical confessional and nationalist violence present within the European continent has generated a presumption against the use of force and the moral desire for alternative means of conflict resolution. These two patterns, though not without exceptions, offer a picture of transatlantic divergence which has created certain limitations to the application of the just war tradition in modern times.

Third, what advice might just peacemaking offer in the face of just war limitations? Just peacemaking has displayed evidence of bespoke conflict resolution in the recent historical record. Glen Stassen's just peacemaking practices, to be discussed in Chapter Nine, deliver an approach for western actors which seeks an avoidance of the military insistence found within just war. These practices, while not a fully realised replacement for the just war tradition, do underscore preferences for non-military means of coercion which may be found within contemporary international apparatuses. Therefore, Part Three of this study will explore the supplementary advice which can be derived from just peacemaking in the face of certain just war limitations.

This work seeks to answer these questions, with a particular emphasis on deontological considerations. This remains the case as transformations of international interactions often occur following great moral failings, as was the case with the creation of the United Nations after the Second World War. For as Desmond Tutu notes, "Leadership and morality are indivisible. Good leaders are the custodians of morality."[21]

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[21] Desmond Tutu, "Why I Had No Choice but to Spurn Tony Blair," *The Guardian*, 2 September 2012, https://www.theguardian.com/commentisfree/2012/sep/02/desmond-tutu-tony-blair-iraq.

Literature Considerations

This study sits among a body of literature that explores the history and reform of the just war tradition. The study explores the conceptual history of the tradition in Part One and engages with the contemporary limitations of the tradition in light of external factors of state development in Part Two. Additionally, in Part Three, the study evaluates a possible reform of just war through a supplementation of the tradition with the moral wisdom derived from just peacemaking. However, before embarking upon this study, there remains a reasonable necessity to consider certain literature which falls within the history and reform field, but equally to offer a reference to the broad field to which the just war tradition resides. To that end, what follows are three sections.

First, the western moral tradition is explored in terms of four historical paradigms of moral wisdom: pacifism, *realpolitik*, perpetual peace, and just war. These represent the broad spectrum of moral thought within the West on the just use of force to which the just war tradition resides. As noted in the *Introductory Remarks* above, the just war tradition holds an important position within the US discourse on war and peace. James Turner Johnson has identified the tradition's influence more broadly as the current international norm of moral wisdom, reflected in such places as the UN Charter.[22] As such, the just war tradition is the main source of moral wisdom considered in this study.

Following this discussion, section two will explore certain reforms of the just war tradition. These include the introduction of a *post bellum* category, the modification of just cause and right authority, and the reframing of just war toward a just policing model. These reforms, however, remain insufficient in answering post-Iraq criticisms as they do not account for the transatlantic development of western practitioners.

Following these reforms, section three will discuss the just peacemaking paradigm and its possible usability as a supplement to just war wisdom. The section will engage with the framework of just peace as offered by Glen Stassen and his fellow contributors to the *Just Peacemaking* collection, as well as the criticisms extended toward this structure by John Paul Lederach and others. Despite certain criticisms, the

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[22] James Turner Johnson, *Can Modern War Be Just?* (New Haven: Yale University Press, 1984), 1-2, 14.

framing of just peacemaking by Glen Stassen is chosen as the foundation for Part Three of this work as it offers a vision of peacemaking which most addresses the disparities found within the just war tradition while remaining compatible with the western international context of this study.

Western Moral Traditions

In his 1942 book *A Study of War*, Quincy Wright claimed that every culture in history as adopted a "body of doctrine reconciling the religious, ethical, and economic values of the civilization and the political and legal values of the particular state with the practices of war".[23] Alex Bellamy maintains that states implement a "common normative language" as a means of justifying their behaviours to others.[24] This language allows for an assessment of the legitimacy of others' actions and, in turn, a reasonable response to those actions. Likewise, any actions which are deemed illegitimate may be responded to proportionally via the common metric.[25]

In the West, the broad organisation of war and peace discourse can be reduced generally to four traditions: pacifism, *realpolitik*, perpetual peace, and just war.[26] Together these four traditions have offered varying positions on what moral wisdom directs relative to the use of force in peacemaking. Separately, the traditions have held varying degrees of success in maintaining a position of prominence in political and moral discourse.

Pacifism maintains that war and the use of violence can never be viewed as a legitimate course of conflict resolution.[27] This is a deontological objection arising from the contention that there always remains an alternative option to violent means. Early Christian pacifism underlines much of the sectarian activities of the early Church, with those like Tertullian objecting to the Christian participation in Roman military affairs: "in

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[23] Quincy Wright, *A Study of War*, 2nd ed. (Chicago: Chicago University Press, 1965), 155.

[24] Alex J. Bellamy, *Just Wars: From Cicero to Iraq* (Cambridge: Polity Press, 2006), 6.

[25] Ibid, 6-7.

[26] Nicholas Rengger, "On the Just War Tradition in the Twenty-First Century," *International Affairs* 78, no. 2 (2002): 354, doi: 10.1111/1468-2346.00255.; Reichberg, et al., *The Ethics of War: Classic and Contemporary Readings* (Oxford: Blackwell, 2006), ix-xi.; James Turner Johnson, *The Quest for Peace: Three Moral Traditions in Western Moral History* (Princeton: Princeton University Press, 1987)*,* xi-xv.

[27] Rengger, "On the Just War Tradition," 354.; Brian Orend, "Immanuel Kant (1724-1804)," in *Just War Thinkers: From Cicero to the 21st Century*, ed. Daniel R. Brunstetter and Cian O'Driscoll (London: Routledge, 2018), 170.

disarming Peter, [Jesus] unbelted every solder".[28] This pacifist proscription draws heavily from the biblical Jesus and his utterances at the Sermon on Mount, including the commands of nonviolence and love for the enemy.[29] Pacifists, both in the early Church and since the Reformation revival, have called on participants to not only refrain from the participation in war, but also to object to all war-related activities. Writing at the brink of US participation in the Second World War in 1942, Dorothy Day penned of pacifism:

> Our manifesto is the Sermon on the Mount, which means that we will try to be peacemakers. Speaking for many of our conscientious objectors, we will not participate in armed warfare or in making munitions, or by buying government bonds to prosecute the war, or in urging others to these efforts.[30]

Day's call to refuse to participate in all war-related activities demonstrates the unyielding nature of the pacifist paradigm. For context, her call came in light of the horrific events which had already played out in the war.

Objectors, including James Turner Johnson, observe an inconsistency with the deontological objections in pacifism. Johnson notes the paradigm as "idealistic" and exhibiting sectarian tendencies which are incompatible with modern society.[31] For example, following the terrorist attacks of 11 September 2001 on the United States, a debate emerged surrounding the use of a policing model for international terrorist apprehension. Jim Wallis contended that international policing "involves using some kind of force" which ultimately runs counter to basic elements of pacifism.[32] Joseph Fahey similarly acknowledged certain contradictions in that "many pacifists believe in police forces and the coercive power of domestic and international law. But they think it is immoral and counterproductive to use violence as a method to secure justice".[33]

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[28] Tertullian, *On Idolatry*, Ch. 19, quoted in Totten, First Strike, 75.; Cf. Tertullian, "On Idolatry," transl. S. Thelwall, in A. Cleveland Coxe, *The Ante-Nicene Fathers*, vol. 3, ed. Alexander Roberts and James Donaldson (New York: Christian Literature Publishing Co., 1885), 73.

[29] Mt. 5-7.

[30] Dorothy Day, "Our Country Passes from Undeclared War to Declared War; We Continue Our Christian Pacifist Stand," *The Catholic Worker*, January 1942, https://www.catholicworker.org/dorothyday/articles/868.html.

[31] Johnson, *The Quest for Peace*, xi, xiii.

[32] Jim Wallis, "Hard Questions for Peacemakers," *Sojourners*, January-February 2002, https://sojo.net/magazine/january-february-2002/hard-questions-peacemakers.

[33] Joseph J. Fahey, *War and the Christian Conscience: Where Do You Stand?* (Maryknoll, NY: Orbis Books, 2005), 65.

14

Pamela Brubaker, et al. note this mode of thinking can "degenerate into withdrawal", a dangerous premise when confronting terrorism and similar activities.[34]

An effective state or international policy cannot be underpinned by the moral wisdom represented in pacifism since the paradigm rejects certain activities which must be pursued for the protection of society, such as the apprehension of violent criminals by police forces. Excessive uses of force are undoubtably immoral, however, the basic rejection of protective force by police agencies thereby confirms the untenability of pacifism in modern society. Pacifist objections, including conscientious objection, hold certain deontological merits for individuals, but cannot form a sufficient moral wisdom for state and international measures of protection.

At the opposite end of the moral spectrum lay *realpolitik*, or principles beholden to practical rather than moral and ideological considerations. The paradigm offers an 'anything goes' vision of warfare, such that moral limitations on the use of force are ignored for interests of *raison d'état* (national interest) and *machtpolitik* (power politics).[35] *Realpolitik* prefers prudence to moral wisdom, as evident in the works of Thucydides and Niccolò Machiavelli. Commentators like James Turner Johnson, Gregory Reichberg, and Alex Bellamy present *realpolitik* as a moral paradigm absent of moral wisdom.[36]

On war, *realpolitik* claims that "justice has nothing to say about the relations between one political community and another". [37] Thucydides' Melian Dialogue demonstrates the conviction that politics is an impersonal game of power: "the strong rule and the weak obey".[38] Machiavelli contended that "war is just which is necessary, and arms are hallowed when there is no hope but in them".[39] He considered war as a means of statecraft, with the maintenance of arms as the key to maintaining power.[40]

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[34] Pamela Brubaker, et al., "Introduction: Just Peacemaking as the New Ethic for Peace and War," in *Just Peacemaking: The New Paradigm for the Ethics of Peace and War*, new ed., ed. Glen H. Stassen, 1-40 (Cleveland, OH: Pilgrim Press, 2008), 2.

[35] Rengger, "On the Just War Tradition," 354.

[36] See: Johnson, *A Quest for Peace*.; Reichberg, et al., *The Ethics of War*.; Bellamy, *Just Wars: From Cicero to Iraq.*

[37] Totten, *First Strike*, 86-87.

[38] Felix Martin Wassermann, "The Melian Dialogue," *Transactions and Proceedings of the American Philological Association* 78 (1947): 25, doi: 10.2307/283480.

[39] Niccolò Machiavelli, *The Prince* (London: Arcturus Publishing, 2015), 137.

[40] Yves Winter, "The Prince and His Art of War: Machiavelli's Military Populism," *Social Research* 81, no. 1 (2014): 166-168, doi: 10.1353/sor.2014.0003.; Christopher E. Cosans and Christopher S. Reina, "The

Machiavelli argued that "it is seen that when princes have thought more of ease than of arms they have lost their states".[41] To this end, politics becomes a game of consequentialism: "prudence consists in knowing how to distinguish the character of troubles, and for choice to take the lesser evil".[42] This is not a moral concern, but a political consideration similar to his conception of power within a state: "whether it be better to be loved than feared or feared than loved? It may be answered that one should wish to be both, but, because it is difficult to unite them in one person, it is much safer to be feared than loved, when, of the two, either must be dispensed with".[43]

Realpolitik dominated concerns on the use of force between the late-eighteenth and mid-twentieth centuries. Displays of force during this period, as highlighted in Chapter Three of this work, articulated a moral bankruptcy that staged several continental wars in Europe and the needless deaths of millions. As such, *realpolitik* remains an untenable paradigm of wisdom on the use of force.

Different yet from pacifism and *realpolitik* sits the paradigm of perpetual peace. Defined as "utopian" by James Turner Johnson, perpetual peace seeks the "transformation of the world itself into a new form of community in which violence and war will, being out of place, wither away and in which the ideal life will thus become possible for all".[44] The paradigm is considered "unabashedly internationalist" as it concludes states are the cause of war.[45] Scholars of perpetual peace include Dante Alighieri, Immanuel Kant, and the modern Michael Doyle.

Perpetual peace may be surmised under the belief that the international system is anarchic, with no supranational judicial authority to mediate between states. If such authority existed, states would no longer hold recourse to force, as the judgement of the supreme figure would be final. Dante Alighieri contended that the creation of a universal monarch, such as an emperor, would allow for adjudication between princes, but that any monarch of this kind must arise from free consent rather than imposition.[46]

Leadership Ethics of Machiavelli's *Prince*," *Business Ethics Quarterly* 28, no. 3 (2018): 283, doi: 10.1017/beq.2017.13.

[41] Machiavelli, *The Prince*, 80.

[42] Ibid, 122.

[43] Ibid, 92-93.

[44] Johnson, *The Quest for Peace,* xiii.

[45] Ibid, xiv.

[46] Reichberg, et al., *The Ethics of War*, 199.

Under this model, princes, or states in the modern context, would surrender an aspect of sovereignty for the guarantee of arbitration and the prevention of war.

The lynchpin of Alighieri's model of perpetual peace was the purity of justice held by the universal monarch. He wrote:

> Justice is most effective in the world when present in the most willing and powerful man; only a Monarch is such a man; therefore Justice subsisting in a sole Monarch is the most effective in the world.[47]

The character of the universal monarch was such that by his nature he should lack nothing and desire nothing. His kingdom is limited, as Alighieri noted, "only by the ocean . . . [which] is not true of the other princes, whose realms terminate in those of others".[48] Therefore, the universal monarch's execution of justice between adversaries is uniquely without bias. W.H.V. Reade noted this vision of universality as a means of preventing the outbreak of war requires the universal monarch to engage in the use of force himself to ensure the adherence to judgements.[49] This does not end violence *per se*, instead transferring the use of force to a specific authority.

Immanuel Kant offered his own vision of perpetual peace through the voluntary formation of a federal republic of states. Kant acknowledged the "the right to make war" as this was "the permitted means by which one state prosecutes its rights against another".[50] He noted a series of six principles that could lead to a movement toward a peaceful federation, among them the making of peace treaties without hidden reservations for future conflict and the denial of a state to interfere in the internal affairs of another state.[51] Similarly, Kant produced three articles which would underline the perpetual peace: a republican civil constitution, a federalism between free states, and a cosmopolitan right of universal hospitality.[52] However, this peace would not be simply

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[47] Dante Alighieri, *The De Monarchia of Dante Alighieri*, ed. and transl. Aurelia Henry (Boston: Houghton, Mifflin and Company, 1904), 34-35.

[48] Ibid, 36-37.

[49] Dante Alighieri, *De Monarchia*, ed. Edward Moore, with an introduction on the political theory of Dante by W.H.V. Reade (Oxford: Clarendon Press, 1916), xvi.

[50] Immanuel Kant, "The Metaphysics of Morals," in *Kant: Political Writings*, 2nd ed., ed. H. S. Reiss, transl. H. B. Nisbet (Cambridge: Cambridge University Press, 1991), 167.

[51] Immanuel Kant, "Perpetual Peace: A Philosophical Sketch," in *Kant: Political Writings*, 93-97.; John Bourke, "Kant's Doctrine of 'Perpetual Peace'," *Philosophy* 17, no. 68 (1942): 330, https://www.jstor.org/stable/3748024.

[52] Ibid, 98-108.

the absence of war, but something to be established and maintained among the participants.[53]

Brian Orend suggests Kant's perpetual peace is established under "the profound connection between internal domestic reform in the rights-respecting direction, and the achievement of external, stable, international peace".[54] It remains a domestic project that extends outward into the global anarchy:

> a powerful and enlightened people should form a republic,—which by its very nature is inclined to perpetual peace—this would serve as a centre of federal union for other states wishing to join, and thus secure conditions of freedom among the states in accordance with the idea of the law of nations. Gradually, through different unions of this kind, the federation would extend further and further.[55]

The peace formed by this voluntary federation would rest among those who partake in the union, with the use of force still possible with external states, especially for the defence of the union. Orend contends that Kant's "cosmopolitan federation" has provided the philosophical influence for the formation of the European Union (EU).[56]

Michael Doyle took up Kant's cosmopolitan thought in his so-called democratic peace thesis. The theory holds that "though liberal states have become involved in numerous wars with nonliberal states, constitutionally secure liberal states have yet to engage in war with one another".[57] From this, theoretically, the greater the number of democracies in the world, the fewer the number of wars. Kant's perpetual peace receives a contemporary adjustment from Doyle to broadly apply to those states who employ internal liberal democratic systems. Rather than perpetual peace requiring that internal reforms drive external federation, the internal practices themselves influence a peaceful behaviour without a federative unity.

Perpetual peace as a paradigm offers contemporary challenges. Alighieri's supreme monarch cannot function in the modern Westphalian system of states. The creation of the modern international system extends, in part, form the domination and

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[53] Bourke, "Kant's Doctrine of 'Perpetual Peace'," 330.

[54] Orend, "Immanuel Kant (1724-1804)," 177.

[55] Immanuel Kant, *Perpetual Peace: A Philosophical Essay*, transl. Mary Campbell Smith (London: George Allen & Unwin, 1917), 134-134.; Bourke, "Kant's Doctrine of 'Perpetual Peace'," 331.

[56] Orend, "Immanuel Kant (1724-1804)," 177.

[57] Michael Doyle, "Kant, Liberal Legacies, and Foreign Affairs," Philosophy & Public Affairs 12, no. 1 (1983): 213, https://www.jstor.org/stable/2265298.

interference of individual emperors and supreme sovereigns. Conversely, Kant's federation remains possible, as seen through the existence of the EU, however, not all states would wish to join such an endeavour or those who might join may eventually rebel. For example, the COVID-19 pandemic provoked individual responses among EU Member States. Lockdowns and restrictions were imposed between neighbours, while free movement to Denmark was suspended to non-residents.[58] Instability among unions of states reflects the limitations of their design, such that subsidiarity and conferral practices in the EU limit block-wide responses to certain crises. Furthermore, instability of unions like the EU can arise from individual Member States breaching the norms of the union, like the present accusations against Poland and Hungary over the rule of law.[59]

Michael Doyle's rendition of perpetual peace remains strong among democratic states, yet not every state may become a liberal democracy. Presently there exists many illiberal democracies, such as Iran, and many non-democratic states like China. Perpetual peace may be a theoretically pleasant paradigm to some respects, holding some merits in certain circumstances. However, the paradigm is not a 'hit the ground running' paradigm, so to speak, as it lacks tactics which may be employed immediately among states.

In contrast to the paradigms outlined above, the just war tradition has demonstrated a persistence in influencing the international discourse on the moral use of force. According to Nicholas Rengger, the prevalence of just war is historically visible without major interruption from the fourth to the seventeenth century, while an assiduous renaissance has emerged since the mid-twentieth century.[60] Gregory Reichberg contends that this breadth of writing has allowed for a wider range of thinking than those works considered as perpetual peace or pacifist in nature.[61]

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[58] David Nikel, "Denmark Closes Border to all International Tourists for One Month," *Forbes*, 13 March 2020, https://www.forbes.com/sites/davidnikel/2020/03/13/denmark-closes-border-to-all-international-tourists-for-one-month/#61458bfd726d.
[59] European Parliament, "European Parliament Resolution of 16 January 2020 on Ongoing Hearings Under Article 7(1) of the TEU Regarding Poland and Hungary," 2020/2513(RSP), 16 January 2020, https://www.europarl.europa.eu/doceo/document/TA-9-2020-0014_EN.html.
[60] Rengger, "On the Just War Tradition," 354-355.
[61] Reichberg, et al., *The Ethics of War*, ix-xi.

While some argue that just war remains a "specifically Christian tradition", some commentators have argued the tradition could just as easily be described as a "Western tradition, an Aristotelian tradition, and even . . . an aspect of a global tradition of thinking about restraints on the use of force".[62] Just war has provided specific criteria as a benchmark for the moral implementation of force, classically categorised as *ad bellum* and *in bello*. A newer *post bellum* has emerged in recent years. *Ad bellum* criteria can be counted as just cause, right intention, aim of peace, right authority, last resort, proportionality, and the reasonable hope of success. The *in bello* criteria are proportionality and the immunity of non-combatants.

John Courtney Murray has argued the traditional understanding of just war remains "a will to peace, which, in the extremity, bears within itself a will to enforce the precept of peace by arms. But this will to arms is a moral will; for it is identically a will to justice".[63] For this description, Murray reflected on Pius XII, who said:

> The precept of peace is of divine right. Its purpose is to protect the goods of humanity inasmuch as they are the goods of the Creator. Among these goods there are some of such importance for the human community that their defense against an unjust aggression is without doubt fully justified.[64]

For the achievement of this peace, the just war tradition relies on the imparting of wisdom to political actors. Murray maintained this was most effectively done through political policy:

> moral principles cannot effectively impart this sense of direction to power until they have first, as it were, passed through the order of politics; that is, until they have first become incarnate in public policy. It is public policy in all its varied concretions that must be 'moralized'.[65]

If moral precepts are not enshrined in the legal, and ultimately historical, record, such moral wisdom is doomed to fail. As such, the tradition requires the participation of politics to express its wisdom over prudential concerns. Conversely, politics requires the tradition to lend a just weight to consequentialist argumentation.

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[62] Rengger, "On the Just War Tradition," 362.

[63] John Courtney Murray, "Remarks on the Moral Problem of War," *Theological Studies* 20, no. 1 (1959): 56, doi: 10.1177/004056395902000102.; Lisa Sowle Cahill, "Theological Contexts of Just War Theory and Pacifism: A Response to J. Bryan Hehir," *The Journal of Religious Ethics* 20, no. 2 (1992): 263-264, https://www.jstor.org/stable/40015156.

[64] Pius XII, Christmas Message, December 1948, quoted in Murray, "Remarks on the Moral Problem of War," 48.

[65] Murray, "Remarks on the Moral Problem of War," 60-61.

James Turner Johnson notes the above dichotomy of prudential and deontological principles within just war as a marriage of necessity rather than one of convenience.[66] The general grounding of political capital in moral principles necessitates this convergent character. As Johnson notes, the just war tradition supplies:

> a fund of practical moral wisdom, based not in abstract speculation or theorization, but in reflection on actual problems encountered in war as these have presented themselves in different historical circumstances.[67]

Similarly, Oliver O'Donovan notes, the just war "is not, in the first place, a 'theory', but a proposal of *practical* reason; and it is not, in the second place, about 'just wars', but how we may enact just judgement even in the theatre of war".[68] This reflection demonstrates the present convergence of just war and politics, such that the tradition has not only provided politics with the moral guidance of centuries, but has equally presented a metric of justification for the use of force that is grounded in culturally significant principles of the state. As Alex Bellamy notes, the tradition provides the common "legitimacy framework" required for international debates on war and peace.[69]

In the West, just war thinking has broadly reflected two dominant historical trends: the secular and the religious. Secular moral thought contains origins within the classical writings of Greek and Roman philosophy. For example, in his *Politics*, Aristotle references a view that war against barbarian peoples remains just insofar as "though intended by nature to be governed, [they] will not submit".[70] The Roman author Cicero highlights "certain duties to be observed" toward the enemy in warfare which echo elements of modern just war thinking, such that "no war is just unless after a formal demand of satisfaction for injury, or after an express declaration and proclamation of hostilities".[71] Cicero additionally declared that war was "to be waged in order to render it possible to live in peace without injury; but, victory once gained, those are to be

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[66] James Turner Johnson, *Morality and Contemporary Warfare* (New Haven: Yale University Press, 1999), 28-29.

[67] Johnson, *Can Modern War Be Just?*, 15.

[68] Oliver O'Donovan, *The Just War Revisited* (Cambridge: Cambridge University Press, 2003), 6-7. [emphasis in original].

[69] Bellamy, *Just Wars*, 7.

[70] Aristotle, *The Politics of Aristotle*, vol. 1, transl. Benjamin Jowett (Oxford: Clarendon Press, 1885), 14.

[71] Cicero, *De Officiis*, transl. Andrew P. Peabody (Boston: Little, Brown, and Company, 1887), 22, 24.

spared who have not been cruel and inhuman in war".[72] Throughout history, these prescriptions on war have developed secular reflections on the tradition.

For example, Alberico Gentili, an Italian-born refugee of the Holy Inquisition who had lived under the protection of Elizabeth I in England, sought a separation of moral justification of war from religious doctrine. Gentili defined war as "a just and public contest of arms" waged by equal opponents who derive their power to wage war from their authority as princes.[73] He rejected religious difference alone as being an acceptable cause for war and made great efforts to separate *ius divinum* (divine law) from *ius humanum* (human law).[74] In defence of this separation, Gentili declared that:

> the laws of religion do not properly exist between man and man, therefore no man's rights are violated by a difference in religion, nor is it lawful to make war because of religion. Religion is a relationship with God. Its laws are divine, that is between God and man; they are not human, namely, between man and man. Therefore a man cannot complain of being wronged because others differ from him in religion.[75]

Future authors would harness this vision in refuting the supremacy of the pope and emperor and in developing the Westphalian system of states.

Other secular just war references can be found in the works of Samuel Pufendorf, who generated prudential considerations as a basis of just warfare. Pufendorf claimed that a state:

> ought to be particularly careful, that, as far as is poſſible, and their own neceſſary Defence and future Security will permit, to proportion the Evils they inflict upon their Enemy, to the Meaſures and Moderation obſerved by Civil Courts in puniſhing Criminals and Offenders".[76]

This included the kinds of means which were enacted inside warfare:

> the more civilized nations condemn certain ways of inflicting harm on an enemy. For instance: the use of poison or bribing the citizens or soldiers of other rulers to assassinate them.[77]

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[72] Ibid, 22.

[73] Alberico Gentili, *De Iure Belli Libri Tres*, vol. 2, transl. John C. Rolfe (Oxford: Clarendon Press, 1933), 12.

[74] Valentina Vadi, "At the Dawn of International Law: Alberico Gentili," *North Carolina Journal of International Law and Commercial Regulation* 40, no. 1 (Fall 2014): 148, https://scholarship.law.unc.edu/ncilj/vol40/iss1/2.

[75] Gentili, *De Iure Belli Libri Tres*, vol. 2, 41.

[76] Samuel Pufendorf, *The Law of Nature and Nations: or, A General System of the Most Important Principles of Morality, Jurisprudence, and Politics. In Eight Books*, 5th ed., transl. Basil Kennet (London: printed for J. and J. Bonwicke, et al., 1749), 841.

[77] Samuel Pufendorf, *On the Duty of Man and Citizen according to Natural Law*, ed. James Tully, transl. Michael Silverthorne (Cambridge: Cambridge University Press, 1991), 171.

The usage of certain means of war, such as assassinations, brought with it the potential for an enemy to engage in future military actions if the original war was conducted with unjust means as deemed by the enemy. The prudential calculus of arms in the present required the considerations of future outcomes which may endanger the state unreasonably.

Additionally, prudence required the establishment of peace terms which prevented the enemy state from resuming war activities. As Pufendorf noted:

> the condition of the absolute extinction of the former owner's right of recovery in his renunciation by subsequent agreement of all claim to it. Otherwise what is ours by force may be taken back by force.[78]

A victor in war cannot allow their enemy to possess justice once the conflict has concluded. For Pufendorf, the possibilities of injustice must be considered in all warfare calculus and be absolved in the concluding agreements for the future security of the state.

Pufendorf also maintained that war may be declared on a state if said state harbours those who have committed an injustice. In order for the guilt of an individual or group to befall a state, the state itself must share in the wrongs. This occurs when crimes are committed by "long-settled citizens or by those who have recently taken refuge with them, if the rulers allowed the commission of the wrongs or provide refuge".[79] The ownership of the guilt committed does not come upon a state by natural ordinance, rather, as Pufendorf claimed:

> the right to make war upon a ruler who accepts and protects a delinquent . . . arises more from particular agreements between neighbours and allies than from any common obligation.[80]

The strategy employed by the United States following the terrorist attacks on 11 September 2001 conforms to this vision of responsibility. The Bush Administration coalesced the international community around an explicit condemnation of the attacks

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[78] Ibid, 171.
[79] Ibid, 170.
[80] Ibid, 170.

through a Security Council resolution and a North Atlantic Treaty Organization (NATO) declaration which ultimately led to the invasion of Afghanistan.[81]

In contrast to secular thought, the western articulations on war and peace from a religious perspective find common origin in the works of Christian writers like Saint Augustine and his successors. While Augustine gave Christian authority to expressions of power in a fairly disjointed fashion, later authors, such as the canonist Gratian in his *Decretum*, would seek to provide clarity and structure to early just war thought. For example, Thomas Aquinas would move to coalesce the scattered just war of Augustine into a stylistically scholastic discourse. Aquinas formulated three main criteria for the early just war: "the authority of the prince by whose command war is to be waged"; "a just cause is required", and; "it is required that those who wage war should have a righteous intent: that is, they should intend either to promote a good cause or avert an evil".[82] These criteria would further develop as the tradition aged, with the practical application of the expressed moral wisdom appearing in the writings of canonists and theologians to the extent that the tradition would maintain a lasting position in the doctrine of the Catholic Church.[83]

For example, Paul Ramsey maintained that the just war tradition centres on the idea of Christian love: "The justifiedness of possible Christian participation in war can be shown because this might well be a requirement of charity—of the light of Christ penetrating man's political existence".[84] James Turner Johnson notes that this reflects an Ambrosian view of force: that the ethical question is not the engagement of force itself, but "how to act out of love toward the neighbour". [85]

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[81] See: UNSC Res 1368, UNSCOR, UN Doc S/Res/1368 (12 September 2001), https://undocs.org/en/S/RES/1368(2001).; "Collective Defence—Article 5," *North Atlantic Treaty Organization*, last modified 25 November 2019, https://www.nato.int/cps/en/natohq/topics_110496.htm.; "Invocation of Article 5 Confirmed," *North Atlantic Treaty Organization*, last modified 3 October 2001, https://www.nato.int/docu/update/2001/1001/e1002a.htm.

[82] Thomas Aquinas, *Political Writings*, ed. and transl. R. W. Dyson (Cambridge: Cambridge University Press, 2002), 240-241.

[83] Catholic Church, *Catechism of the Catholic Church: With Modifications from the Editio Typica* (New York: Doubleday, 1997), 615-617.; Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church* (London: Bloomsbury, 2004), 249-259.

[84] Paul Ramsey, *The Just War: Force and Political Responsibility* (New York: Charles Scribner's Sons, 1968), 500-501.

[85] James Turner Johnson, "Just War in the Thought of Paul Ramsey," *The Journal of Religious Ethics* 19, no. 2 (1991): 188, https://www.jstor.org/stable/40015136.

Ramsey argued the existence of moral wisdom in the prudence of political decision-making. On non-combatants, Ramsey claimed:

> Both the moral immunity of non-combatants from deliberate direct attack and the test of costs/benefits are today clearly . . . inherent laws of war as a possible instrument of national policy . . . both [are] systemic requirements of encounters of purposeful uses of power in the international system.[86]

Ramsey maintained that while moral wisdom dictates the act of killing as wrong, and therefore rejects the killing of non-combatants, political prudence requires, at times, the sacrifice of the innocent for the defeat of the guilty. However, this concept is reflective upon the doctrine of double effect, insofar as there remains a distinction between direct and indirect evils. In a just war, any death of non-combatants must be an inadvertent effect of the war itself and, while not prohibited by a just war, remain morally limited as a foreseeable yet unintended consequence.[87]

Ramsey applied the above to the concept of nuclear first strike and counter strike. First strike usage of nuclear weapons is morally wrong unless such action is taken within one's own territory as a measure of defence.[88] Counter strike use of nuclear weapons amounts to a responsive action for the purpose of defence and the punishment of an enemy's violation of peace.[89] As such, for Ramsey, moral limits on the use of nuclear weapons existed under concepts of deterrence, so long as "it is possible to construct a sound deterrent, one that does not rely on a murderous intention".[90] In this, the edict of Christian love reigns as the good combatant must surrender their use of nuclear first strike out of love for their neighbour.

While the western moral tradition has expressed two historic strands, the secular and religious articulations are not entirely distinct from one another. The secular articulations of the classical authors would find expression in the religious works of Francisco de Vitoria through his use of the Roman *ius gentium* in relation to the American indigenous peoples, while theological considerations have arisen in the

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[86] Paul Ramsey, *Speak Up for Just War or Pacifism* (University Park, PA: The Pennsylvania State University Press, 1988), 193.

[87] Richard B. Miller, "Love, Intention, and Proportion: Paul Ramsey on the Morality of Nuclear Deterrence," *The Journal of Religious Ethics* 16, no. 2 (1988): 204, https://www.jstor.org/stable/40015093.

[88] Ramsey, *The Just War*, 237-238.; Miller, "Love, Intention, and Proportion," 209.

[89] Ramsey, *The Just War*, 242-243.; Miller, "Love, Intention, and Proportion," 209.

[90] Miller, "Love, Intention, and Proportion," 211.

secular writings of Hugo Grotius and Emer de Vattel. Modern just war thinking has carried on this tradition of coalesced patterns of thought as demonstrated in the works of Michael Walzer and James Turner Johnson.[91]

The culmination of the two visions of moral thought has influenced modern war and peace discourse in the international legalism of the United Nations, whereby the UN Charter has enshrined certain restrictions on the just causation for the use of force. While historical just cause has trended toward varying degrees of expansiveness, such as the defence of the innocent, the reclaiming of lost property unjustly stripped, or to punish evil actions, the Charter outlines "the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations".[92] The narrowing of just cause in modern international law exemplifies the essence of the just war as a tradition which develops over the course of history.

However, the modern tradition has demonstrated distinct inconsistencies and limitations in the expression of moral wisdom for the avoidance of unjust military action in the name of peace. This can be observed across the Cold War, through the 1990s humanitarian interventions, and, perhaps most effectively, in the contrasting views of moral force in the Iraq invasion debate. Out of modern instances of moral tragedy, a narrative of reform has developed within just war literature around attempts at redeveloping and recasting the tradition.

Just War Reforms

Scholarship presently offers a number of reforms to the just war tradition in efforts to reframe the tradition in more consistent terms. These include the implementation of a *post bellum*, the refocusing of just cause and right authority, and the movement toward a just policing model within the just war framework. Overall, these modifications fail to offer real reform to the tradition.

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[91] For examples of religious and secular thought in the just war tradition see: Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977).; Johnson, *Morality and Contemporary Warfare*.

[92] *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Art. 51, available at: https://www.un.org/en/charter-united-nations/index.html.; Rengger, "On the Just War Tradition," 358-359.; Johnson, Morality and Contemporary Warfare, 28-30.

In relation to the introduction of *post bellum* criteria, Robert E. Williams contends that "the most obvious spur toward the articulation of *jus post bellum* principles was the troubled American occupation of Iraq".[93] He notes former CIA director George Tenet's claim that "The war . . . went great, but peace was hell", coupled with various US-led failings, as causation of expanding just war scholarship.[94] Like Williams, other scholars argue the need for a post-war ethic within the framework of the overarching just war tradition.[95] However, an argument can be made that the reconstruction failings of the Coalition Provisional Authority (CPA) was not due to a lack of post-war ethic, rather the failings stemmed from a US-led vision of *post bellum* thought which aligned with their general self-expressed exceptionalism.[96]

Brian Orend argues that any *post bellum* considerations must extend beyond justifying war and overseeing conduct, into "justice after war".[97] He notes the example of the Bosnian conflict which he claims dragged "on and on for want of a just and practicable peace settlement". [98] Therefore, Orend articulates his vision of the *post bellum* category in five principles: just cause for termination; right intention; public declaration and legitimate authority; discrimination, and; proportionality.[99]

Orend's just cause for termination emphasises the reasonable vindication of rights and the acceptance of reasonable terms of surrender between the conflicting parties.[100] Unjust gains by the aggressive party are eliminated and the terms of surrender are a combination of proportional punishment and reasonable disarmament. These proportional terms are publicly declared to ensure legitimacy within the international community. Orend's vision of right intention relates to the overarching

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[93] Robert E. Williams Jr., "Jus Post Bellum: Justice in the Aftermath of War," in *The Future of Just War: New Critical Essays*, eds. Caron E. Gentry and Amy E. Eckert (Athens, GA: University of Georgia Press, 2014), 169.

[94] Ibid, 169.

[95] For additional reading see: Gary J. Bass, "Just Post Bellum," *Philosophy & Public Affairs* 32, no. 4 (Autumn 2004): 384-412, doi: 10.1111/j.1088-4963.2004.00019.x.; Jean Bethke Elshtain, "Ethics of Fleeing: What America Still Owes Iraq," *World Affairs* 170, no. 4 (Spring 2008): 91-98, http://www.jstor.org/stable/20672825.; Alex J. Bellamy, "The Responsibilities of Victory: 'Jus Post Bellum' and the Just War," *Review of International Studies* 34, no. 4 (2008): 601-625, doi: 10.1017/S026021050800819X.

[96] See Chapter 12.

[97] Brian Orend, "Jus Post Bellum," *Journal of Social Philosophy* 31, no. 1 (2000): 118, doi: 10.1111/0047-2786.00034.

[98] Ibid, 118.

[99] Ibid, 128-129.

[100] Ibid, 128.

ethical standard of just war, whereby revenge by the victorious party is ruled out from the start.[101] He also highlights the necessity to differentiate between the military and political leadership and the civilian population, offering the post-war rehabilitation of West Germany and Japan as examples of the "profound and costly commitments" *post bellum* requires upon a victor.[102]

Williams describes Orend's outline of the *post bellum* principles as "trying to fit a square peg into a round hole", as they follow too closely to the *ad bellum* and *in bello* criteria.[103] This is particularly true given his usage of the terms 'just cause', 'right intention' and 'proportionality'. In contrast to Orend, Isaac Taylor describes the *post bellum* criteria as 'reconstruction', 'compensation', and 'criminal proceduralism', which arguably keeps within the framework of just war while maintaining a distinctive quality.[104]

According to Inger Österdahl, the overarching aim of *post bellum* is to provide a transition period for the creation of a stable peace.[105] She articulates the present lack of an international *post bellum*, thus necessitating a "new comprehensive legal framework" that should arise from the development of a post-conflict specific Geneva Convention.[106] She notes that the emergence of *post bellum* diction in the 2001 Responsibility to Protect (R2P) document, whereby the 'responsibility to rebuild' is highlighted as an international necessity.[107] Similarly, Orend notes that this new framework should not seek a return to the "*status quo ante bellum*" as these were the circumstances which led to the conflict.[108] Within this framework, Orend calls for a revamped International Court of Justice.[109] Thus, both authors suggest a radical

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[101] Ibid, 128-129.

[102] Ibid, 125-126, 129.

[103] Williams Jr., "Jus Post Bellum," 171.

[104] Isaac Taylor, "Just War Theory and the Military Response to Terrorism," *Social Theory and Practice* 43, no. 1 (2017): 717, doi: 10.5840/soctheorpract2017103020.

[105] Inger Österdahl, "Just War, Just Peace and the *Jus Post Bellum*," *Nordic Journal of International Law* 81 (2012): 271, doi: 10.1163/15718107-08103003.

[106] Ibid, 273.

[107] Ibid, 282; Cf. International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).; United Nations General Assembly, *2005 World Summit Outcome: Resolution adopted by the General Assembly*, Un Doc A/Res/60/1, (24 October 2005), 30, https://undocs.org/A/RES/60/1.

[108] Orend, "Jus Post Bellum," 123; Cf. Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Fourth ed. (New York: Basic Books, 2006), 119.

[109] Orend, "Just Post Bellum," 128.

reimagining of international law focused on the implementation of a *post bellum* schema that engages with the reality of the post-war context. However, the implementation of *post bellum* procedures are reactionary and can fail to tackle the original causes of violence and prevent future outbreaks of war.

Beyond *post bellum* reforms, the Responsibility to Protect seeks an engagement with *ad bellum* reforms of just war. R2P reforms provide two major modifications to the use of force in just war. First, R2P recasts the just causes of war under a humanitarian focus rather than the more traditional just causes of interstate aggression.[110] Under a humanitarian focus, R2P inclined just war installs limits on the use of force into international interventions following the exhaustion of non-military means.[111] When a state becomes "unable or unwilling" to protect its citizens, "the principle of non-intervention yields to the international responsibility to protect".[112]

Second, R2P contributes two contrasting reforms on right authority in just war. The 2001 International Commission on Intervention and State Sovereignty (ICISS) document on R2P acknowledged the ability of regional organisations to take action outside of the authority of the UN.[113] Contrastingly, in a 2005 World Summit document on R2P, the use of force was restricted to the authority of the Security Council.[114] Neither position adequately reforms the just war tradition in the modern era as both forms of authority are contradicting and represent a concern raised during the Iraq debate around US unilateral force.

R2P reforms fail to adequately modify the just war tradition as the general *ad bellum* criteria remain the benchmark for the use of force.[115] Neither the modification of just cause nor of right authority by R2P alters the debate around force in a positive way. For example, the no-fly zone operations during the 2011 Libyan Crisis showcase

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[110] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, 1-9, 14-18.; United Nations General Assembly, *2005 World Summit Outcome*, 20-21, 27-31.; Zamaris Saxon and Lara Pratt, "From Cause to Responsibility: R2P as a Modern Just War," *The University of Notre Dame Australia Law Review* 17 (2015): 135-136, 147, doi: 10.32613/undalr/2015.17.1.7.

[111] Saxon and Pratt, "From Cause to Responsibility: R2P as a Modern Just War," 147-148.

[112] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, xi.

[113] Ibid, xiii, 22, 47-48, 53-54.; Saxon and Pratt, "From Cause to Responsibility: R2P as a Modern Just War," 149-151.

[114] United Nations General Assembly, *2005 World Summit Outcome*, 32, 37.; Saxon and Pratt, "From Cause to Responsibility: R2P as a Modern Just War," 151.

[115] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, 32-37.; Saxon and Pratt, "From Cause to Responsibility: R2P as a Modern Just War," 147.

the greater permissibility present within R2P. In this instance, R2P-just war logic allowed for the French participation in the direct use of force against Gaddafi, whereas their NATO ally Germany remained against moves to extend beyond the UNSC authorised no-fly zone. If the French position in the 2011 Libyan case is compared with the 2003 Iraq debate, a greater permissibility towards force is shown as a direct result of the humanitarian undertones of R2P. As such, the R2P reforms are simply just war with a new name and a potentially more permissible attitude.

Tobias Winright argues that the reforms provided by R2P can be taken positively if understood not from a classic just war context, but from a just policing perspective. Winright observes the interventionary practices of R2P as "a form of policing rather than a military action".[116] He contends that the three elements of R2P—the responsibility to prevent, the responsibility to react, and the responsibility to rebuild—are visions of what the modern just war tradition should encompass.[117] Winright contends that "just policing would be the best exemplification of what just war should be about".[118] Gerald Schlabach further agrees with this vision of just war as a policing action.[119]

According Winright, the just policing model should be used as an alternative to the war-making model, particularly when combating terrorism.[120] Winright differentiates just policing from other forms of police action, from what he calls the "military model" to "social peacekeeper".[121] Winright articulates the military model as a style most associated with the United States, whereby police forces act as crime fighters and where "the use of coercive force is the raison d'être of policing".[122] The model induces an 'us versus them' culture and is most reflected through American

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[116] Tobias Winright, "Just Policing and the Responsibility to Protect," *The Ecumenical Review* 63, no. 1 (2011): 87, doi: 10.1111/j.1758-6623.2010.00097.x; Cf. World Council of Churches Ninth Assembly, "Vulnerable Populations at Risk—the Responsibility to Protect," *World Council of Churches*, 23 February 2006, https://www.oikoumene.org/en/resources/documents/commissions/international-affairs/responsability-to-protect/vulnerable-populations-at-risk-the-responsibility-to-protect.

[117] Winright, "Just Policing and the Responsibility to Protect," 86.

[118] Tobias Winright, "Just Cause and Preemptive Strikes in the War on Terrorism: Insights from a Just-Policing Perspective," *Journal of the Society of Christian Ethics* 28, no. 2 (2008): 164, doi: 10.5840/jsce20062627.

[119] Gerald W. Schlabach, "Just Policing: How War Could Cease to be a Church-Dividing Issue," *Journal of Ecumenical Studies* 41, no. 3/4 (Summer-Fall 2004): 413, https://www.academia.edu/15491560/Just_Policing_How_War_Could_Cease_to_be_a_Church-Dividing_Issue.

[120] Winright, "Just Cause and Preemptive Strikes in the War on Terrorism," 157-158.

[121] Ibid, 165.

[122] Ibid, 165.

efforts in the war on crime and the Rodney King beating in 1991. As such, the military model is *not* just policing.

Winright contrasts the military model with the social peacekeeper, whereby police action involves community engagement. Winright notes Gerald Schlabach's view that this model makes police "embedded, indebted, and accountable within [a] community" and that the model has "an inherent tendency to minimize recourse to violence".[123] Winright notes that this does not rule out the use of force as an instrument when governed by stringent criteria, which he develops within the framework of the just war tradition and creates strict parameters for just policing. [124] Isaac Taylor notes that just war concerns of pre-emptive and preventive force are without difficulty, as these actions are allowed under the umbrella of police operations against gangs.[125]

Gerald Schlabach agrees with Winright insofar as he insists just policing remains a bridge between just war and pacifist ideologies.[126] He notes that policing differs from war as it is confined by the rule of law, whereas warfare "has an inherent tendency to break out of the rule of law".[127] Schlabach contends that just policing has certain advantages over the war-making model, such as the ability to reject the 'rally-around-the-flag' phenomenon associated with wartime politics.[128] Just policing becomes of further interest with regard to its ability to respond to terrorist activities.

J. Bryan Hehir distinguishes responses to war from those to terrorism. He claims war to be "an indiscriminate tool" and that the act of capturing terrorists "is by definition a function of police and legal networks".[129] As Kenneth Himes notes, much of the action taken against terrorists "resembles activity similar to police work: intelligence gathering, interdiction of materials and funding, detection leading to arrest, and prosecution of individuals."[130] Jean Porter argues that this distinction boils down to the Westphalian model, whereby independent groups of terrorists are not nation-states and cannot be

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[123] Ibid, 166; Schlabach, "Just Policing," 412.

[124] Winright, "Just Cause and Preemptive Strikes in the War on Terrorism," 166-168.

[125] Taylor, "Just War Theory and the Military Response to Terrorism," 726-727.

[126] Schlabach, "Just Policing," 410.

[127] Ibid, 412.

[128] Ibid, 416.

[129] J. Bryan Hehir, "What Can Be Done? What Should Be Done?" *America: The Jesuit Review*, 8 October 2001, https://www.americamagazine.org/politics-society/2001/10/08/what-can-be-done-what-should-be-done.

[130] Kenneth R. Himes, "Intervention, Just War, and U.S. National Security," *Theological Studies* 65, no. 1 (2004): 143, doi: 10.1177/004056390406500104.

responded to in kind.[131] Therefore, war must be reserved for inter-state conflicts, while terrorist organisations should be responded to as any other criminal actor: by police action. Given that terrorism is a transnational issue, a collective response is required to preserve the sovereignty of states from unilateral campaigns.

While just policing remains a positive concept for reforms of just war thought in reference to terrorist apprehension and domestic police organisations, this model does not answer questions related to inter-state conflict, such as the kind seen in the Iraq invasion debate. The social peacekeeper model presented by Winright is effective in harnessing community engagement, however, this remains beneficial only for domestic contexts. Like the policing model in the Republic of Ireland during the COVID-19 pandemic, where consent-based rather than coercive enforcement of COVID-19 laws was employed, just policing relies upon cooperation that can only be built over long stretches of time within communities.[132] To employ just policing as a reform of just war would address the concerns which arose following the 11 September 2001 terrorist attacks and the subsequent employment of military means in the war on terror. This reform, however, does not address the concerns crafted by the Iraq invasion debate, where military action rather than policing was enacted.

Just Peacemaking

As the above reforms of just war appear unable to overcome the contemporary limitations to the tradition's moral wisdom, this study seeks to utilise just peacemaking as a supplementary paradigm to the just war tradition. Just peacemaking emerges, like just war, out of theological contemplations about the moral use of force and continues to undergo reflections by political and religious scholars and practitioners in an effort to reach a path to alternative means of conflict resolution outside of the traditional uses of force. Just peace, however, was historically borne out of a meditation of various

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[131] Robert E. White, "What Kind of 'War'?: Four Responses," *Commonweal*, 14 June 2004, https://www.commonwealmagazine.org/what-kind-war.

[132] Department of Justice and Equality, "Information Regarding the Justice Sector COVID-19 Plans," *Government of Ireland*, last modified 9 June 2020, http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans.

churches and receives its inspiration from a biblical tradition that differs from the biblical sources of just war thought.[133]

Just peacemaking encompasses a contemporary realisation of the biblical *shalom*, with a vision of peace explicitly linked with justice.[134] This vision of just peacemaking takes instruction from the biblical Sermon on the Mount in relation to its renunciation of violence and the breaking of cyclical forms of suffering.[135] Glen Stassen points to the Sermon as a "central Christian text for peacemaking" which provides a "grace-filled deliverance of transforming initiatives".[136] These transforming initiatives arise from a reading of the Sermon which Stassen notes as triadic.[137]

Stassen notes that the general interpretation of the Sermon remains a two-fold call-and-response, with a "hard saying" and a "high ideal".[138] For example, Matthew 5 notes the harsh saying "You shall not murder" is coupled with the high ideal "But I say to you that if you are angry with a brother or sister, you will be liable to judgement".[139] This interpretation has led to a message of "ideals [that] seem so high that people feel guilty just thinking about them, and they seem impractical in a realistic world".[140]

Alternatively, Stassen proposes a mapping of the Sermon which comprises fourteen triads, which includes a transforming initiative in addition to the recognised hard sayings and high ideals. He argues that the hard sayings utilise indicative and subjunctive patterns of speech instead of imperatives (with the exception of one), the high ideals utilise continuous-action verbs, and the transforming initiatives use imperatives (with one exception that remains a statement).[141] This puts the emphasis of the passage on the transforming initiatives.

By emphasising the transforming initiatives, Stassen is altering the premise of the Sermon on the Mount. For example, Stassen notes:

> If you are offering your gift at the alter and there remember your brother (or sister) has something against you, *go quickly and try to make peace*. If you are

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[133] World Council of Churches, *Just Peace Companion*, Second ed. (Geneva: WCC Publications, 2012), 19.
[134] Ibid, 19-23.
[135] Ibid, 41-42.
[136] Glen H. Stassen, *Just Peacemaking: Transforming Initiatives for Justice and Peace* (Louisville: Westminster/John Knox Press, 1992), 36, 42.
[137] Ibid, 43.
[138] Ibid, 42, 46.
[139] Matt. 5: 21-22.
[140] Stassen, *Just Peacemaking*, 37.
[141] Ibid, 44-45, 47.

on your way to court with your adversary, *try to make peace quickly while there is still time*. This is not a rigoristic, hard saying. It is the way of deliverance from the vicious cycle of anger, resentment, and enmity. It is the way of participating in God's delivering reign, who comes to us when there is alienation between us, talks with us in Christ, and seeks to make peace, while there is still time. We can't *not* be angry. But we *can* try to talk it out and make peace rather than nursing our anger and feeling powerless to do anything.[142]

Similarly, Stassen contends:

Jesus didn't say, 'Don't look at anyone with lust.' He said doing so is adultery in your heart. Therefore, *remove the source of the problem*. He speaks with hyperbole, or exaggeration: 'If your right eye leads you astray, tear it out.' In practical terms, this means 'Take away the practice that is firing up the lust'.[143]

In essence, Stassen's argument surrounding the passage speaks not to unreachable ideals, but to the practical removal of what causes sin.

The message of transforming initiatives taken from the Sermon form the basis for Stassen's vision of just peacemaking. Taking the model of a third way, just peacemaking seeks to mediate between pacifism and just war by offering a collection of initiatives which seek to build "resistance against injustice into the system of nations and international networks".[144] In this, Stassen, along with a cohort of political and theological thinkers, have identified ten practices which encompass the framework of just peacemaking. These practices are: the support of nonviolent direct action; the taking of independent initiatives to reduce threats; the use of cooperative conflict resolution; the acknowledgment of responsibility for conflict and injustice and the seeking of repentance and forgiveness; the advancement of democracy, human rights, and interdependence; the fostering of just and sustainable economic development; the working with emerging cooperative forces in the international system; the strengthening of the United Nations and international efforts for cooperation and human rights; the reduction in offensive weapons and the weapons trade; and the encouragement of grassroots peacemaking groups and voluntary associations.[145] These

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[142] Ibid, 43. [emphasis in original].
[143] Ibid. [emphasis in original].
[144] Brubaker, et al., "Introduction: Just Peacemaking as the New Ethic for Peace and War," in *Just Peacemaking*, new ed., 11, see also: 9-11.; Stassen, *Just Peacemaking*, 17-18.
[145] Glen Stassen, ed., *Just Peacemaking: Ten Practices for Abolishing War*, 2nd ed. (Cleveland, OH: Pilgrim Press, 1998).

practices offer a broader reach than the criteria of just war as they can be observed in both western and non-western contexts.[146]

The practices above seek to move just peacemaking beyond reactionary tactics of intervention and negotiation, a common place within just war thought, as these only provide a simple justice for contemporary mass injustices. Simple justice is relatable to Immanuel Kant's conception of peace treaties, insofar as peace treaties end present conflicts without solving the underlining conditions which brought them about. This allows the conditions which sparked the conflict to remain.[147] In a similar vein, simple justice solves the immediate conflict, in this case war, but allows the conditions which caused the war to remain, such as inequality, poverty, systemic rights abuses, etc. Recognizing the need for sustainable peacemaking, just peace offers a path towards a *deeper* justice through the ten practices, which seek to avoid the "tunnel vision" of just war, while averting pacifism's potential to "degenerate into withdrawal".[148] Therefore, the practices arise from a central set of values including human dignity, human rights, justice, and peace, with the overarching objective aimed at finding alternatives to the use of violence.

Within the above framework, the World Council of Churches (WCC) identifies just peacemaking as seeking to move beyond simple education and the formation of agents oriented toward reconciliation. For the WCC, justice in society-at-large remains a central focus, which may be summarised as:

> a collective and dynamic yet grounded process of freeing human beings from fear and want, of overcoming enmity, discrimination and oppression, and of establishing conditions for just relations that privilege the experience of the most vulnerable and respect the integrity of creation.[149]

This model embraces the idea of speaking truth to power and employs active peacebuilding in the forms of protection and mediation.

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[146] Susan Thistlethwaite and Glen Stassen, *Abrahamic Alternatives to War: Jewish, Christian, and Muslim Perspectives on Just Peacemaking* (Washington, DC: United States Institute of Peace, 2008).; Susan Brooks Thistlethwaite, *Interfaith Just Peacemaking: Jewish, Christian, and Muslim Perspectives on the New Paradigm of Peace and War* (Basingstoke: Palgrave MacMillan, 2012).
[147] Immanuel Kant, *Perpetual Peace: A Philosophical Essay*, 107-108.
[148] Brubaker, et al., "Introduction," in *Just Peacemaking*, new ed., 2.
[149] World Council of Churches, *Just Peace Companion*, 4.

In reflecting on the Christian underpinning which defines the basis for Stassen's just peace, the WCC identifies mediation as an area where this type of just peacemaking may hold the capacity to fill the void where civic leadership has been discredited in some way. This remains flexible between levels, from local pastors as mediators between gangs to the Pope as a mediator between states.[150] The example of Catholic and Protestant clergy acting as negotiators between militants and political entities is ingrained in the history of the Northern Irish Troubles. Here, clergy acted to aid paramilitaries and the British government in securing the 1974-1975 ceasefire.[151] Catholic priests also acted as intermediaries during the Newry Cathedral sanctuary affair in 1991.[152] The flexibility of this human-centric approach also allows for peacemaking to occur even before the outbreak of conflict in order to prevent the unnecessary suffering of the innocent, and thus allows all sides engaged in the peace process to become responsible stakeholders.

Additionally, this vision of just peacemaking incorporates international voices into the process, through the act of protest and marching. This has been shown in the number of protests occurring across the last decade, from Occupy Wall Street, to Black Lives Matter, to Extinction Rebellion. For instance, on Friday, 20 September 2019, thousands of students across Ireland marched for climate action.[153] An estimated six million people marched across the globe on this same day, with some reports claiming the numbers reached higher than seven million.[154] Estimates in New Zealand report around 3.5 percent of the country's population as having taken part in this day of climate demonstrations.[155] Meanwhile, in Germany, regular student protests were enhanced by churches, unions, and civil service organisations who called upon their members to

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[150] Ibid, 47-48.; Petra Kuivala, "Policy of Empowerment: Pope Francis in Cuba," *International Journal of Cuban Studies* 9, no. 1 (2017): 22, doi: 10.13169/intejcubastud.9.1.0019.

[151] Margaret M. Scull, *The Catholic Church and the Northern Ireland Troubles, 1968-1998* (Oxford: Oxford University Press, 2019), 171.

[152] Ibid, 171-172.

[153] George Lee, "Tens of thousands Across Country Rally over Climate Change," *RTE*, 20 September 2019, https://www.rte.ie/news/2019/0920/1077055-irish-students-to-demonstrate-for-climate-action/.

[154] Matthew Taylor, et al., "Climate Crisis: 6 Million People Join Latest Wave of Global Protests," *The Guardian*, 27 September 2019, https://www.theguardian.com/environment/2019/sep/27/climate-crisis-6-million-people-join-latest-wave-of-worldwide-protests.

[155] Ibid.

protest.[156] Thus, these contemporary protests remain multifaceted. Cross-sections of society from age to gender to social class merge within these protests to provide an added weight. Just peacemaking encourages this essence of civil expression as a means of pressing those in power to instigate justice on behalf of the many.

The description of just peacemaking above highlights an understanding of the paradigm that centres heavily on Christian moral thought and western ideologies of democracy and human rights. This vision of just peacemaking is considered to be found wanting in the judgement of some scholars, including John Paul Lederach, Atalia Omer, and R. Scott Appleby.[157] Their contention surrounds the locality and modality of the peacemaking.

According to scholars critical of Stassen's vision of just peacemaking, the location of activity, heavily involving international actors, remains incorrect. As John Paul Lederach and R. Scott Appleby note:

> The *theory* of peacebuilding is built upon the insight that most deadly conflicts today are: [a] 'local,' involving face to face, 'tribe to tribe,' ethnically and religiously inflected confrontations; [b] unfold over years, decades or even generations; foster enduring resentments and create 'wounds' of various kinds that cannot be healed or transformed merely by a 'getting to yes' process of conflict transformation or negotiation of 'presenting symptoms'; and [c] recur over time, precisely because such wounds are left to fester.[158]

From this, the ten practices of Stassen's vision, while engaging local-level actors in, for example, grassroots activities and non-violent direct action, fail to fully grasp the locality of the heart of peacebuilding for critics. Lederach identifies encounter as a considerable requirement of just peace, in the sense of "the engagement of conflicting groups, and highly interdependent streams of activity" which are found outside of the international elites.[159] A top-level focus, with such persons as political or military figures, engages only

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[156] Derek Scally, "Millions of Europeans Take Part in Strike for Climate Action," *The Irish Times*, 20 September 2019, https://www.irishtimes.com/news/environment/millions-of-europeans-take-part-in-strike-for-climate-action-1.4025181.

[157] Atalia Omer, "Religious Peacebuilding: The Exotic, the Good, and the Theatrical," in *The Oxford Handbook of Religion, Conflict, and Peacebuilding*, eds. Atalia Omer, R. Scott Appleby, and David Little, 3-32 (Oxford: Oxford University Press, 2019), 15-20.

[158] Peter Ochs, "The Possibilities and Limits of Inter-Religious Dialogue," in *The Oxford Handbook of Religion, Conflict, and Peacebuilding*, eds. Atalia Omer, R. Scott Appleby, and David Little, 488-515 (Oxford: Oxford University Press, 2019), 501. [emphasis in original]

[159] John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 2013), 26.

in the short-term, crisis management functions found within the international community. This generally lasts between two and six months.[160]

Conversely, Lederach supports a bottom-up approach to peacemaking, in which the practitioners engage with local-level actors, such as indigenous leaders and community organisers, to develop long-term solutions to social realities. These may engage across three levels: preparation and training (1-2 years), social change (5-10 years), and desired future outcomes (20+ years).[161] The beneficial effects of a bottom-up approach, according to Lederach and others, are the availability of such resources as language and cultural identity which can be directly used in peacemaking.

Lederach maintains the requirement to seek "resource and root in the cultural context itself".[162] Appleby notes that for an effective just peace process to take hold, "[t]he people most directly affected . . . must participate extensively in planning them and carrying them out".[163] The organisation of a peace process must be "as inclusive as possible . . . paying special attention to marginalized and aggrieved people".[164] This can only be done through an engagement with the moral imagination and spiritual resources of a particular local custom. A successful ground-up approach remains ever challenging, with Appleby contending that "the ground is more complex, unruly, formally undereducated, religiously vital, and unpredictable" than when dealing with top-level actors.[165] Therefore, the mode of activity is dependent upon the locality of the focus.

Critics of the Stassen model question its reliance on elements of liberal peace, which can be characterised as an internationally driven justice focusing on the expansion of human rights, democratic exercises, and the dampening of armed conflict through the development of institutions.[166] This presupposes a universality of language and applicability (with some minor adjustments) which undermines the contextual elements

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[160] Ibid, 38-41, 44-46, 77.

[161] Ibid, 42-43, 51-55, 77.

[162] John Paul Lederach, *Preparing for Peace: Conflict Transformation Across Cultures* (Syracuse, NY: Syracuse University Press, 1995), 55.

[163] R. Scott Appleby, "The New Name for Peace? Religion and Development as Partners in Strategic Peacebuilding," in *The Oxford Handbook of Religion, Conflict, and Peacebuilding*, eds. Atalia Omer, R. Scott Appleby, and David Little, 183-211 (Oxford: Oxford University Press, 2019), 195.

[164] Ibid, 196.

[165] Ibid, 202.

[166] Daniel Philpott, "Reconciliation, Politics, and Transitional Justice," in *The Oxford Handbook of Religion, Conflict, and Peacebuilding*, eds. Atalia Omer, R. Scott Appleby, and David Little, 335-354 (Oxford: Oxford University Press, 2019), 337.

of peacebuilding.[167] Atalia Omer points to a general failure by this proscriptive style in understanding the colonial contexts and local history of a conflict.[168]

Lederach maintains that effective peacebuilding requires an intimate knowledge of how individuals and groups understand themselves and the conflict in which they are embroiled.[169] This remains particularly important when crossing into cultures very different from one's own, an issue which arises in Stassen's Christian-centric framework. Lederach maintains that significant resources in peace processes can be found when abandoning universal proscriptions and focusing on the depth of indigenous knowledge.[170] From this premise, the priority must be given to the local population of a conflict when determining a proper mode of engagement. It is possible that, for example, western participation in a non-western conflict may cause more harm than good depending upon historical circumstances and the adoption of proscriptive models. In this case, Lederach argues practitioners "should not operate on the supposed, self-evident basis that conflict resolution, as we understand it . . . is [a] good thing worth of wide dissemination".[171]

The general position of the scholars above denotes a criticism of the proscriptive nature of Glen Stassen's ten practices of just peacemaking. Stassen and his colleagues articulate a position within their *Just Peacemaking* collection which presupposes that a Christian vision of peacemaking, grounded in transforming initiatives, will hold a considerable universalism. The cross-cultural focus by Susan Thistlethwaite and Stassen in *Abrahamic Alternatives to War* does not refute these criticisms. The Abrahamic religions, while sharing some commonalities as 'book traditions', diverge greatly in their development of moral thought and, therefore, lack a consistent universal application of just peacemaking.[172] Similarly, general criticisms against the universality of the ten practices holds among non-Abrahamic religions and cultures.

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[167] Appleby, "The New Name for Peace?" 119.; Lederach, *Preparing for Peace*, 5-6.

[168] Atalia Omer, "Can a Critic Be a Caretaker too? Religion, Conflict, and Conflict Transformation," *Journal of the American Academy of Religion* 79, no. 2 (2011): 473-474, doi: 10.1093/jaarel/lfq076.; Ochs, "The Possibilities and Limits of Inter-Religious Dialogue," 502.

[169] Lederach, *Preparing for Peace*, 30.

[170] Ibid, 31.

[171] Ibid, 119.

[172] See: Thistlethwaite and Stassen, *Abrahamic Alternatives to War*.; Thistlethwaite, *Interfaith Just Peacemaking*.

While these criticisms are valid, they do not negate the beneficial usage of Stassen's vision of just peacemaking within this study on three premises. First, the positioning of just peacemaking by Stassen as part of a spectrum between just war and pacificism denotes a certain relational quality between the paradigms.[173] Stassen deliberately invokes the Sermon on the Mount to represent the purpose of just peacemaking. The paradigm is meant to offer a transforming framework as a third-way relative to just war and pacifism that mirrors the transforming initiatives of the Sermon in respect to the traditional harsh saying-high ideal dichotomy. In taking this approach, Stassen created a direct relationship between the paradigms, which this study looks to harness as a means to provide the just war tradition with a wealth of supplementary material that may overcome contemporary limitations. The possibility for this approach, under the framework of Stassen's vision of just peace, is demonstrated in the inclusion of Michael Joseph Smith's just war-lite contribution to the *Just Peacemaking* collection despite reservations by some contributors.[174]

Second, the western, internationalism present within Stassen's conception of the just peace paradigm directly engages with the central actors of this study, that is, western governments. While some scholars criticise just peacemaking that is contrary to the bottom-up, local-level approach espoused by John Paul Lederach, the inclusion of practices that encompass top-level decision-makers by Stassen provides a framework for the central actors of this study to approach just peacemaking in their own context. If the central focus of this study was on the local Iraqi population and the effect that the military force would have upon them, then the criticisms of Lederach and other scholars would be damaging to the central premise of the thesis. However, as the focus remains upon western governments and their interaction with one another, the utilisation of Stassen's just peacemaking framework strengthens the paradigm's usability. This is particularly true given the Judeo-Christian centric nature of Stassen's practices and the historical religious background of the western states observed.

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[173] Stassen, *Just Peacemaking*, 17-18.; Brubaker, et al., "Introduction," in *Just Peacemaking*, new ed., 9-11.

[174] Duane K. Friesen, et al., "Introduction: Just Peacemaking as the New Ethic for Peace and War," in *Just Peacemaking: Ten Practices for Abolishing War*, second ed., ed. Glen Stassen, 1-37 (Cleveland OH: Pilgrim Press, 1998), 35-37.; Brubaker, et al., "Introduction," in *Just Peacemaking*, new ed., 37-40.

Third, there is an inherent benefit in the utilisation of Stassen's framework for just peacemaking with respect to language. As noted above, Stassen's approach presupposes a universalism, particularly within the use of terms like human rights and democracy, that is rejected by John Paul Lederach, Atalia Omer, and other scholars. However, Michel Ignatieff, in reference to the use of human rights language, offers a take on universalism that is beneficial for those who may use Stassen's work. Ignatieff notes, "rights are not the universal credo of a global society . . . but something much more limited and yet just as valuable: the shared vocabulary from which our arguments can begin, and the bare human minimum from which differing ideas of human flourishing can take root".[175] In utilising Stassen's framework, the language of universalism, while unhelpful in a local context, does provide international actors a shared vocabulary from which to dialogue. The expression of terms like human rights and democracy within the United Nations Charter highlights this fact. Therefore, despite certain criticisms, it is not inappropriate nor unhelpful to utilise Stassen's framework for just peacemaking among contextually western, historically Judeo-Christian actors.

One final point of note, there remains significant criticism against just peacemaking from the realm of just war in reference to the paradigm's lack of physical coercion in comparison with the just war tradition.[176] This criticism applies to both visions of just peacemaking presented in this section and is addressed in Chapter Nine of this study where references are made to non-physical and physical means of coercion developed through the ten peacemaking practices. These involve normative, economic, and judicial means of coercion, as well as physical peacekeeping measures. The overall measure of the paradigm, as provided in Part Three, remains the usefulness of just peacemaking in supplementing the just war tradition when the practitioners of just war reach unreconcilable difference.

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[175] Michael Ignatieff, et al., *Human Rights as Political and Idolatry*, ed. Amy Gutman (Princeton: Princeton University Press, 2001), 95.

[176] Lisa Swole Cahill, "Just Peacemaking: Theory, Practice, and Prospects," *Journal of the Society of Christian Ethics* 23, no. 1 (2003): 196, 202, doi:10.5840/jsce200323127.; Martin L. Cook, "Just Peacemaking: Challenges of Humanitarian Intervention," *Journal of the Society of Christian Ethics* 23, no. 1 (2003): 241, doi: 10.5840/jsce200323130.

Methodology

This study will examine the inconsistencies of the just war tradition, the limitations of the tradition in light of transatlantic moral development, and the use of just peacemaking as a supplementary wisdom to just war thought. This study employs three axes of inquiry: a critique of the relationship between morality and politics; a critique of the ethical foundations of modern political decision-making; and an exploration into peace studies. The study examines these axes through an interpretive method of historical analysis, with a focus on the moral and political grammar of western actors.

The Focus of the Study

The focus of this study rests upon three contextual aspects: the actors, the setting, and the case. The actors observed in this study are western governments, defined in a European, rather than an American, sense—that is, those who hold executive power. These are the executive decision makers of a state. The setting where these actors are observed is the international stage, the level at which these actors interact with one another. And the case study of focus is the Iraq War debate of 2002-2003, whereby, these international western actors debated the use of force.

The individual actors observed are the governments of the United States, the Holy See, France and Germany. Broadly speaking, these actors can be categorised along two sides, the United States and Europe. This chosen categorisation is not definitive across all participants of the Iraq invasion debate, as the United Kingdom (UK) aligned with the United States. However, in the course of this study, the UK government is treated as a contributing partner to the United States, rather than a lead actor as their participation stems largely from political motivation and not morally driven parameters. As Raj Chari and Francesco Cavatorta note, the United Kingdom stands historically apart from modern continental Europe as it seeks to be a political bridge to the US, while France and Germany, for example, seek to lift the European Union as a united bloc that can withstand US political pressures.[177] The UK has also held a historic opposition to the

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[177] Raj S. Chari and Francesco Cavatorta, "The Iraq War: Killing Dreams of a Unified EU?" *European Political Science* 3, no. 1 (2003): 26-27, doi: 10.1057/eps.2003.30.

anti-war, integrationist model encompassed by the EU, both in the bloc's foundation and in the recent Brexit context.

Johnathan Laurence contends that other European states who ultimately broke with France and Germany on Iraq, such as Italy, participated out of a strong American sympathy and loyalty. This disposition was supported by Prime Minister Silvio Berlusconi (1994-1995, 2001-2006, 2008-2011) in a visit to Washington in January 2003.[178] Despite these individual state exceptions, the broad categories of the United States and Europe hold. In the Iraq debate, the Holy See, France, and Germany represented a strong post-World War European mentality on the use of force, derived from a continental identification with victimhood following centuries of confessional and nationalist warfare. Conversely, the United States maintained a self-perceived historical identity of exceptionalism strengthened by victory in two World Wars. The depth of this characterisation is explored further in Part Two.

Methods and Sources

In conducting the research for this study, the author utilises an interpretive method of historical analysis. This engages with historical contexts, such as the Iraq invasion debate, and historical documents, such as primary and secondary texts, to ascertain factual information and understand the 'why and how' of individual actions. This method of research uses both primary and secondary sources.

Relative to the Iraq invasion debate, primary sources include government archives, particularly the US presidential archives, which remain 'frozen in time' as per US legislation.[179] Much of the focus of the US archives that are utilised in this study remains concentrated on the timeframe of August 2002 to March 2003. This window centres on the period during which the Iraq debate took place, with James Turner Johnson noting the moral debate over Iraq as having commenced with Vice President

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[178] Jonathan Laurence, "Friendly Fire: Italy, America and the War in Iraq," *The Brookings Institution,* 1 March 2005, https://www.brookings.edu/articles/friendly-fire-italy-america-and-the-war-in-iraq/.; Berlusconi: "We will never forget that we owe our freedom—our freedom—our wealth to the United States of America. And our democracy . . . So for us, the United States is not only our friend, but they are the guarantee of our democracy and our freedom." See: George W. Bush, "President Bush Meets with Italian Prime Minister Berlusconi," *The White House*, 30 January 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/01/20030130-10.html.

[179] See: Presidential Records Act, 44 U.S.C. §§2201-2209 (1978, amended 2014), https://www.archives.gov/about/laws/presidential-records.html.

Cheney's August 2002 speech to the Veterans of Foreign Wars (VFW), which initiated discussions on unilateral action.[180] Any usage of earlier information, such as the 2002 State of the Union Address (SOTU) or anniversary remarks on the September 11th terrorist attacks made in 2002, is utilised as supplementary material to the justifications present in the primary timeline.

For information related to the Holy See, a combination of primary source documents from the Vatican website archives and secondary news reporting is used. News sources are relied upon for information related to statements given by officials from the Holy See as access to the original sources of these statements is limited through archives. Where news reporting is used in relation to the Holy See, more than one source of reporting is given for comparison purposes and increased accuracy, if necessary, to provide an accurate depiction of events. A similar approach is taken for issues of translated materials, where sources used from the Holy See, France, and Germany are often in need of translation from the original issuing language. Those translations which are not taken directly from officially translated materials, such as an English translated book or document, are cited through scholarly sources or news articles. In the latter circumstance, either additional English translations are sourced for comparison purposes or the original language source is cited alongside the English translation where available.

Other primary sources are utilised which are intergovernmental in nature, including United Nations Security Council (UNSC) resolutions, and negotiated settlements, such as the Belfast/Good Friday Agreement of 1998. In addition to this primary information, secondary source material includes information on historical events and theoretical material relating to the development and evolution of the just war tradition and the just peacemaking paradigm.

There exists a reliance on primary sources related to the outward expressions of justifications by political actors. These expressions align with the fundamental just war

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[180] James Turner Johnson, *The War to Oust Saddam Hussein: Just War and the New Face of Conflict* (New York: Rowan & Littlefield Publishers, Inc., 2005), 45.; George W. Bush, "President's Remarks at the United Nations General Assembly," *The White House*, 12 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020912-1.html.; Richard Cheney, "Vice President Speaks at VFW 103rd National Convention," *The White House*, 26 August 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/08/20020826.html.

criterion of right authority, in which the power of the state to engage in a just war is determined by the support of a state's source of authority. In a modern democracy, such as the United States, France, and Germany, this authoritative power is derived from the will of the citizenry. The focus on expressions of public justifications by members of the political class not only supports the existence of just war grammar as a critical component of the invasion debate, but also signifies the wider presence of just war thought within international relations as the outward expressions utilise the full range of the just war criteria. Comparatively, the Holy See's outward expressions are useful in quantifying the existence of just war influence on their anti-invasion platform, both through their direct appeal to the tradition and as part of their soft power approach to political influence. The Holy See's authority on political matters is reliant on its influence as the magistrate of the Catholic Church. Outward expressions of moral justifications against war are to both influence foreign political actors directly and to advance support for their anti-war position among the faithful as a means of indirectly applying pressure to political actors abroad.

For scholarly sources, a collection of authors is used to establish a pattern in just war and to provide a framework for just peacemaking. Just war theorists employed include Saint Augustine, Francisco de Vitoria, Hugo Grotius, and Emer de Vattel. These sources provide a mixture of religious and secular thought and reflect the general developments of their respective period. Modern just war scholars who appear in this text include Michael Walzer, James Turner Johnson, Alex Bellamy, and Brian Orend. These authors have been acknowledged for either their pre-eminence in the field (Walzer and Johnson), their historical positioning of just war thought (Bellamy), or are widely cited in their work of expanding the categories of just war (Orend). Other scholars are used, such as Jean Bethke Elshtain, Cian O'Driscoll and Jeff McMahan, to round out the material alongside historical examples.

In Part Three, specific material is referenced in order to provide a framework for just peacemaking. The critical works include *Just Peacemaking* (1992) by Glen Stassen, the *Just Peacemaking* essay collections (1998, 2008) edited by Stassen, *Interfaith Just Peacemaking* (2011) edited by Susan Brooks Thistlethwaite, and the *Just Peace Companion* (2012) produced by the World Council of Churches. These works articulate the practices and grammar of just peace which is then expanded upon through historical

examples. They have been chosen, as noted in *Literature Considerations*, for their connectivity with the observed actors of this study and the just war tradition.

Limitations of this Research

This study confines itself within the categories of western and Judeo-Christian. The positioning of this study within western, Judeo-Christian parameters identifies the limitations of the subjects and of the author. The subjects of this work remain primarily the just war tradition and western governments interacting with one another upon the international stage. The just war tradition, while argued by some to be a universal tradition, remains defined by western borders. Similarly, western governments exude the tenets and culture of their western context.

Western, or the West, is a fluid term but one that generally can be described by Greek and Roman philosophy, Judeo-Christian religion, as politically liberal democracy, economically centred around capitalism and democratic socialism, and geographically defined by Western Europe and parts of Central Europe (such as Germany), as well as the inheritors of these descriptors like the United States, Canada, Australia, and New Zealand. In limiting the scope of the work to within this framework, this study remains faithful to the contextual realities of the subjects. While this may limit future applications of the conclusions with which this study draws, the author embraces the narrowness of application to the designed audience of the study, that is to the West itself.

A second condition in confining the parameters of this study to western and Judeo-Christian reflects the limitations of the author himself. The author originates from the United States and has lived in Western Europe both before and during the course of this study. Similarly, his academic training in political science, religious studies, and theology, stems from primarily western and Christian roots. As such, the author seeks to confine this study to within both his qualifications and his lived experience. Having become first engaged in reflections on political activity at the time of the Iraq invasion debate, the work takes on a self-critical quality which is to be shared with the primary audience of the West.

Chapter Outline

This study is divided into three parts. Part One seeks to answer the question: how has the historical and modern just war tradition demonstrated inconsistencies relative to issues of politics, economics, and power? Chapter One will discuss the theological origins of the just war tradition following the eschatological shift of the early Christian Church and the development of pastoral correction by Saint Augustine of Hippo. Competition for authority between the Church and the Empire created a context in which the Church would utilise moral reasoning to defend its universal claims. The just war tradition is shown to have worked in conjunction with the Church in achieving its political endeavours in such cases as the Crusades.

Chapter Two follows the moral discourse surrounding economic arguments of colonial enterprise presented by Francisco de Vitoria and Hugo Grotius. Vitoria wrote in the sixteenth century, defining just causation for the use of force against indigenous people to when said people prevent the freedom of Spaniards to exercise their economic rights. Grotius, who wrote in the seventeenth century, defended the right of Dutch industry to partake in economic satisfaction through the law of the seas. His definition of just cause in the face of monopoly highlights the period's use of just war reasoning to assert and reap economic gain.

Chapter Three identifies the historical weakness of just war moral reasoning in the face of nationalism. Following the enlightenment, moral discourse was suppressed in favour of rising national interest and *realpolitik*. The needs of the state were perceived as inviolable, with conceptions of just and unjust wars as non-existent relative to the rights of sovereignty. The writings of Emer de Vattel are discussed which suggest the possibility of preventive action as a positive course for a state if backed by prudential reasoning. Additionally, the arguments of Daniel Webster and the Caroline affair indicate that, where just war grammar was employed by state actors, it was in the interest of protecting power relative to the national interest. Ultimately, the chapter underscores the dangers of nationalism in overthrowing moral thought during the period. This narrative climactically culminated in the enactment of two World Wars in the twentieth century.

Chapter Four will explore the modern just war tradition. Following the Second World War, scholarship sought to answer the problems of atrocity which sprung from the conflict. Post-war moral discourse saw the emergence of two main strands of just war thought which are identifiable through opposing positions of last resort. One strand is identifiable in the work of Michael Walzer which expresses the classical interpretation that force may serve as a tool of statecraft allowing for a relative last-ness in light of state interest. Here, the historical narratives of moral reasoning aiding political discourse is prominent. Conversely, another strand may be seen to embrace a presumption against the use of force. This vision is discussed within the work of the United States Conference of Catholic Bishops (USCCB) and embraces the promotion of just war as a benchmark for the use of force. Under this metric, exhaustive last-ness is employed. Part One ultimately seeks to provide conceptual and historical examples of the inconsistencies found within the just war tradition relative to the will of politics, economics, and power.

Part Two seeks to answer the question, how have the inconsistencies present within just war thought converged with the historical development of the United States and Europe to form limitations on the contemporary use of the tradition? Chapter Five will discuss the arguments of the United States in promoting the Iraq invasion. The multi-pronged approach of the US demonstrates how the Bush Administration considered past actions and present duplicity to be indicators of future intentions. The expressions of evil incarnate in the Iraqi leadership underscored the characteristic elements of US moral reasoning to be discussed in the succeeding chapter. Ultimately, the American arguments sought to promote military intervention as a positive tool of justice against Saddam Hussein.

Chapter Six will discuss the foundational aspects of US moral discourse, namely historical millennialism and modern exceptionalism. The providential mythos of the American origin and the retroactive interpretation of historical events provides a lens through which US moral wisdom is derived. Examples of this grammar can be found in political rhetoric ranging from Thomas Paine in the Revolutionary period to George W. Bush in the twenty-first century. The expression of this moral grammar has increased in strength since the successful American interventions in both World Wars of the twentieth century. The combination of the Evangelical notions of providential moralism

and the neoconservative belief in exceptionalism within the Bush Administration is shown to have further galvanised this particular moral outlook.

Chapter Seven will discuss the contrasting arguments employed against the United States in the Iraq invasion debate by the oppositional state voices of Europe. The most vocal interlocutor of opposition was the Holy See, which sought to express a degree of moral wisdom which understood the Iraq invasion to be unequivocally unjust. The arguments, from the lack of international authority to the failure to adequately promote peace, presented a vision of just war which considers the use of force as a last resort and maintains a general presumption against war as a benchmark to be overcome. Other state forces are discussed briefly in Chapter Six, such as France and Germany, to demonstrate the alternative oppositional voices that mirrored some of the Holy See's just war tones, while not arguing explicit just war principles themselves.

Chapter Eight provides a contrasting moral origin to that of the United States within a narrative of European violence. Europe possesses a historical record filled with confessional and nationalist violence which to a great degree has been influenced by the just war tradition. The confessional wars in Europe led to a restructuring of international relations with the Peace of Westphalia. This action, however, did not bring peace to the continent. Rather, nationalism rose to fill the void, climaxing with the Second World War. Chapter Eight will discuss this phenomenon of violence and how this European experience has led to a modern presumption against the use of force expressed through a contemporary integrationist project. Overall, Europe's moral vision remains incompatible with that of the United States and underscores the disparity between transatlantic just war wisdom. Ultimately, Part Two will demonstrate how the just war tradition possesses certain limitations due to the tradition's conceptual and practical disparity in the face of contrasting moral dynamics among western actors as underlined by the Iraq debate.

Part Three seeks to answer the question: what advice might just peacemaking offer in the face of just war limitations? Chapter Nine will explore the applicability of just peacemaking as a supplementary source of moral wisdom to the just war tradition. As scholarly reforms of the just war tradition have failed to provide a practical moral wisdom around the modern use of force, just peacemaking is presented as a supplementary paradigm through ten practices for peacemaking and three pillars of

non-military coercion. Chapter Nine will discuss just peacemaking through three characteristics: truth, justice, and the community, while exploring historical examples where the paradigm has produced positive results in order to identify ways in which just peacemaking can aid in overcoming the limitations of contemporary just war.

Chapter Ten will provide an example of the present difficulties in implementing the just peacemaking supplement with respect to the norm of just war. This will be shown through the 2011 Libyan Crisis. The response of the international community to the crisis made use of just peacemaking practices, such as the International Criminal Court (ICC), regional diplomacy, and measures to end the hostilities, which sought to reflect upon the need to avoid unnecessary expressions of force following the Iraq War. However, the chapter will highlight how the implementation of these processes by NATO led to a return to divided just war logic through a singular possession of justice by rebel forces and ultimately created impediments to negotiation.

Chapter Eleven will explore an example of the successful implementation of just peacemaking practices in relation to Northern Ireland and the conclusion of the Troubles. In this case, the peacebuilding tactics employed included restorative justice, consociational agreements, and a democratic exercise in representation. The actors discussed are shown to have engaged as honest brokers in mediation and to have protected the peace process in the face of state interests and narrow justice. Levels of just peace coercion are shown to have success via economic incentives rather than military force. The significance of this use of just peacemaking is that the practices were employed after decades of forceable means which maintained a significant just war mentality of justice by British and Northern Irish state authorities.

Chapter Twelve returns to the contextual focus of Iraq under an examination of just peacemaking relative to the pre- and post-invasion debate. The chapter will show how just peace practices might have offered supplementary answers to questions posed by the United States in seeking an invasion. This assessment is taken in light of the framework established in Chapter Nine. Chapter Twelve considers if humanitarian investigations as means of coercion could have offset US assertions of a failing weapons inspection regime. The chapter will also explore post-war de-Baathification and de-militarisation, as well as the American approach for drafting a new Iraqi constitution. This results in a contrast between just peacemaking and the just war approach taken by

the United States. The actual results of a just peacemaking approach in this case are unknowable, however, the hypothetical and discursive nature of the chapter offers insights into the supplementary potential of just peace. This remains particularly notable in light of the late introduction of limited just peacemaking practices by the United States to overcome the limitations and failures introduced by a primarily just war approach. Ultimately, the overarching approach of Part Three is to highlight the practical potential of just peacemaking as a supplementary paradigm of moral wisdom in the face of the contemporary limitations of the international norm of just war.

Part One: An Inconsistent Source of Moral Wisdom

The Just War Tradition and Political Influence

Introduction to Part One

For over a millennia, the just war tradition has held a prominent position with regards to ethical conduct both prior to and within warfare across the Western world. As James Turner Johnson notes, the use of force by a sovereign entity has traditionally been offered as a tool to protect the "just and peaceful order in a world in which serious threats are not only possible but actual."[181] In the modern international era, just war principles have achieved a defining status within the laws of war and peace in Western thought.[182] For example, the *ius ad bellum* principles of just war have emerged in Article 2(4) and Article 51 of the United Nations Charter,[183] while the *ius in bello* principles have gained representation within the 1949 Geneva Convention, subsequent Protocols, and various conventions including The Ottawa Treaty to ban landmines.[184]

The interaction between this moral paradigm and politics comes forth from the inherent nature of the just war tradition. It is not a paradigm of political action which may lend a theory of political behaviour for the state, but rather an avenue of moral discourse which has ebbed and flowed in influence across the historical record. The tradition has adapted to changing influences of power and has lent justification to a wide range of historical uses of force. As Johnson has poetically contended, the tradition remains:

> a stream that moves through history like a river, remaining the same yet putting down some elements and picking up others as it flows, from time to time dividing into different channels and then, perhaps, recombining.[185]

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[181] Johnson, *The War to Oust Saddam Hussein*, 36.

[182] Johnson, *Can Modern War Be Just?*, 1-2, 14.

[183] Article 2(4): "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."
Article 51: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."
See: *Charter of the United Nations*, 2(4), 51.

[184] The Ottawa Treaty, known formally as the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*.

[185] James Turner Johnson, "Thinking Historically about Just War," *Journal of Military Ethics* 8, no. 3 (2009): 252, doi: 10.1080/1502757090323030307.

For the moral wisdom of the tradition to persist in a position of prominence across the historical record, it has remained indebted to the will of politics.

Given that the effective expression of moral wisdom by just war remains beholden to political will, the overall nature of the tradition's advice must be considered relative to its innumerable historical expressions. This task would underscore a narrative of conflicting guidance both across the historical record and within individual contexts. Of course, this broad stroke through history remains beyond the capacity of this study. Instead, a sampling of history can be drawn from noteworthy periods in order to effectively observe the tradition. Therefore, Part One seeks to answer the question: how has the historical and modern just war tradition demonstrated inconsistencies relative to issues of politics, economics, and power? To answer this question, Part One employs four chapters.

Chapter One seeks to show how the early just war tradition engaged with emerging Christian concerns for the temporal politics of the Roman Empire. This involves a discussion of Saint Augustine of Hippo's inclusion of charity as a function of right authority in the use of force. The chapter also explores the relationship between the papal desire for temporal influence and the deontological justifications for the Crusades. Ultimately, Chapter One provides examples as to how the early tradition's moral discourse conformed to political influence in order to justify actions taken by the sovereign authority, rather than work to guide the sovereign towards just conduct. This relationship between political power and the tradition remains present today.

Chapter Two seeks to present an example of economic influence on the just war tradition. In this chapter, the works for Francisco de Vitoria and Hugo Grotius are examined in relation to their justifications surrounding the use of force against native populations and other European nations. Vitoria envisions a right of the Spanish to utilise force for commercial gain so long as the native populations of the Americas first inhibit the free exercise of Spanish enterprise. Grotius, on the other hand, identifies a natural law approach to mark the fair use of force in cases where the free movement on the seas has been violated and to reject claims of Portuguese ownership of the East Indies (present day South and Southeast Asia including, islands) in his defence of Holland

against claims of injustice. The influence of economics on just war in the period is shown to continue within modern times.

Chapter Three looks at the eighteenth century influence on nineteenth and early twentieth century violence. In this chapter, elements of Emer de Vattel's work are explored which give a promotion to realist interpretations and a just cause to preventive defence. This stands as part of a wider movement toward a weakening of moral wisdom in favour of the national interest and strategic gains. Historical examples are provided in order to demonstrate how political power in the period overrode moral judgement and placed the just war tradition not in subservience to political will, but in a place of relative non-existence. In such limited cases where just war grammar was employed, the action was in the deliberate defence of national interest.

The first three chapters showcase conceptual and historical examples of the just war tradition's weaker position in the political-moral dichotomy of decision-making. The tradition has historically demonstrated a propensity to bend to power in order to justify the actions taken in the name of politics and economics. The survival of the tradition has been the adaption of moral wisdom to meet the needs of the actor rather than as a guide toward justice. Broadly speaking, the tradition has failed to provide a benchmark to prevent unjust uses of force. It is within this light through which Chapter Four commences.

Chapter Four presents the modern just war tradition, having evolved along two main strands. The first strand possesses an understanding of force as a tool for the justly-oriented state, while the second understands the tradition as grounded on a presumption against the use of force. Michael Walzer, the United States Conference of Catholic Bishops, and others are employed to identify and discuss elements of the two modern strands. Ultimately, the first strand is representative of the historical just war tradition in which moral discourse is shaped by power, whereas the second strand seeks to provide the moral benchmark parameters of which the tradition is said to hold. In both cases, the emphasis remains on a contemporary understanding of last resort, either relative or exhaustive, in which neither strand provides the required consistency of sound and stable moral wisdom.

Chapter One

Theological Foundations of the Just War Tradition

Introduction

The origins of the just war tradition derive from the intermingling of the temporal and the sacred. The tradition has been expressed in the works of theologians who, in many ways, have aligned with the temporal political desires of the Church. These political motivations have worked to shape the moral discourse of the era into a justifying rather than an oppositional force. To explore the above, this chapter will ensue in two sections.

First, the origins of the just war tradition are discussed through the lens of Saint Augustine of Hippo, for as James Turner Johnson notes, the roots of the just war tradition:

> can be traced back to the thought of the fourth-century Christian theologian Augustine of Hippo…[while] the earliest coherent, systematic statements of the idea of just war were a product of the Middle Ages.[186]

Augustine's moral deliberations on the use of force and power highlight the consequences of the eschatological shift in the early Christian Church, whereby Christian deontology began to interweave with the political considerations of Roman governance. The outcomes of the Donatist Controversy on Augustine's considerations of just war would come to form the basis of future implementations of force. This is particularly of note with Augustine's successors, who would eventually aid the papacy in its moral justification for the Crusades.

Second, the chapter will discuss the Crusades as a mixture of political and moral considerations in which the Church utilised the moral reasoning of the early tradition to deliver upon political aspirations following the feudal revolution near the turn of the millennium. This relates to the further politicising of the Church and the theological discourse surrounding the imposition of sacred authority into the temporal world. Political actors of the Empire would similarly engage with just war reasoning to support their own campaigns.

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[186] Johnson, *Morality and Contemporary Warfare*, 44.

1.1: From Pacificism to Just War

Christian thinking on the legitimate use of force finds its origins in the changing dynamic between the early Church and the Roman Empire. The post-Easter period of the early Church commenced with a large inclination toward pacifist tendencies stemming from particular readings of the Second Testament Jesus. Examples include the Sermon on the Mount, which demands nonviolence (e.g.: Mt. 5:5, 9, 39), and the rebuking of Peter after having drawn his sword (Mt. 26:52). However, these pacifist considerations run in parallel to passages of scripture which are uncritical of military service, in which soldiers are exhorted for specific sins unrelated to genuine military provision.[187] A particular focus of the early Church was the incorporation of certain elements of First Testament scripture, whereby God was a dichotomy of war and peace. War was to be used in compliance with exhortations requiring the display of no restraint (Num. 21:2), while peace was to be offered prior to the destruction of cities (Deut. 20:10). Additionally, the refrainment from the wartime axing of fruit bearing trees (Deut. 20:19) demonstrated certain instances of military restraint. Although some early Church Fathers based their aversion to war on an array of grounds, such as Tertullian's concern with the dangers of idolatry within Roman military practice or Origen's position that Christians held a "special affinity" with God that could aid in shaping the outcome of war through prayerful intercession, there was a deep focus on eschatology and the removal of Christians from temporal society.[188]

Early Christians remained in waiting for the Second Coming of Christ, which they believed at the time to be close at hand. Therefore, the Church worked to compel their brethren to withdraw from public life, reject the ways of man, and retain an 'other-worldliness' until which time Christ had returned.[189] This eschatologically-driven division from earthly affairs denied early Christians participation in all forms of public life, even beyond mere military matters, until roughly 173.[190] Yet by the fourth century, a transformation in eschatological anticipation arose within the early Church. The

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[187] E.g. Centurions not admonished for their profession: the Centurion before John the Baptist in Luke 3:14; the Centurion at Capernaum in Matthew 8:5-13; the Centurion Cornelius in Acts 10.

[188] Bellamy, *Just Wars*, 22-23.; Cf. Johnson, *The Quest for Peace*, 25-29.

[189] Roland H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (London: Hodder and Stoughton, 1960), 61-63.; Cf. Johnson, *The Quest for Peace*, 12-13.

[190] Bellamy, *Just Wars*, 21.

perceived likelihood of an imminent Second Coming diminished to the extent that this generation of Christians were permitted to forgo their sectarian separation.[191] This increase in societal integration coincided with the baptism of the empire into Christianity.

As Alex Bellamy notes, this new intermingling of the temporal and the sacred provided a blending of Christian teaching with Roman law and philosophy, notably portrayed in the instillation of Ambrose, a previous Roman governor, as bishop of Milan in 374.[192] Ambrose, who was influential to later thinkers like Augustine, held a dualistic approach towards the use of force, such that he denied individuals the use of violence in self-defence, but mandated that individuals aid their neighbours by use of violent means, when required.[193] As Louis Swift notes, "this is a remarkable statement in that it denies to an individual in his own case a right which he must exercise on behalf of another".[194] This can be viewed as an early precursor to Augustine's dualistic approach toward inward disposition and outward actions, which figures prominently in Augustine's contribution to the just war tradition.[195]

The developing collaboration between the Church and Empire in the time of St. Augustine was consequential in the division of the African Church in which Augustine lived, culminating in charges of heresy and violence. This division surrounded a contrast in understanding of the holiness of the Church and the quality of its membership, particularly of the bishops.[196] This controversy between the Donatists and Catholics, the latter supported by Augustine, became the derivation point from which Augustine would develop his treatment of just war. While the controversy can be outlined in great detail, the brief explanation below shall be sufficient for contextualising Augustine's thought within this study.

The schism between the Donatists and Catholics in Africa found its principle foundation in their contrasting understandings of purity within the Church. The Donatists maintained the Church was a unique source of holiness, in which no sinner

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[191] Ibid, 23-24.

[192] Ibid, 24.; Cf. Johnson, *The Quest for Peace*, 54.

[193] Louis J. Swift, "St. Ambrose on Violence and War," *Transactions and Proceedings of the American Philological Association* 101 (1970): 537, doi: 10.2307/2936070.

[194] Ibid.

[195] Ibid, 541.

[196] Peter Brown, *Augustine of Hippo A Biography*, revised ed. (London: Faber and Faber, 2000), 209.

could participate and the prayers of the Roman collaborators, in previous times of persecution, were "automatically rendered ineffective".[197] Their position of purity relative to Christian Law was akin to First Testament sources, whereby there existed a fear of losing spiritual potency out of contact with "unclean" sources.[198] Disassociation became the cure against an impure world.[199]

Augustine, however, rejected the Donatist contention. He argued that the Church "existed independently of the quality of the human agents of the Church", while "static" obedience to the Law was ineffective.[200] According to Peter Brown, Augustine contended that a Church isolated from the impurities of the world rendered itself "immobilized by anxiety to preserve its identity".[201]

Augustine initially sought to engage the Donatists in a mending of the schism through intellectual means, however, this mode of diplomatic conduct failed in the face of Donatist persistence and the violence of their subsect, the Circumcellions.[202] With the legislative encouragement derived from the Empire, Augustine was supported in his eventual shift toward forceable means of reconciliation.[203] This shift was compelled by the concept of *disciplina*, or corrective punishment, through which Augustine justified the forceable conversion of the Donatists.[204]

Under *disciplina*, coercive force is likened to that of a parent with a child: "Just as parents discipline, correct, and punish their children through love, so the Church should act to bring back those who had erred from it".[205] Augustine argued that the First Testament was a source of teaching whereby the wayward Chosen People were checked and punished for their evil tendencies by a whole series of "divinely-ordained disasters".[206] That the Israelites were compelled by fear to follow the Law ultimately

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[197] Ibid, 208, 209-211.

[198] Ibid, 214, 215.

[199] Ibid, 218.

[200] Ibid, 209, 216.

[201] Ibid, 215.

[202] Ibid, 225.; Gavril Andreicut, "The Church's Unity and Authority: Augustine's Effort to Convert the Donatists," (PhD diss., Marquette University, 2010), 211, 218, http://epublications.marquette.edu/dissertations_mu/62.

[203] Andreicut, "The Church's Unity and Authority," 218-219.

[204] Brown, *Augustine of Hippo*, 233.

[205] Carol Harrison, *Augustine: Christian Truth and Fractured Humanity* (Oxford: Oxford University Press, 2000), 153.; Andreicut, "The Church's Unity and Authority,"220.

[206] Brown, *Augustine of Hippo*, 233.

deterred a worse kind of sin in polytheism. From this, Augustine maintained that the forceable conversion of the Donatists would amount to a "controlled catastrophe" imposed by God and mediated by the laws of Christian Emperors.[207]

In opposition to Augustine, the Donatists argued against coercive conversion on the basis of human free will.[208] However, Augustine maintained, according to Brown, that

> the final, individual act of choice must be spontaneous; but this act of choice could be prepared by a long process, which men did not necessarily choose for themselves, but which was often imposed on them, against their will, by God.[209]

Augustine extracted this premise from the 'teaching and warning' elements of God in the First Testament, which included fear, constraint, and external inconvenience.[210] In essence, so long as the corrective force included an instruction, which emerges within the biblical narratives of God, the act is deemed acceptable. However, any use of force without an instruction amounted to tyranny.[211]

Overall, Augustine's management of the Donatist Controversy sparked an early pronouncement of just war which at its heart was oriented toward pastoral considerations rather than widely civil concerns. As R. A. Markus notes: "Augustine's 'theory' of coercion, was from beginning to end, part of a pastoral strategy".[212] Augustine's expressions of just war, while concerned with pastoral outcomes, proceeded from a position in which the state is the administrator of justice.

Augustine maintained the presence of a connection between the Church expressing God's truth and the Empire supporting the Church in the advancement of this truth as the necessary causation for the imperial use of corrective force. Since the Empire supports the work of the Church, the Empire inherently possessed the capacity to correct heretical persons toward the truth.[213] However, in *City of God*, Augustine specifies this as the Empire enacting a state function and not a specifically imperial

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[207] Ibid, 233.
[208] Ibid, 232.
[209] Ibid.
[210] Ibid, 233-238.
[211] Ibid, 236
[212] R. A. Markus, *Saeculum: History and Society in the Theology of Saint Augustine* (Cambridge: Cambridge University Press, 1970), 140.; Andreicut, "The Church's Unity and Authority," 219.
[213] Andreicut, "The Church's Unity and Authority," 219-220.

designation.[214] The designation of the state as the administrator of justice would come to inform the more politically-oriented interpretations of just war which developed in the succeeding centuries.

Since the state was central to the enaction of just war, Augustine engaged with common principles of the Church and Empire in addressing the roles and functions of power. The admixture of Greco-Roman philosophy and biblical narratives from the First Testament developed a sense for the deontological and prudential considerations which a sovereign might face during his rule. For instance, Augustine states:

> Just wars are usually defined as those which avenge injuries, when the nation or city against which warlike action is to be directed has neglected either to punish wrongs committed by its own citizens or to restore what has been unjustly taken by it. Further, that kind of war is undoubtedly just which God Himself ordains.[215]

Here, Augustine grounds a just war in punitive elements of justice and as an extension of the will of God which arises out of the warfare sanctioned within the First Testament.[216] This would later aid the forces at work in the implementation of the Crusades. However, it is Augustine's orientation of punitive violence in terms of a charitable act with which we are interested as this connects with the grounding of his original conceptions of pastoral correction.

Augustine wrote that state punishment through the use of force may allow for the charitable correction of the wrongdoer by pressing them toward the good, so long as the act upheld a benevolent design.[217] He wrote:

> We often have to act with a sort of kindly harshness, when we are trying to make unwilling souls yield, because we have to consider their welfare rather than their inclination.[218]

Therefore, in war, the tension of corrective justice necessitates the vision of inward disposition oriented to the pastoral saving of the soul of the wrongdoer, rather than solely as the punishment of an act for which the sinner is guilty. This requires the avoidance of actions which might make war unjust, such as "the love of violence,

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[214] Brown, *Augustine of Hippo*, 264.

[215] Augustine, *Quest. in Heptateuchum*, VI, 10b., quoted in John Eppstein, *The Catholic Tradition of the Law of Nations* (London: Burns, Oats & Washbourne, Ltd., 1935), 74.

[216] Bellamy, *Just Wars*, 28-29.

[217] Augustine, *Political Writings*, eds. E. M. Atkins and R. J. Dodaro (Cambridge: Cambridge University Press, 2001), 36.

[218] Augustine, *Letters, volume III*, transl. Sr. Wilfrid Parsons (New York: Fathers of the Church, 1953), 4.

revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power, and such like".[219]

Furthermore, Augustine remained concerned with who maintained the right to utilise force in the event that corrective justice was required. On this he declared:

> A great deal depends on the causes for which men undertake wars, and on the authority they have for doing so; for the natural order which seeks the peace of 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.[220]

The rightful authority of a territory holds the responsibility for the maintenance of a peaceful society. Therefore, the need may arise in which an authority shall utilise forceful means of punishment to reject the sinful disruptions to peace, with the ultimate goal of attaining the *tranquillitas ordinis*.[221] However, as John Langan notes:

> the preservation of a moral order which is fundamentally a right internal order of deposition and desires and in which the question of whether action is violent or not is not fundamental. The restoration of that order constitutes a sufficient justification for resort to violence[222]

In this light, Augustine's successors, the architects of the Crusades, sought the establishment of a peaceful order and the extraction of what they viewed as belonging to Christendom, such as the Holy Lands, Sicily, and Spain.

1.2: Just War and the Crusades

At the close of the eleventh century, Urban II launched what would later be classified as the Crusades, the bulk of which would stretch onward into the thirteenth century. This was a period where the moral musings of Christian writers would become intertwined with the political aspirations of the Latin Church. Papal powers began to assert control among civil authorities through the use of moral reasoning in order to claim the

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[219] Augustine, *Contra Faustum Manichaeum*, in *The Nicene and Post-Nicene Fathers*, vol. IV., ed. Philip Schaff, transl. Richard Stothert (Peabody, MA.: Hendrickson Publishers, Inc., 1995), 301.
[220] Ibid.
[221] Jean Bethke Elshtain, *Just War Against Terror: The Burden of American Power in a Violent World* (New York: Basic Books, 2003), 48-50.
[222] John Langan, "The Elements of St. Augustine's Just War Theory," *Journal of Religious Ethics* 12, no. 1 (1984): 25, https://www.jstor.org/stable/40014967.

necessity of military action for the defence of orthodoxy, insisting that, for example in the Third Crusade, Islamic military power threatened the Church and the faithful.[223]

The Church established their calls for war against Islamic powers by insisting the Muslim control of the Holy Lands and other Christian lands remained "unjust" on a grounds of the unlawful seizure of territory that was rightfully Christian. This, the Church claimed, demanded action to punish the Muslim offenders and reclaim the occupied territory.[224] Thus, the Crusades were born.

The moral authority surrounding the Church's claim rested on the Augustinian framing of just war, whereby, as noted previously, "to restore what has been unjustly taken".[225] Later thinkers, such as Gratian, advanced this argument to include the ability for the Church to directly intervene in public affairs in defence of orthodoxy and the helpless.[226] Furthermore, the medievalist Huguccio noted the basis for the moral right to wage war in this case. He distinctly envisioned the two main justifications for just violence as being the temporal power of the emperor to recover lost property and quell rebellion and the divine power of the Church to repel acts of violence against enemies of orthodoxy.[227] The Third Crusade was an instance of the Church mixing both rights, as it was against those who usurped territories perceived to be legitimately held by Christians in accordance with divine law. Huguccio's impression of just authority maintained that the Church held the capacity to promulgate war based on divine inspiration, and therefore the Crusades themselves were just.[228]

The moral authority of the Church to wage the Crusades rested primarily on the unjust actions of those who had confiscated the rightful lands of Christians. However, Benno Teschke contends that this justification was simply a palpable "religious veneer" to engage in feudal politics.[229] For ultimately, the Crusades were devised in an era of

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[223] Andrew A. Latham, "Theorizing the Crusades: Identity, Institutions, and Religious War in Medieval Latin Christendom," *International Studies Quarterly* 55, no. 1 (2011): 225, doi: 10.1111/j.1468-2478.2010.00642.x.

[224] Ibid, 233.

[225] Augustine, *Quest. in Heptateuchum*, VI, 10b, in Eppstein, *The Catholic Tradition of the Law of Nations*, 74.

[226] Frederick H. Russell, *The Just War in the Middle Ages* (Cambridge: Cambridge University Press, 1975), 66.

[227] Ibid, 99, 114.

[228] Ibid, 119.

[229] Benno Teschke, *The Myth of 1648: Class, Geopolitics, and the Making of Modern International Relations* (London: Verso, 2003), 98.

feudalism where Church power had waned to temporal lords.[230] This was marked by the confiscation of ecclesiastic lands and the subordination of Church officials to local civil authorities, the source of forcible power in the period. Thus, according to Andrew Latham, the Crusades amounted to an expression of the 'national interest' of the Church.[231] The papal authorities subsequently devised the Crusades to protect their lands, reassert spiritual control over the temporal world, and as a means to redirect intra-Christian violence toward external enemies.[232]

Before the Crusades, the Church had sought to protect itself through non-violent, social means. Monastic reforms such as the advancement of the *Three Orders* proclaimed the existence of a chivalric warring class.[233] These were the men who held "power" and waged temporal warfare.[234] Their purpose was to protect those in possession of "authority" or those who waged "spiritual warfare".[235] Ultimately, the social order proposed that those with power should defend those with authority and rule over the rest by "protect[ing] the meek from their inevitable oppression".[236] However, this social hierarchy lent a subservient role for the Church in respect to temporal lords.

Other ecclesiastic attempts pursued by the Church in order to reimpose structure in feudal society included the episcopal peace movements. These involved the *Peace of God* and the *Truce of God* which sought to protect ecclesiastic property, minimise the violence of the nobility, and limit the types of weapons allowed in just combat.[237] The Church originally endeavoured to establish order through the threat of excommunication, yet this spiritual power extended only so far. Therefore, medieval just war thinkers worked to establish the power of the Church in a more concrete, temporal fashion. As Gratian would later uphold, the Church held the right to solicit military assistance from temporal lords once spiritual castigation had shown to be

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[230] Colin Morris, *The Papal Monarchy: The Western Church from 1050 to 1250*, eds. Henry Chadwick and Owen Chadwick (Oxford, Clarendon Press, 1989), 23-28.; Teschke, *The Myth of 1648*, 102.

[231] Latham, "Theorizing the Crusades," 229-239.

[232] Teschke, *The Myth of 1648*, 102-104.; Latham, "Theorizing the Crusades," 226.

[233] Teschke, *The Myth of 1648*, 103.

[234] Georges Duby, *The Three Orders: Feudal Society Imagined*, transl. Arthur Goldhammer (Chicago: University of Chicago Press, 1980), 80.

[235] Ibid.

[236] Ibid, 95.

[237] Bellamy, *Just Wars*, 31-32.; Teschke, *The Myth of 1948*, 103.

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futile.[238] To do this, the Church worked to assert itself as a legitimate war-making authority.

The Church moved to tighten its power through canon law, in a similar fashion as that of a "state-like, trans-territorially centralized administrative system".[239] This was visible in Pope Gregory VII's *Dictatus Papae* in 1075, which essentially declared the papacy "to be politically and legally supreme over the entire Church, the clergy to be independent from [temporal] control and the emperor to be subordinate to ultimate papal supremacy even in [temporal] affairs".[240]

In order to impose ecclesial power upon temporal authorities, the Church required situations where lay lords could be mobilised to implement the will of the papacy. This was visible throughout the Crusades, but ever so clear in the Third Crusade directed at Jerusalem. Of this Crusade, Teschke contends there to be a visible effort on the part of the Church to solidify political will-power in societal affairs. Through this lens, the Third Crusade was an important aspect of papal policy to establish vassal states in the Levant and eastern Mediterranean through the military aid of Frankish and Norman lords and the financial sponsorship of the Italian city-states.[241]

To encourage the embracement of their political desires, papal authorities utilised the Church's monopoly on the spiritual domain to court temporal allegiance. The offering of penance to the warrior class produced an army on the back of previous requirements of "foreswearing martial activities", thus enabling penance within their warrior identity rather than in opposition to it.[242] As Jonathan Riley-Smith notes, "taking part in war of a certain kind could be an act of charity to which merit was attached and to assert that such an action could indeed be penitential."[243] The accommodation of penance through participation was an extension of previous papal allotments toward warriors, where the obligation for penance remained, however, death in holy battle absolved the soldier of their sins.[244] Expanding the penitential rite to encompass mere

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[238] Russell, *The Just War in the Middle Ages*, 76.
[239] Teschke, *The Myth of 1948*, 103.
[240] Roland Axtmann, "The Formation of the Modern State: A Reconstruction of Max Weber's Arguments," *History of Political Thought* 11, no. 2 (1990): 298, https://www.jstor.org/stable/26213861.
[241] Teschke *The Myth of 1648*, 104.
[242] Latham, "Theorizing the Crusades," 236.; Morris, *The Papal Monarchy*, 143-144.
[243] Jonathan Riley-Smith, *The Crusades: A History*, 2nd ed. (New Haven: Yale University Press, 2005), 9.
[244] Morris, *The Papal Monarchy*, 149-150, especially note 20 on 150.

participation in papal expeditions altered the knighthood experience from that of a requisite martyr to a Christian vocation.[245]

Additionally, the Church remained attached to the Augustinian vision of war as a penitential rite in relation to the unjust party. As noted previously, this embodiment of warfare concerned the charitable correction of the wrongdoer in an effort to return them toward the good.[246] Medieval understandings of this concept are seen particularly within Gratian's *Concordia Discordantium Canonum*, known also as the *Decretum*. Gratian contended that the justified punishment of an evildoer was an act of benevolence toward the sinner (C23, Q1) and that the punishment frees the sinner of their sins (C23, Q5).[247]

Thomas Aquinas, writing at the end of the Crusades era, reinforced this vision. Like Augustine before him, the just war was grounded in the charitable establishment of peace. Aquinas wrote:

> Peace is the work of justice indirectly, in so far as justice removes the obstacles to peace: but it is the work of charity directly, since charity, according to its very nature, causes peace. For love is a unitive force . . .[248]

Thus, Aquinas reinforced the nature of war-making in the service of peace with charity as the necessary driver of war.[249]

Ultimately the charitable conditions of war act not only to justify violence, but also to demand a greater intention on behalf of the instigators for "it is required that those who wage war should have a righteous intent: that is, they should intend either to promote a good cause or avert an evil".[250] Aquinas affirmed that war should only be waged for the common good and not out of a lust for violence, want of material gain, or the hubris of a sovereign. He contended:

> But since it is unlawful for anyone to take a man's life except a public authority acting for the common good . . . it is not lawful for one man to intend to kill another in self-defence, except in the case of those who have public authority, who, though intending to kill a man in self-defence, refer this to the public good: for instance, a soldier fighting against the enemy and a minister for the judge

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[245] Ibid, 153.

[246] Augustine, *Political Writings*, 36.

[247] Russell, *The Just War in the Middle Ages*, 58-59.

[248] Thomas Aquinas, *The "Summa Theologica"*, vol. 7, transl. Fathers of the English Dominican Province (London: R & T Washbourne, Ltd., 1917), 386.

[249] Ibid, 387-388.

[250] Aquinas, *Political Writings*, 241.

> fighting with robbers; although even these sin if they are motivated by private animosity.[251]

Therefore, the intentions behind the utilisation of violence mattered. Forcible means should only be employed by the supreme authority for the maintenance of the public good. This, on one hand, alleviates the Church of negative responsibility for the Crusades during the era. On the other hand, it places a greater weight on future acts of violence by sovereign powers. In any case, the expression of war as a charitable act by the aforementioned thinkers accounts for the way in which moral justification bound itself to the political vision of the Latin Church for its reassertion of supremacy over Christendom.

Political motivations in a time of feudal subordination impressed upon the Church the necessity to redistribute authority in its own benefit, especially in light of the loss of ecclesiastic lands at the hands of rising temporal lords. The Church rested upon its singular monopoly of spiritual authority in order to dictate a political venture which worked in its own favour. By redirecting intra-Christian violence toward external forces based on moral justification, the Church was able to usurp the position of the emperor and feudal lords through the promise of heavenly reward. The promise of penance only aided in the solidification of papal influence. Thus Teschke's reflection that the moral articulations of the era amount to religious veneer remains astute.

Concluding Remarks

This chapter has endeavoured to show the theological origins of the just war tradition and give evidence of moments where the tradition has yielded to the politics of the era, rather than stand as a guide for them. This is notable on two fronts. First, the change in the moral positioning of the early Church whereby the pacifist Christian community developed a scholarship of justifying the use of violence in certain circumstances within an emerging influence in the Roman Empire. Saint Augustine of Hippo, while not offering a coherent systematised tradition, set forth a base from which later thinkers would develop their own moral thinking on war. His pastoral considerations of corrective force

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[251] Ibid, 264.

were both a response to the consequences of Roman-Christian collaboration and a seeding of the state as the administrator of Christian justice.

Second, the era of the Crusades, which developed after the feudal revolution, orchestrated a political change in the Church in order to return the Church to a place of higher societal influence. While the use of moral language matured throughout the period by the likes of Gratian and others, the Church led by Urban II and his successors enabled a movement towards temporal supremacy through moral authority. This ultimately protected the Church from overachieving feudal lords and intra-Christian violence, while expanding the temporal influence of the pope in an age when imperial power remained inactive to the pleas of Christendom. Such was the case between Urban II and Henry IV regarding the First Crusade.[252]

A major development in just war can be observed between the two sections of this chapter. The development of just war by Augustine was concerned with the pastoral correction of wayward Christians. The Empire amounted to the temporal embodiment of the spiritual sword. Yet by the medieval period, the general function of just war had embraced a political design whereby those who drew from the tradition's literature did so out of a need for strategic gain rather than corrective conversion.

The move away from pastoral concerns as the root cause of force toward the domination of political means marks a point of inconsistency in the emerging just war thought. The strategy of political gains motivating the medieval tradition was inconsistent with the instructive correction at the heart of Augustine's theological elaborations. As the tradition developed in the succeeding centuries, the manifestations of political design emerged to overshadow the originating religious foundations. For example, certain elements of correction were marketed as a means to salvation for the warrior class in order to increase one's own military numbers, rather than the original intention of healing schismatic divergencies.

The movement toward political design additionally enabled the embracement of just war logic by non-religious figures. The Holy Roman Emperor Henry VI sought to enact his own crusade following the failure of the Third Crusade to re-capture Jerusalem in order to establish dominance over rival imperial powers in Byzantium, while at the

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[252] Morris, *The Papal Monarchy*, 150.

same time seeking to assuage the pope with whom the emperor remained at odds over his imperial claims to Southern Italy.[253] In following the expedition model begotten by the crusading papacy, described in section two, as a conduit for achieving his political endeavours, the emperor illustrated the emerging political utilisation of just war grammar to achieve political ambitions and assert power by institutions outside of the Church.

As just war thought diverged toward political motivations, the medieval moral wisdom expressed by the tradition developed a parroting voice to the desires of the politically powerful, both within the Church and the Empire, instead of an instruction for sovereigns in how to engage in moral correction. The original function of just war thought was to address the means by which the state was to aid in the preservation of moral justice, originally envisioned by Augustine of as the protection of the will of God through the preservation of orthodoxy. Yet in the medieval period, the crusading endeavours of the Church and Empire demonstrated a just war thought which aligned more so to the political elites than to the preservation of justice.

The next chapter will continue this observation of the emerging alignment of just war and political activity. Chapter Two will view the way in which just war thought has at times yielded to economic advancements of state interests, as witnessed in relation to fifteenth and sixteenth century enterprise. This will involve the works of Francisco de Vitoria and Hugo Grotius and their respective defence of Spanish and Dutch power.

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[253] Tal Dingott Alkopher, "The Social (and Religious) Meanings that Constitute War: The Crusades as Realpolitik vs. Socialpolitik," *International Studies Quarterly* 49, no. 4 (2005): 727, doi: 10.1111/j.1468-2478.2005.00385.x.

Chapter Two

Just War and Economic Enterprise

Introduction

Following the Crusades commentary in the Middle Ages, scholarship of the sixteenth and seventeenth centuries sought to tackle various questions, least not relating to European colonialism and the devouring of lands and resources in the Americas and East Indies (present-day South and Southeast Asia, including islands). This period of thought was driven in particular by the growing Spanish Empire, who's intellectual hub, the University of Salamanca, brought forth unique and ever-expanding justifications for the colonisation of the new world. Sixteenth century theologians like Francisco de Vitoria led Thomistic elaborations on natural law concerning the areas of political legitimacy, justice, and the use of force.[254] One theme impacting their reflections concerned the application of *ius gentium* and with it, an understanding from natural law.

By the seventeenth century, other non-Spanish elaborations gained a footing in the discussion of economic rights, least not the Dutch jurist Hugo Grotius. A particular focus of Grotius' early work made reference to economic justice in defence of Dutch industry in the East Indies against economic rivals: Portugal, Spain, and England. Grotius encompassed his arguments across different works, particularly *Mare Liberum* and *De iure belli ac pacis libri tres*, in which natural law and Roman concepts of justice grounded views on war and peace.

In this light, Chapter Two will explore the sixteenth and seventeenth century articulations of Francisco de Vitoria and Hugo Grotius. First, Vitoria's elaborations on the American indigenous will be discussed in relation to his determination that the prevention of economic trade is a just cause for war. Second, Grotius' vision of the law of the seas and the just defence of economic rights is discussed. This chapter is not meant to be an exhaustive account of the period, but rather holds the purpose of demonstrating the tone of the centuries, namely the relationship of just war with sixteenth century colonial exploration and seventeenth century trade competition.

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[254] Ashely J. Bohrer, "Just Wars of Accumulation: The Salamanca School, Race and Colonial Capitalism," *Race & Class* 59, no. 3 (2018): 21-25, doi: 10.1177/0306396817733384.

2.1: Francisco de Vitoria and the Americas

The Spanish theologian Francisco de Vitoria wrote in an era where European colonial exploration disrupted the indigenous landscape of the Americas. The early years of Spanish expansionism led to the implementation of the *encomienda*, whereby the native population was subjected to forced labour as tribute to the conquerors for acquiring lands on behalf of the Spanish Crown.[255] The forced labour system created an enterprise of oppression and led to the decimation of the native population at the hands of their Spanish conquerors. This exploitation was deemed legitimate by papal judgement, endorsing the divine right of the Spanish Crown to colonise the lands of the West (the Americas).[256] Vitoria sought to engage with the injustice of this issue, while equally engaging with the justice of commerce, under the cloak of the *ius gentium*.

The Salamanca School, of which Vitoria was a leading figure, held that the *ius gentium* referred to the "general principles and rules that are derived from natural reason (and not from national legislators), [which] are common to all peoples, and apply equally to all mankind".[257] This included the basic rights to self-preservation, private property, diplomatic immunity, and "slavery as a form of safeguarding human lives in times of war".[258] For Vitoria, the *ius gentium* also included the freedom of commerce and movement of peoples, which he viewed as a just cause for war if denied. Included with commerce were rules relating to international trade, war, and diplomatic immunity, of which were all universally applicable.

Vitoria expressed his vision of natural law in his relectiones *De Indis* and *De iure belli* which concerned the global expansion of the Spanish Empire and its relationship with natural law. One of Vitoria's major contributions from these addresses were the recognition of the indigenous' capacity for reason and the use of *ius gentium* to justify war for economic intentions. For Vitoria, *ius gentium* holds *vis legis* as a *prima facie*

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[255] Ronald W. Batchelder and Nicolas Sanchez, "The Encomienda and the Optimizing Imperialist: An Interpretation of Spanish Imperialism in the Americas," *Public Choice* 156, no. 1/2 (2013): 46, doi: 10.1007/s11127-012-9953-9.

[256] Alexander VI, *Inter Caetera*, 4 May 1493, quoted in Paul E. Hoffman, "Diplomacy and the Papal Donation 1493-1585," *The Americas* 30, no. 2 (1973): 153, doi: 10.2307/980555.

[257] André Azevedo Alves and José Manuel Moreira, *The Salamanca School,* (London: Continuum, 2010), 59.

[258] Ibid.

custom which gains force through the interpretation of the intention of said custom and the historical punishment of those who transgress it.[259]

In deriving the sources of legitimacy for the justified use of force against the American indigenous people, Vitoria first broadly rejected the sources of legitimacy previously used to condone force, those of which were often used by his contemporaries. According to Ashley Bohrer, Vitoria was the first to question the legitimacy of Pope Alexander VI's *Bulls of Donation*, which granted discovered territory in the new world to Spain and Portugal.[260] Vitoria rejected the use of these *Bulls*, and divine law in general, as legitimate sources of authority for the use of force against the indigenous peoples of the Americas, instead choosing to ground his arguments in natural law administered by a secular authority. Thus, Vitoria argued that the indigenous people of the Americas were, like Europeans, free people with the rights to ownership of their own lands and, therefore, could not be "legitimately ruled, dominated or occupied by European powers".[261]

From natural law, Vitoria claimed that the indigenous peoples' lack of Christianity was not in itself a justifying reason for the use of force, as inferred from the *Alexandrine Bulls*. Rather, their religious beliefs held no affect against the protections granted by natural law at all. This is because "unbelief does not cancel either natural or human law, but all forms of dominion derive from natural or human law; therefore they cannot be annulled by lack of faith".[262] This then limits the assumption that the pope, and the oft divinely empowered emperor, possess a justified dominion over the indigenous people for the purpose of converting said peoples to Christianity.

Vitoria equally rejected the opinion that the emperor was "lord of the world" according to human law:

> [It] is established that in this case, too, the emperor is not master of the whole world, because if he were it would be solely by authority of some enactment, and there is no such enactment. Even if there were, it would have no force, since an enactment presupposes the necessary jurisdiction; if, therefore, the emperor

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[259] Andreas Wagner, "Francisco de Vitoria and Alberico Gentili on the Legal Character of the Global Commonwealth," *Oxford Journal of Legal Studies* 31, no. 3 (2011): 572-573, doi: 10.1093/ojls/gqr008.

[260] Bohrer, "Just Wars of Accumulation," 26.

[261] Ibid, 27.; Cf. Francisco de Vitoria, *Political Writings*, eds. Anthony Pagden and Jeremy Lawrance (Cambridge: Cambridge University Press, 1991), 251-271.

[262] Vitoria, *Political Writings*, 244.

did not have universal jurisdiction before the enactment of the law, the enactment could not be binding on those who were not his subjects.[263]

Since the indigenous peoples of America were not subject to the emperor prior to their discovery by exploration, they could not fall under his authority arbitrarily, for "before [the] arrival of the Spaniards [the] barbarians possessed true dominion, both in public and private affairs".[264]

Unlike his contemporaries, Vitoria maintained that the indigenous peoples could not be denied the rights afforded to them by natural law for their supposed lack of reason. He claimed that the indigenous peoples displayed clear signs of reason: "they have properly organized cities, proper marriages, magistrates and overlords, laws, industries, and commerce, all of which require the use of reason".[265] This recognition of indigenous reason denied what would today be classified as the racial justifications of abuse put forth by many sympathetic with the expansion of colonialism. However, this progressive acknowledgement of equality should not be taken at face value, for it was through this accepted capacity for reason which Vitoria legitimised the use of force against the peoples of the Americas.

Against the aforementioned denials of divine and human law as sources for justified war, Vitoria ascribed legitimate reasons for the use of force against the indigenous peoples. These arguments were derived by natural law expounding upon the *ius gentium*, whereby the indigenous peoples, possessing reason, must work toward "the common good of the world" by grounding relations between sovereign peoples in justice and the rule of law.[266] Vitoria took this understanding of international relations to justify colonial economic relations with the 'fully human' indigenous, for "it is precisely *because* the Indians possess reason that they are bound by *ius gentium*".[267]

According to Ashley Bohrer, Vitoria contended that "all people [held] a fundamental right to commerce and travel across the globe as some of the specific

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[263] Ibid, 257.
[264] Ibid, 251.; See generally: Vitoria, *Political Writings*, 239-251.
[265] Ibid, 250.
[266] Bohrer, "Just Wars of Accumulation," 27.
[267] Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2005), 20. [Emphasis in original].

natural rights predicated of every human being".[268] This meant that natural law required that individuals, and by extension entire peoples, hold the right to travel, settle, and engage in profit making business across the known world. Furthermore, as a consequence of any persons denying this right of commerce, the injured party could "defend themselves" through the just use of force to remain on their colonised lands and continue their economic pursuits.[269] Thus it was through a defence of the common good, seen within the emerging capitalist enterprise, which justified the use of force by Europeans for Vitoria. It was this conception of the use of force which Vitoria saw as central to countering the opinion that the expansion of an empire could in itself be a just cause for war. Simply put by Vitoria: "it is an act of war to bar those considered as enemies from entering a city or country, or to expel them if they are already in it".[270]

According to Bohrer, this interpretation of natural law allowed the European colonisers to "criminal[ise] indigenous resistance to the economic exploitation and morbid regime of death and decay that [they] brought with them" to the Americas.[271] However, Justus M. van der Kroef notes that Vitoria's treatment of the native populations was in equity to the Europeans as a matter of Christian humanitarianism.[272] Yet while Vitoria's work did reject the abuse of the natives for the sake of abuse, a system which the *encomienda* allowed, his work, as Bohrer suggests, ultimately advanced the allotment of exploitation for the sake of commercial advantage.

What can be understood from Vitoria's writings is that the natural rights of the indigenous population required respect from the European settlers so long as the indigenous population respected the right of European trade. The Europeans did not have a natural right to exploit the labour of the natives, yet they did have the right to exploit their lands for the purpose of mercantile enrichment. Just cause for the permissible use of force was dependent upon the blockage of commerce, which future scholars would use to justify violent force in the venture of profit. This was the case in

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[268] Bohrer, "Just Wars of Accumulation," 28.; See also: Wagner, "Francisco de Vitoria and Alberico Gentili on the Legal Character of the Global Commonwealth," 571.

[269] Bohrer, "Just Wars of Accumulation," 28, 30.; Cf. Vitoria, *Political Writings*, 278-284.

[270] Vitoria, *Political Writings*, 278.

[271] Bohrer, "Just Wars of Accumulation," 28.

[272] Justus M. van der Kroef, "Francisco de Vitoria and the Nature of Colonial Policy," *The Catholic Historical Review* 35, no. 2 (1949): 158-159, https://www.jstor.org/stable/25015004.

the efforts of Hugo Grotius, who sought to justify the legitimacy of Dutch violence against their European competitors, as will be shown in the forthcoming section.

2.2: Hugo Grotius and the East Indies

The Dutch jurist Hugo Grotius wrote within the context of the Dutch expansion following their war of independence from Spanish rule.[273] Many of his writings sought to justify Dutch mercantile activity abroad and to ensure that "the Dutch had every right to act as judges and executioners in their own cause", particularly against the claims of other European nations.[274] Richard Tuck contends that Grotius' work is grounded in a "humanist jurisprudence" more so than in line with the scholastic theologians of Salamanca.[275] However, Gregory Reichberg cautions against this view to wholly describe Grotius as the jurist would make reference to biblical justification when required.[276] In any case, Grotius would come to use elements of Salamancan jurisprudence when it was fit for his own advantage, in line with other seventeenth century scholars.

In the humanist vein, Grotius rejected war which was "divinely commanded" and undertaken for religious orthodoxy.[277] This was deeply influenced by his experience of holy wars across Europe. Elements of just war thought which had previously relied on religious justifications, such as right authority, were recast around conceptions of secular state sovereignty.[278] Grotius' seminal work, *De iure belli ac pacis libri tres*, focused on *who* may wage war (book 1), on *what grounds* may war be waged (book 2), and *what is permissible* in war (book 3) within the international arena of sovereign entities.[279] This work held major contributions to the systematisation of international law and related just war practices, including those which influenced economic behaviours. Before discussing Grotius' economic considerations, however, let us first view some of the basic tenants of his just war thought.

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[273] Martine Julia van Ittersum, "The Long Goodbye: Hugo Grotius' Justification of Dutch Expansion Overseas, 1615-1645," *History of European Ideas* 36, no. 4 (2010): 386, doi: 10.1016/j.histeuroideas.2010.05.003.

[274] Ibid, 387.

[275] Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford University Press, 2001), 102-108.

[276] Gregory M. Reichberg, "Preventive War in Classical Just War Theory," *Journal of the History of International Law* 9 (2007): 20, note 46, doi: 10.1163/138819907X187288.

[277] Bellamy, *Just Wars*, 73.

[278] Mona Fixdal, *Just Peace: How Wars Should End* (New York: Palgrave MacMillan, 2012), 10.

[279] Reichberg, et al., *The Ethics of War*, 421.

Grotius viewed war as neither intrinsically right nor wrong. The use of force was, when used correctly, a rational instrument to preserve society.[280] Additionally, war was capable of performing a quasi-judicial act derived from the point at which the law fails to maintain justice.[281] To reach this judicial plateau, Grotius divided war into public and private combat, with private wars waged by individuals to ward off injuries and public wars waged by sovereigns between states.[282]

For Grotius, the existence of international law is "similar to that for unwritten municipal law; it is found in unbroken custom and the testimony of those who are skilled in it".[283] He divided this unbroken custom into two categories: natural law and human law, of which natural law governs what is just and human law determines what is legal.[284] Grotius reasoned that human law "cannot enjoin anything which the law of nature forbids, or forbid what the law of nature enjoins", although it may "set limits to natural liberty, and forbid what by nature was permitted [but not commanded]."[285] From this, Grotius, like Cicero centuries before him, determined self-preservation to be the first principle of natural law.[286]

According to Alex Bellamy, Grotius' vision of self-preservation applied to state activity since "the state itself had value beyond the amalgamation of individual rights to self-preservation, which derived from its role as protector of society, economy, culture, and the like."[287] Therefore, war became a necessary tool of sovereign authority for the preservation of his state. However, this tool could be divided into legitimate and illegitimate usage.

Legitimate uses of war were further split between offensive and defensive engagements. Offensive war fixated on coercing restitution and enacting punishment.[288] In contrast, defensive war maintained the aim of preventing immediate harm.[289] Wars of this kind must be reactions to actions already ongoing or pre-emptive

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[280] Bellamy, *Just Wars*, 71.
[281] Grotius argued: "where judicial settlement fails, war begins". See: Hugo Grotius, *On the Law of War and Peace*, ed. Stephen C. Neff (Cambridge: Cambridge University Press, 2012), 82.
[282] Reichberg, et al., *The Ethics of War*, 394-396.
[283] Grotius, *On the Law of War and Peace*, 32.
[284] Bellamy, *Just Wars*, 71.
[285] Grotius, *On the Law of War and Peace*, 96.
[286] Joan D. Tooke, *The Just War in Aquinas and Grotius* (London: S.P.C.K, 1965), 210.
[287] Bellamy, *Just Wars*, 73.
[288] Reichberg, "Preventive War in Classical Just War Theory," 20.
[289] Ibid, 21.

to an imminent assault.[290] According to Gregory Reichberg, Grotius offered that the greatest act a state may undertake outside immediacy was the fortification of one's own territory in response to similar fortifications of an aspiring aggressor.[291] Grotius' vision of the use of force would underscore his argumentation against other European nations in the area of economic just war thought.

In different historical cases, Grotius was charged to defend the rights of the *Dutch East India Company* against threats from competing national companies. In one such case, Grotius argued against the monopoly of the East Indies by the Portuguese. These arguments are displayed in Grotius' work entitled *Mare Liberum*. The Dutch jurist employed knowledge of Roman and religious authorities to dispel notions of Portuguese possession of the lands and seas of the East Indies. Additionally, Grotius outlined his defence of Dutch aggression. These arguments denote a practical application of just war thought mixing with the economic interests of Dutch trade.

Against the proposition that the Portuguese held the right of first possession over the East Indies through discovery, Grotius argued that the presence of the natives on the lands of the East nullified the Indies as a true *res nullius*.[292] Equally so, the Portuguese could not claim ownership of the Indian seas by right of discovery, as Grotius argued the Indies had already been known to the ancients long before the Portuguese arrived.[293]

Grotius similarly rejected Portuguese, and also Spanish, claims of global ownership prescribed by Pope Alexander VI.[294] Grotius contended that the pope could not transfer dominion of foreign lands to the Portuguese as the pope lacked the required temporal authority over the whole world, and especially lacked authority over the foreign infidels.[295] Without temporal authority, Alexander VI could not have appointed the Portuguese dominion over the East Indies, nor the Spanish dominion over the

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[290] Reichberg, et al., *The Ethics of War*, 401-402.

[291] Reichberg, "Preventive War in Classical Just War Theory," 24.; Cf. Grotius, *On the Law of War and Peace*, 302.

[292] Hugo Grotius, *The Free Sea*, ed. David Armitage, transl. Richard Hakluyt (Indianapolis: Liberty Fund, 2004), 14, available at: https://scholar.harvard.edu/files/Armitage/files/free_sea_ebook.pdf.; H. J. M. Boukema, "Grotius' Concept of Law," *Archives for Philosophy of Law and Social Philosophy* 69, no. 1 (1983): 69, https://www.jstor.org/stable/23679689.

[293] Grotius, *The Free Sea*, 34-36.

[294] Boukema, "Grotius' Concept of Law," 68.

[295] Grotius, *The Free Sea*, 16-17.

Americas. Neither could the pope grant dominion of the sea. Grotius cited Placentius in his defence: that "the sea was so common, that it may be in the dominion of none but God alone".[296]

Equally so, the presence of idolaters did not justify the forceable acquisition of foreign lands. Despite the arguments of some earlier commentators, Grotius continued the tradition of Vitoria by rejecting the idolatry of the natives as a permission for forceable conversion. He cited Vitoria's *De potestate civili* (I. 6.), claiming "[s]ecular or ecclesiastical Christians cannot deprive infidels of their equal power and sovereignty for that color only because they are infidels unless some injury proceeded from them before".[297]

Additionally, the notion of war for possession under religious belief was equally rejected by the Dutch jurist, for "dominion is by a positive law and infidelity by the divine law".[298] Citing Cajetan on Aquinas' *Summa Theologica* (IIaIIae, Q. 4, 66, a. 8) Grotius noted:

> Against these no king, no emperor, nor the Church of Rome itself, can make war to possess their countries or subdue them temporally because there is no just cause of war, seeing Jesus Christ, the king of kings, to whom power is given in heaven and in earth, hath not sent soldiers of an armed warfare to take possession of the world but holy preachers as sheep among wolves.[299]

This was a departure from the model of just war pronounced in the Crusades. Here, Grotius separated temporal matters from those of spiritual belief, thus negating religious justification for military action.

In a practical matter, Grotius argued that justice dictates the protection of Dutch rights against the injustice of the Portuguese, as he noted Demosthenes words: "it behooveth all those that will be free to avoid all conditions whereon laws are imposed as those which are next to servitude".[300] Therefore, in the arena of the East Indies, where the Portuguese had imposed an unjust monopoly, Grotius maintained that the use of force may be justified. This logic formed the basis of Grotius' defence of the Dutch captain Jakob van Heemskerck in relation to accusations of piracy levelled around the

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[296] Ibid, 30, 38-39.
[297] Ibid, 14-15.
[298] Ibid, 19.
[299] Ibid, 19.
[300] Ibid, 57.

capture of the *Sta. Catarina* from the Portuguese. Van Heemskerck's rightful subduing of the *Sta. Catarina* was, in Grotius' eyes, a just retaliation against the long-standing wickedness of the Portuguese trade monopoly.[301]

The above arguments signify, in part, a continuation of the arguments held by Vitoria surrounding the freedom of economic trade. However, Grotius targeted his economic elements against competing national companies rather than the native populations and their resources. The points above note a just war thought built upon Roman, humanist thinking accompanied by elements from theological thinkers when such themes coincide with humanist visions. The rejection of temporal force in the area of spiritual matters is a significant departure from the justifications of the Crusades and demonstrates the shift in thought surrounding the justification of war during the holy wars of the seventeenth century.

Concluding Remarks

This chapter has sought to explore the influence of economic interests on just war thought in the sixteenth and seventeenth centuries through the work of leading figures Francisco de Vitoria and Hugo Grotius. Despite living almost a century apart, their works have some commonalities, such as the belief of free trade under the *ius gentium*. Yet their separation has created a distinction in their individual targets of just war thought.

The Spanish theologian Vitoria discussed economic elements of just war within the context of colonial exploration. His objective was to align the actions of the Spanish colonial regime with the moral compass of the Christian state. Vitoria rejected arguments based on punishment, whereby the indigenous people of the America's deserved a just punishment, which included elements such as the confiscation of lands and resources, for their idolatry. Instead, Vitoria argued a case of commercial enterprise insofar as the indigenous peoples should be free from punishment unless they interfere with the Spanish right of free trade.

Along a similar vein, yet with a different audience, the Dutch jurist Grotius discussed his vision of economic justice in relation to competition among European powers for the trading rights of colonised lands. Throughout his works, Grotius rejected

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[301] Ibid, xii.; Boukema, "Grotius' Concept of Law," 69.

the right of divine authorities to authorise the use of force in relation to spiritual matters and grounded the justified use of violence in the public contest between nations. His defence in the *Sta. Catarina* incident, whereby the Portuguese monopoly of the East Indies amounted to an unjust violation of Dutch commerce under natural law, demonstrated a vision of violent retaliation as being within the rights of natural law expressed by those who came before him.

Building upon the shifting premise of just war, as noted in Chapter One, the movement of just war thought away from the pastoral corrective conversion of Augustine has reached into the field of economics. The economic powers in the sixteenth and seventeenth centuries utilised just war thought as a means of justifying the colonisation of lands and the use of force against neighbouring states. Additionally, while the Church utilised just war thought as a means to justify their defence of Church lands and reject the economic desires of feudal lords, the tradition supported the Spanish and Dutch desires for economic wealth. Therefore, not only does the tradition remain inconsistent with the original intent of pastoral correction, but equally it became inconsistent with the level of support given in relation to economic expansion from the preceding medieval period.

In the next chapter, the discussion of just war will move away from economic influences toward a discussion on the broad diminishment of moral reasoning following the Enlightenment in favour of an increase in *realpolitik* and the effect this political shift held on the tradition.

Chapter Three

An Absence of Moral Wisdom

Introduction

Following the remarks on economic-oriented just war discussed in the preceding chapter, this chapter will focus on the manner by which the post-Enlightenment era ventured toward an abandonment of moral wisdom as a basis for the use of force. Following the Enlightenment, *realpolitik* became the focus of scholarship, as shown in the work of Emer de Vattel and his concerns for the defence of the state.[302] This condition of moral wisdom diverged from the past insofar as the just war tradition no longer remained at the forefront when dealing with political interests, as developed in the previous two chapters. Instead, the Enlightenment focus on 'the science of the law' led to a post-Enlightenment bankruptcy of moral wisdom in favour of the national interest.[303]

Under this new model, war became an instrument of international relations and power, rather than a component of justice.[304] The depth of this model can be seen in the words of Joachim von Elbe on the eve of World War II:

> The majority of writers during the nineteenth and at the beginning of the twentieth century who . . . rejected the distinction between just and unjust wars, considered war as an act entirely within the uncontrolled sovereignty of the individual state.[305]

This enabled both academic writers and politicians to press for any course of action based on the specified needs of the state and allowed for the replacement of peaceful instruments of conflict resolution with the law of war. This not only describes the position of Nazi Germany in 1939 but is also an applicable characterisation of North-South behaviour in the US Civil War and military engagements across Europe.

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[302] For a discussion on *realpolitik*, see the Introduction to this work.

[303] Emer de Vattel, *The Law of Nations; or Principles of the Law of Nature: Applied to the Conduct and Affairs of Nations and Sovereigns* (Dublin: printed for Luke White, 1792), 2.

[304] Charles A. Jones, *More Than Just War: Narratives of the Just War Tradition and Military Life* (London: Routledge, 2013), 46.

[305] Joachim von Elbe, "The Evolution of the Concept of the Just War in International Law," *The American Journal of International Law* 33, no. 4 (1939): 684, doi: 10.2307/2192879.

Where the just war tradition remained in use, scholars and political actors demonstrated the tradition's ability to once again capitulate to political demands, this time in the service of the national interest. A practical application of the mixture of *raison d'état* and the just war tradition is exemplified in the Caroline Affair and the response of US Secretary of State Daniel Webster. In this case, the grammar of the tradition aided the national interest of the United States in order to combat the *realpolitik* behaviour executed by both themselves and the United Kingdom. To this day, the resultant Caroline 'standard' has been invoked as a just war metric to the concept of pre-emptive strikes.

This chapter will seek to show how the tradition engaged with movements promoting the national interest and how the tradition conformed to emerging political thought during the post-Enlightenment period. The above will be explored in three sections. First, the moral outlook of Emer de Vattel will be discussed and how this more scientific vision of international relations worked to centre justice around national strategy rather than moral wisdom, thus allowing for the potential of preventive warfare. While Vattel justifies the use of prevention as a defensive tactic, he does not fully endorse its usage in a prudential calculus. Vattel's engagement with justice exhibits the shifting focus of grammar towards the national interest in the period. Second, a demonstration of the overall absence of moral wisdom in the period will be discussed through examples from the nineteenth and early twentieth centuries. Third, this chapter will show a practical example of the limited just war thought in the period with the Caroline Affair.

3.1: Emer de Vattel and Self-Defence

As a response to the seventeenth century holy wars across Europe, realist patterns of thought began to emerge in international political and legal scholarship. International relations became grounded in a Hobbesian anarchy, with no global sovereign to moderate legal and political disputes. This created a structure of international rules based on customs and treaties.[306] Such an international configuration gave further weight to secular interpretations over divine and natural law approaches, although not

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[306] Bellamy, *Just Wars*, 77-79.

eschewing them entirely. According to Alex Bellamy, international law became "grounded in relationships between sovereigns and the rights and duties that they owed one another" and rejected the idea of a "universal world community".[307] This ultimately seeped into conceptions of just war discourse.

The Enlightenment context in which Emer de Vattel wrote exhibited a greater scientific theory of war. Of particular note is his commentary in *The Law of Nations*. Within Book III, Vattel demonstrates a twofold aim to "mark [the] juſt limits" of the right of sovereign nations to employ force as dictated by necessity in order to defend and preserve their rights, while equally moderating the exercise of said right "by the rules of juſtice, equity, and humanity.[308] Thus, Vattel outlined his vision of the principles of just war within a secular blueprint.

Vattel articulated his theory of war within the *ius gentium*, or "the ſcience of the law ſubſiſting between nations of ſtates, and of the obligations that flow from it".[309] This treated the state as the point of derivation for the right authority condition, in which sovereigns exercise the right of authority to make war on behalf of the state.[310] According to Simone Zurbuchen, Vattel viewed the right to make war as "founded upon the right of nations to maintain the liberty and independence necessary for the cultivation of their own preservation and perfection."[311] Therefore, the proper authority to make war stemmed from a right of security which denoted the only just cause for war as injury—either already committed or threatened.[312]

Vattel defined a just war under three conditions: "To recover what belongs or is due to us"; "To provide for our future ſafety by puniſhing the aggreſſor, or offender"; and "To defend ourselves from an injury by repelling unjuſt violence".[313] He positioned the third as defensive war, since it remains an act of self-defence which requires no proof of necessity.[314] Meanwhile, he classified the first and second circumstances as offensive wars, which may only be justified when peaceful alternatives for resolving conflict have

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[307] Ibid, 79-81.
[308] Vattel, *The Law of Nations*, 438-439.
[309] Ibid, 2. [emphasis in original]
[310] Simone Zurbuchen, "Vattel's *Law of Nations* and Just War Theory," *History of European Ideas* 35, no. 4 (2009): 409, doi: 10.1016/j.histeuroideas.2009.05.001.
[311] Ibid, 411.
[312] Vattel, *The Law of Nations*, 453-454.
[313] Ibid, 454.
[314] Ibid.

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been exhausted.[315] This attempt to adhere first to peaceful means of conflict resolution applied even to cases where a sovereign sought to recover property unjustly taken.

Vattel considered anticipatory action realistic when defined within the bounds of self-defence, where just pre-emptive action is taken as a measure against an imminent strike. A nation holds the right to resist an injurious belligerent and may "anticipate his machinations, always obſerving, not to attack it upon vague and uncertain ſuſpicions, in order to avoid expoſing itſelf to become an unjuſt aggreſſor".[316] Hence, a nation possesses the right to resist both aggression in real-time and concrete, imminent actions within the bounds of self-defence.

Vattel extended the permissibility of anticipation when conditions arose which might endanger the political community. When potential threats emerged, a sovereign was required to make probabilistic calculations and reasonable assumptions regarding the use of pre-emptive action, rather than remain passive to another state's capacity to harm until said danger became fully realised.[317] When the right conditions arose, Vattel allowed for offensive war to commence for the purpose of pre-emptive action relating to just fear. Just fear, in the words of Vattel's pre-emption predecessor Alberico Gentili, is "the fear of a greater evil, a fear which might properly be felt even by a man of great courage".[318] Levelling just cause on the basis of just fear stood in contrast to Gentili's contemporaries in the Salamanca School who, particularly Vitoria, argued that "the sole and only just cause for waging war is when harm has been inflicted".[319]

Vattel contended authoritative just fear as comprising the power of a particular nation with the underlying will to oppress or subjugate others.[320] He therefore asserted that the "firſt appearances" of the will to suppress may be a sufficient indication of future intentions.[321] The past actions and future intentions of the state in question unite to form a potentially prudential justification for action, as "prudence requires that [a state] ſhould keep themſelves on their guard".[322] As such, where it is deemed

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[315] Ibid.
[316] Ibid, 241.
[317] Ibid, 464.
[318] Gentili, *De Iure Belli Libre Tres*, vol. 2, 62.
[319] Vitoria, *Political Writings*, 303.; See generally: Vitoria, *Political Writings*, 303-304.
[320] Vattel, *The Law of Nations*, 464.
[321] Ibid.
[322] Ibid, 471.

"impoſſible, or too dangerous to wait for abſolute certainty", a state may "juſtly act on a reaſonable preſumption".[323]

Vattel maintained that the use of force under these conditions was predicated by justice insofar as the pre-emptive expression of military power was in protection of the common good and for the maintenance of the balance of power in the international arena. This understanding of inter-state affairs reflects realist considerations and remains representative of certain thinking which grew to dominate political discourse in the nineteenth and early twentieth centuries. The just war tradition of the era aligned with this power-oriented political shift, with deontological enunciations having heeded way to prudential decision-making related to the national interest. The essence of justice became further tied to the strategies of state government.

3.2: Historical Examples of *Raison d'état*

With the end of the eighteenth century came forth technological and militaristic advancements that altered the philosophies and overall approach to warfare. Dramatically increased firepower and superior communications coupled with *levée en masse*, in which larger armies were produced through the conscription of nationals rather than mercenaries, allowed for war to continue for greater lengths of time on an unprecedented scale.[324] Additionally, with nationally supplied militaries came the increased drive for state sponsored war in the national interest. This allowed realist thinking to underscore prudential considerations of warfare throughout the subsequent nineteenth and early twentieth centuries.

According to Alex Bellamy, *raison d'état* supplied states with the unlimited ability to wage war in the name of the national interest, while conduct in war was tempered only by military necessity.[325] This vision was exemplified in Carl von Clausewitz, who viewed war as limited only by state interests, with conduct determined by its ends.[326]

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[323] Ibid, 465.

[324] Jeremy Black, *War and the World: Military Power and the Fate of Continents, 1450-2000* (New Haven, CT: Yale University Press, 1998), 164-170.; Burak Kadercan, "Military Competition and the Emergence of Nationalism: Putting the Logic of Political Survival into Historical Context," *International Studies Review* 14, no. 3 (2012): 415-416, doi: 10.1111/j.1468-2486.2012.01135.x.

[325] Bellamy, *Just Wars*, 89.

[326] Ibid, 93.; Carl von Clausewitz, *On War*, ed. and transl. Michael Howard and Peter Paret (Princeton: Princeton University Press, 1984), 80-81.

For Clausewitz, the very act of combat is derived solely by its "objective", whereby the policy of the state is the only necessary justification.[327] The US Civil War portrayed this concept within the actions of General William T. Sherman.

General Sherman equated the US Civil War with total war, whereby the distinction between combatant and non-combatant was eroded by the essence of civil war.[328] From this, military necessity overrode any previously established rules of military engagement. The General is remembered for his remark that "war is hell" and anointed his tactical decision-making with a deep sense of personal deniability. As Sherman notes, "I had no hand in making [the Civil War], and I know that I will make more sacrifices today than any of you . . . to Secure Peace".[329] In essence, his tactical 'sacrifices' were just insofar as they remained devoted to a peace which he believed could be delivered in line with the national interest of the state.

Sherman's nationally ordained requirement to defeat the Confederates overrode any and all moral considerations for others. This was on display in Sherman's siege of Atlanta in 1864, whereby the General directed artillery over-top of the Confederate forces into civilian areas in order to pacify the local population.[330] Viewed in the context of military necessity, Sherman justified this horrific action, the killing of non-combatants, as part of a war his enemy was responsible for commencing. This, therefore, lifted his moral obligations. Sherman provided similar justification for the burning of crops and property of non-combatants in an attempt to lessen the capacity of his enemy to fight and weaken the Confederate morale.[331] This displays quite clearly the moral bankruptcy of power politics within the period.

Yet this period did not rely solely on power politics for its political strategy. Alternatives to the sovereign right to wage war were, without limiting said right, employed by states seeking to limit unnecessary military conflict for national interest reasons. For example, in 1872 the United States and the United Kingdom achieved a

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[327] Clausewitz, *On War*, 95.

[328] Bellamy, *Just Wars*, 92.

[329] Brooks D. Simpson and Jean V. Berlin, eds., *Sherman's Civil War: Selected Correspondence of William T. Sherman* (The University of North Carolina Press, 1999), 708.

[330] Stephen Davis, "'A Very Barbarous Mode of Carrying on War': Sherman's Artillery Bombardment of Atlanta, July 20-August 24, 1864," *The Georgia Historical Quarterly* 79, no. 1 (1995): 57, 61, 67, https://www.jstor.org/stable/40583183.

[331] Ibid, 67-68.; Bellamy, *Just Wars*, 92.

settlement through the so-called 'Geneva arbitration'.[332] The American case grounded sentiment of the Monroe Doctrine of 1823, which declared no European power had a right to freely engage in war in the Americas, and the United Kingdom's complicity with Confederate shipbuilding during the US Civil War.[333] Arbitration in this case was attractive to both sides as neither favoured war between them, especially the Americans who were in post-Civil War reconstruction. The success of this arbitration attracted the attention of other great powers, such as Russia, who later allied with the United States and the United Kingdom in seeking the creation of a Permanent Court of Arbitration.[334]

Though attractive to some, arbitration could not be properly institutionalised since the right of the sovereign to wage war remained intact. In particular, arbitration failed to persuade the strongest of the era, Germany, who refused any curtail on its own authority to recourse the use of force. As such, power politics of war continued to imbue strategy as the roadmap of prudential consideration, thus overriding deontological concerns which may have regained a foothold in arbitration courts.

The act of prioritising strategy and power politics was again on display with Germany's 1914 invasion of Belgium, which violated the latter's neutrality. The manifestation of strategy by then-German Chancellor Theobald von Bethmann-Hollweg amounted to a defence of *raison d'état*. As the Chancellor reportedly argued:

> We are in a state of legitimate defence. Necessity knows no law. Our troops have occupied Luxembourg and have perhaps already penetrated into Belgium. This is against the law of nations. . . . A French attack on our flank in the region of the lower Rhine might have been fatal. It is for that reason that we have been compelled to ignore the just protests of the Governments of Luxembourg and Belgium. The injustice which we thus commit we will repair as soon as our military object has been attained.[335]

The strategic necessity of the state carried with it a verdict that overruled the limitations set forth by justice, which had been clearly outlined prior to the First World War in the Hague Convention of 1907.[336] A war envisioned by the realist actor was one only limited

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[332] United Nations, Office of Legal Affairs, *Reports of International Arbitral Awards*, vol. XXIX (New York: United Nations Publications, 2011), 130-134.

[333] Bellamy, *Just Wars*, 99.

[334] Ibid.

[335] James W. Garner, "Some Questions of International Law in the European War," *The American Journal of International Law* 9, no. 1 (1915): 77, https://www.jstor.org/stable/2186851.

[336] International Peace Conference (The Hague), *The Hague Convention (III) of 1907 Relative to the Opening of Hostilities* (Washington, DC: The Carnegie Endowment for International Peace, 1915).

by the domestic political considerations of the state, and not by universal morality nor international law. This is distinctly seen in the use of poison gas weaponry during the First World War, which contradicted morally articulated international agreements.[337]

Moral considerations, like the ban on poison gas, appeared within this nationalist period as direct responses to atrocities committed under state-interest policies. The creation of the International Committee of the Red Cross and the 1899 and 1907 Hague Conventions offer points of reference whereby moral considerations sought a return to the fore. Yet these attempts to assert a moral compass failed to actually achieve a continued enaction of ethical policies. Thus, the minimization of moral wisdom continued into the 1930s with the rise of Nazi Germany.

When the Nazis took power in 1933, two fields of violence emerged. The first sought to justify the recovery of lost territory and reassert German supremacy in Europe after their defeat in World War I.[338] The *Treaty of Versailles*, which formally ended the war and outlined subsequent reparations, required Germany to accept any and all blame for the German-allied side:

> The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.[339]

This resulted in the occupation of lands, a reduction of influence, and reparations to be paid equaling approximately three times what the German economy was capable of producing according to Keynesian economics, with interest.[340] The treaty was an attempt to handcuff the Germans and prevent future acts of violence. Yet by 1939, there was an emerging understanding that the treaty placed too great a burden on

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[337] See International Peace Conference (The Hague), *The Hague Declaration (IV, 2) of 1899 Concerning Asphyxiating Gases* (Washington, DC: Carnegie Endowment for International Peace, 1915).; International Peace Conference (The Hague), *The Hague Conventions of 1899 (II) and 1907 (IV) Respecting the Laws and Customs of War on Land* (Washington, DC: Carnegie Endowment for International Peace, 1915).

[338] Richard Bessel, "The Nazi Capture of Power," *Journal of Contemporary History* 39, no. 2 (2004): 173-174, doi: 10.1177/0022009404042127.

[339] Allied and Associated Powers (1914-1920), *Treaty of Peace with Germany* (Washington, D.C.: Washington Government Print Office, 1919), 249, available at: https://lccn.loc.gov/19026899.

[340] Lynn Turgeon, "The Political Economy of Reparations," *New German Critique*, no. 1 (Winter, 1973): 113, doi: 10.2307/487633.

Germany.[341] Therefore, an argument could be made in which Germany held a right of just cause. Their move to reclaim lost territory through military force, precipitating World War II, was in reaction to the unjust treaty imposed upon them by the victors of the First World War. This could, in theory, be conceived as just.

However, a second field of violence—internal, state-sponsored violence—delegitimized any and all claims of justice on the side of Germany.[342] The unjust actions of the state against political opponents and non-Aryan Germans relinquished Germany of its cause of justice, and yet the Nazis proceeded with the Second World War and their campaign of terror. Moral thought of justice was again replaced by the national interest. And in this case, the illegitimate use of violence created a lack of legitimate authority and overrode any possible conception of just cause as outlined by the just war tradition. This denial of right, of course, was dutifully ignored.

3.3: The Caroline Affair

While the era discussed above remains predominately disposed to *realpolitik* and prudential considerations over moral wisdom, historical examples exist whereby the grammar of the just war tradition was expressed in conjunction with *raison d'état*. This grammar focused upon the prudential aspects of just war rather than the deontological criteria. Such was the case with the Caroline Affair between the United States and the United Kingdom.

In 1837, a US merchant steamboat known as the Caroline was boarded by British-led naval forces in an American port on the Niagara River, set ablaze, and launched down the river towards Niagara Falls. The Caroline was accused of providing men and armaments from New York State to Canadian insurgents on Naval Island in the Niagara while the rebels planned a fresh assault on the Canadian Volunteers. One American, a bystander on a nearby dock, was killed in the raid.[343]

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[341] Denis O'Keeffe, "The Nazi Movement in Germany," *Studies: An Irish Quarterly Review* 27, no. 105 (1938): 3, https://www.jstor.org/stable/30097507.; Michael Walzer, "World War II: Why Was This War Different?" *Philosophy & Public Affairs* 1, no. 1 (1971): 5, https://www.jstor.org/stable/2265089.

[342] Bessel, "The Nazi Capture of Power," 175, 180-181.

[343] Howard Jones, "The Caroline Affair," *The Historian* 38, no. 3 (1976): 485-491, doi: 10.1111/j.1540-6563.1976.tb01886.x.

The United States accused the British of violating their sovereignty by entering US waters and destroying an American owned vessel in a neutral US port. The Van Buren Administration (1837-1841) demanded reparations for the act. Meanwhile, the British Government accused both the Van Buren Administration and the State of New York, to which the vessel was registered, of failing to uphold the 1818 Neutrality Act. However, the Act did not prevent American citizens from privately aiding foreign entities, it only provided a means by which the United States could retrospectively punish.[344] British Ambassador Henry Fox additionally argued the just nature of the incident, highlighting the Caroline's engagement in "piratical character" and therefore subject to destruction wherever found, even in the sovereign waters of another state.[345]

The dispute between the two nations remained a source of tension entering into the next decade. With both sides under new leadership by 1841, the Tyler Administration in the US (1841-1845) and the Peel Government in the UK (1841-1846), the two states sought to resolve this dispute by peaceful means. The British continued to insist that no wrong had been committed by the British command, while the US continued to demand reparations for the destruction of the vessel and the breach of state sovereignty. To settle their differences, Secretary of State Daniel Webster wrote a letter to Lord Ashburton, the British diplomat dispatched to resolve the conflict, in 1842 which demanded an explanation for the Caroline assault. This letter defined, according to Webster, the parameters of the incident which amounted to an unjust pre-emptive strike.

> it will be for Her Majesty's Government to show . . . a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation . . . to show, also, that the local authorities of Canada . . . did nothing unreasonable or excessive; since the act justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it . . . that admonition or remonstrance to the persons on board the "Caroline" was impracticable . . . that daylight could not be waited for; that there could be no attempt at discrimination . . . that it would not have been enough to seize and detain the vessel; but that there was necessity, present and inevitable, for attacking her, in the darkness of the night, while moored to the shore, and while unarmed men were asleep in board, killing some, and wounding others, and then drawing her into the current, above the cataract, setting her on fire, and , careless to know whether there might not be in her the innocent with the guilty,

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[344] Ibid, 487, 496.
[345] Ibid, 496.

or the living with the dead, committing her to a fate, which fills the imagination with horror.[346]

Webster noted that this necessity, of which would have absolved the United Kingdom of their actions, did not exist in the eyes of the United States government.[347]

Utilising Webster's own definition of imminence as a metric, Lord Ashburton justified the destruction of the Caroline by insisting that sometimes "a strong overpowering necessity may arise, when this great principle [sovereignty] may and must be suspended . . . during the continuance of an admitted overruling necessity".[348] He argued that as the Canadian rebellion forces on British controlled Navy Island were being armed and aided by New Yorkers, without the interference of the United States, this accounted for a failure of justice which authorised the British to take action in their own self-defence.[349]

Lord Ashburton assured Secretary Webster that "no slight or disrespect to the sovereign authority of the United States" was intended by the British Government, for the expectation of the Naval officers was such that the Caroline was to be found in British waters.[350] Lord Ashburton noted that:

> the expedition was not planned with a premeditated purpose of attacking the enemy within the jurisdiction of the United States, but that the necessity of so doing arose from altered circumstances at the moment of execution.[351]

The British intention of engaging the Caroline under the cover of darkness was chosen not to deceive the United States but to minimise loss of life. Similarly, the expectation of the Naval officers was that the Caroline would be brought to British waters, however, the strong current that evening prevented the vessel from being taken away to British territory and therefore the officers held no other position than to set the ship alight and allow it to drift down the Falls.[352] In sum, Lord Ashburton insisted the British held no intention of violating the territory of the United States but did so out of necessity and

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[346] Webster, "Mr. Webster to Lord Ashburton," 27 July 1842, quoted in Miller, ed., *Treaties and Other International Acts of the United States of America*, vol. IV, 449-450.

[347] Ibid, 450.

[348] Lord Ashburton, "Lord Ashburton to Mr. Webster," 28 July 1842, quoted in Miller, ed., *Treaties and Other International Acts of the United States of America*, vol. IV, 451.

[349] Ibid, 452-453.

[350] Ibid, 453.

[351] Ibid.

[352] Ibid.

self-defence. His apology for the breach and the failure on the part of the British to apologise and explain the incident in these terms in 1837 was accepted by Webster and the Tyler Administration.

The above case represents the manner by which just war grammar was utilised by state actors in order to solve a conflict which occurred in the period of *realpolitik* behaviours. Both the United States and the United Kingdom engaged in prudential calculus which discounted just behaviour for the benefit of the state. The Van Buren Administration failed to prevent US citizens from aiding foreign sedition as the Canadian rebellion held the potential of benefiting the United States. As the Monroe Doctrine opposed the European colonisation of the Americas, the Canadian rebellion offered a chance at removing the United Kingdom from the northern border. This would have solidified the American northern defence and offered a future possibility of northern expansion into Canadian territory should their military defences prove insufficient to repel the United States army. As such, the Administration's failure to impede private citizens in aiding rebellion forces, while at the same time acknowledging the judiciary's unlikelihood of successfully prosecuting US offenders, can be envisioned under the nineteenth century *realpolitik* prevalent in national interest mentalities.[353]

Similarly, the British use of force in American territory held a deeply prudential calculus. On one hand, the action opened the possibility of war between the United States and the United Kingdom, as the ship was docked in a neutral US port. On the other hand, the destruction of the Caroline could have prevented a successful assault on British territory by Canadian rebels. The guiding *realpolitik* of the era insisted the protection of the state at all costs; therefore, the destruction of the Caroline was a calculated engagement of national self-defence. Given that the US army had been engaged in conflict against the Seminoles in Florida at the time of the incident, the likelihood of a military rebuttal by the Americans was relatively low. In fact, a prudential consideration of President Van Buren leaning against a military response was in large part due to the Floridian engagement, coupled with domestic political and economic factors that were largely against war on the northern border.[354]

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[353] Jones, "The Caroline Affair," 487.
[354] Jones, "The Caroline Affair," 487-488.

The emergence of just war grammar in the Webster-Ashburton exchanges highlights the placement of the tradition in this period as a means of protecting the nation when confronted with the failure of *realpolitik*. Secretary Webster's conditions of imminence as a metric for the destruction of the Caroline allowed the US to de-escalate tensions between the British and themselves. The United States' demands for reparations were in part an effort to appease the general public in New York and the media, both of whom were gearing for war at the time of the incident.[355] These demands could not be walked-back without a definitive reason. Similarly, if the British Government acknowledged wrongdoing on the part of their Naval forces, it would either open themselves to war or open their officers to judicial punishment in New York. The maintenance of innocence was a double necessity. In conveying a just war metric of imminence and self-defence as a necessity for the use of force, morally sound justice could appease both nations and opened the door for future discussions on other border disputes. As such, the emergence of just war grammar in the period remained limited to a defensive justice in the national interest, rather than a guiding force of moral wisdom.

Concluding Remarks

This chapter has sought to take note of the moral-political discourse of the nineteenth and early twentieth centuries. As Enlightenment thinkers moved toward realist interpretations of legal relations, moral considerations, which were previously used to justify the use of force, were replaced with *realpolitik*. Thus, the just war tradition was diminished in the post-Enlightenment era which followed.

Emer de Vattel marketed the concerns of Enlightenment thinkers with his science of the law approach. His justification of preventive action in national defence lacked true concern for the limits of justice, particularly the possibility that justice may be held by the other side. His only limitation was the question of the efficacy of state intelligence in producing a right reason for aggressive defence. Yet this limit could be prudentially ignored and create an inconsistency of moral application. Vattel's

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[355] Jones, "The Caroline Affair," 492-493, 500.

movement of grammar away from deontological issues and toward prudential concerns showcases the diminishment of influence of the just war tradition in the period.

By the nineteenth and early twentieth centuries, instances of violence withheld concern for moral reasoning and allowed for the spread of greater atrocity, which ultimately defined the period. Power politics became a fundamental principle for state actors in achieving the requirements of national interest, which was particularly visible in terms of Nazi Germany. The simple fact that the holocaust during the Second World War could be enacted at all demonstrates the dangers of *realpolitik* if left without checks by moral wisdom on definitions of justice.

The example of the Caroline Affair presented in this chapter highlights the limited existence of just war thought in the period. Daniel Webster's definition of imminence both marked a defence of US sovereignty against flagrant British disrespect, but equally provided a measure of cover for American inaction against support for seditious activity abroad by US citizens. By changing the focus of wrongdoing to a discussion of imminence, the US instructed the grammar of the debate to embrace just war calculus rather than *realpolitik*. The defence by Webster set the terms for the renewed debate and gained a recovery of honour from the British acknowledgement of their wrongful breach of US sovereignty, while justifying the destruction of the Caroline itself. In essence, this use of just war to defend the national interest in a time of *realpolitik* further solidified the political application of the tradition and the end of the pastoral correction as originally envisioned.

Following the above discussion of the diminished just war thought in the post-Enlightenment period, the next chapter will look at the re-emergence of moral engagement around the use of force. This re-emergence erupted from the propensity for unchecked violence and the gross violations of human rights exhibited during the above period which resulted in two World Wars. The post-war reconstruction of the international community ultimately infused elements of the just war criteria into international legalism, while scholars began to debate the moral implications of nuclear weapons and proxy-wars which dominated the new era. The implications of this re-emergence will be discussed in the next chapter.

Chapter Four

The Modern Tradition

Introduction

After the atrocities of the Second World War, where nationalist visions outweighed established moral limitations on the use of force, the international community integrated, whether intentionally or not, elements of the just war tradition into post-war reconstruction. Within the Geneva Conventions, and subsequent protocols over the next few decades, *in bello* considerations such as non-combatant immunity and proportionality, especially relating to the disproportional use of weapons of mass destruction, were implemented. While within the United Nations Charter, *ad bellum* elements of just cause, right authority, and the aim of peace, among others, can be found.[356]

As the Cold War progressed across the twentieth century, the just war tradition progressed along two strands of thought. On one hand, the just war tradition conveys the interpretation that force exists as a tool of good governance in the hands of a just state (strand one). On the other hand, the tradition is envisioned as arising from a presumption against the use of force (strand two). While these two patterns of thought are not purely distinctive from one another, as the conclusion of this chapter will show, they represent the broader thought patterns of the modern tradition and highlight the difficulties faced by the tradition in the twenty-first century. The diverging strands above may be observed when comparing the work of Michael Walzer and the writings of the United States Conference of Catholic Bishops.[357]

This chapter seeks to show how the modern tradition addresses contemporary issues relating to war and peace. Furthermore, this chapter seeks to analyse whether or not the modern strands of just war are capable of guiding decision-makers, or if they succumb to political interests like the historical tradition. This will be shown in three

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[356] See especially, *Charter of the United Nations*, 2(4) (just cause), 44 and 51 (right authority), 39 (aim of peace).

[357] Here I am not necessarily imposing a secular-religious dichotomy, as Walzer is considered a secular author and the USCCB are a religious organization, but rather as a demonstration of two distinct strands; the nature of their respective religiosity is not on focus, as both express positions on secular affairs that utilise established grammar found within both secular and non-secular just war thought.

sections. The sections will highlight the two strands of the modern tradition through the works of Michael Walzer and the USCCB, with commentary from James Turner Johnson and others. This exploration will not be all-encompassing, rather it will seek to highlight the dualistic nature of the modern tradition and present certain difficulties which the tradition must overcome.

Section One will begin by discussing Michael Walzer and strand one which demonstrates a vision that continues the political-oriented paradigm witnessed in the previous chapters. Section Two will then discuss strand two of the modern tradition within the writings of the USCCB and demonstrate how this strand seeks to buck the trend of the historical tradition by limiting the overall allowance of the use of force. Section Three will offer an example of the disparity found between the two strands through the criterion of last resort, of which has been shown to negatively impact the level of consistency in contemporary uses of the tradition.

4.1: Strand One: War as a Tool of the State

Michael Walzer is considered by many to be one of the most important modern scholars concerning the just war tradition.[358] His utilization of specific terms, such as "theory of aggression" and "war convention", illustrate an influence from international political and legal temperaments of war and are used to characterise the *ad bellum* and *in bello* in a fashion consistent with twentieth century politics.[359] What separates Walzer from other articulations on just war is the fact that he does not begin his just war assumptions from a presumption against the use of force. Rather, Walzer views war as a potential force for good in a state-centric paradigm.[360] As Ian Atack notes, Walzer envisions a state's legitimacy as dependent upon "its capacity to defend the rights of the individual citizens or persons it claims to represent."[361]

Walzer organises his just war approach around what he calls the "legalist paradigm" which locates just war in international law.[362] This framework holds six main

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[358] Johnson, *The War to Oust Saddam Hussein*, 32.
[359] Ibid, 33.
[360] Ibid.
[361] Ian Atack, *The Ethics of Peace and War: From State Security to World Community* (Edinburgh: Edinburgh University Press, 2005), 66.
[362] Walzer, *Just and Unjust Wars*, Fourth ed., 58-63.

assumptions: there exists an international society of independent states; members possess territorial integrity and political sovereignty; the use of force or imminent threat of force is a criminal aggression; violence is justified in self-defence or as a means of law enforcement; nothing but aggression justifies war; and aggressors may be repelled militarily and punished for aggression.[363] The legalist paradigm maintains that "states may use military force in the face of threats of war, whenever the failure to do so would seriously risk their territorial integrity or political independence".[364] This allows for the potential pre-emptive usage of military force, though very much limited to present imminence, and not reliant on past behaviour or potential future action.[365] As an example, Walzer cites the Israeli usage of first-strike capabilities in the Six-Day War of 1967 as "an intense fear [had] spread in the country" which justified pre-emptive defence.[366]

Walzer allows for infringements on state sovereignty with wars justly begun "to rescue peoples threatened with massacre".[367] Those who seek to interfere within the borders of another state must do so only as a response to acts that "shock the moral conscience of mankind".[368] James Turner Johnson considers the cases of Somalia, Bosnia, Rwanda, and Kosovo in the 1990s as applicable to Walzer's position.[369]

Walzer contends that a state's legitimacy "depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile."[370] Therefore, the proper usage of force aligns with the protection of the citizenry, with states who violate this protection clause constituting an unjust aggression on the populace and breaking the social contract which underlies their sovereignty. If this occurs, the ability for others to intervene is weighted against 'the greater evil' of continued suffering.[371]

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[363] See: Walzer, *Just and Unjust Wars*, Fourth ed., 61-63.

[364] Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Fifth ed. (New York: Basic Books, 2015), 84.

[365] Ibid, 80-81.

[366] Ibid, 84.; See generally: Ibid, 81-85.

[367] Ibid, 108.

[368] Ibid, 107.

[369] Johnson, *The War to Oust Saddam Hussein*, 33.

[370] Walzer, *Just and Unjust Wars*, Fifth ed., 54.

[371] Brian Orend, "Michael Walzer on Resorting to Force," *Canadian Journal of Political Science* 33, no. 3 (2000): 529-530, doi: 10.1017/S0008423900000184.

For outside forces to legally intervene under this model, the regime in question must have committed egregious acts which require the intervention of others to protect against injustice. As Walzer notes, "[p]eople who initiate massacres lose their right to participate in the normal . . . processes of domestic self-determination. The military defeat is morally necessary".[372] In this, the necessary action of outside forces must be to aid in the self-determination of the ailing populace against unjust powers and, therefore, the duty of those who intervene must be on behalf of the populace and not the unjust authority. As such, the act of intervention by other states becomes a weapon of self-governance in the sense that the intervening party opens the door for the populace to rebuild the state under a new, self-guided authority.

Beyond intervention, in his fourth edition of *Just and Unjust Wars* (2006), Walzer makes note of the modern necessity of collective security:

> If measures short of war are to work against evil or dangerous regimes, they have to be the common work of a group of nations. They require multilateral commitment.[373]

Collective security has the capacity to engage with aggressive states, or potentially aggressive states, with what he calls "measures short of war".[374] These include embargos, no-fly zones, and "smart sanctions", which are designed to be "morally as well as politically smart".[375]

What the above points entail are foundational elements of a strand of the just war tradition which encapsulates the historical trend of the tradition to bend moral wisdom to political desires. Walzer notes the capacity for an authority to engage in pre-emptive strikes when it is prudent to do so for the sake of the state.[376] The sixteenth century writer Alberico Gentili concurs with this assessment insofar as it is a state's right to utilise armed force when grounded on a basis of "just fear", or in Gentili's words: "the fear of a greater evil, a fear which might properly be felt even by a man of great courage".[377] However, Gregory Reichberg charges this position as less a deontological

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[372] Walzer, *Just and Unjust Wars*, Fifth ed., 106.
[373] Walzer, *Just and Unjust Wars*, Fourth ed., xiv.
[374] Ibid, xiv.
[375] Ibid, xiv, xvii.
[376] Walzer, *Just and Unjust Wars*, Fifth ed., 80-85, esp. 84-85.
[377] Gentili, *De Iure Belli Libri Tres*, vol. 2, 62.

position and instead more similar to attitudes of political realism.[378] In any case, the organisation of Walzer's paradigm as legalism and the necessity of bending to state sovereignty, of which protects the political interests of state entities, highlights the capitulation of this just war strand to political will. This is particularly apparent in the fact that the base assumption of the strand is that war is a tool of the state.

4.2: Strand Two: A Presumption Against War

In contrast to Walzer's iteration lies the vision of just war described by the United States Conference of Catholic Bishops. The year 1983 saw the American bishops issue *The Challenge of Peace* which outlined their view of just war in relation to the nuclear age.[379] Here the USCCB defined just war as beginning with a "presumption against war".[380] Similarly, Ian Atack describes the tradition as grounded in a base understanding of a "presumption against the use of armed force", while Gary D. Brown has asserted a vision of "a presumption in favor of peace".[381] At the time of the Iraq invasion debate, former US President Jimmy Carter (1977-1981) concurred with this understanding of the tradition in his opinion editorial against the proposed military intervention penned in 2003.[382] John Paul II highlighted this assessment of the tradition in his claim that "war is never inevitable and it is always a defeat for the human race", a distinction Niall O'Brien notes lends toward a humanist peacebuilding.[383] However, James Turner Johnson has criticised this articulation as mapping the just war tradition to exist only to "provide exceptions to the general rule of avoidance of armed force", and thus negating the potential for war as a necessary tool of justice.[384] Johnson therefore contends that the

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[378] Reichberg, "Preventive War in Classical Just War Theory," 34.

[379] Prior to the 2001 merger, today's USCCB was divided between the National Conference of Catholic Bishops (NCCB) and the United States Catholic Conference (USCC). The 1983 *The Challenge of Peace* as well as the 1993 *The Harvest of Justice is Sown in Peace* documents were issued by the NCCB. For the purpose of continuity between chapters, the title USCCB will be used in relation to the NCCB within body and footnote texts, with the exception of citations, where the proper NCCB will be used.

[380] National Conference of Catholic Bishops, *The Challenge of Peace: God's Promise and Our Response: A Pastoral Letter on War and Peace, May 3, 1983*, (Washington, D.C.: United States Catholic Conference, 1984), iii.

[381] Atack, *The Ethics of Peace and War*, 72.; Gary D. Brown, "Proportionality and Just War," *Journal of Military Ethics* 2, no. 3 (2003): 173, doi: 10.1080/15027570310000667.

[382] Jimmy Carter, "Just War—or a Just War?" *The New York Times*, 9 March 2003, https://www.nytimes.com/2003/03/09/opinion/just-war-or-a-just-war.html.

[383] Niall O'Brien, "War: The Moral Issue," *The Furrow* 54, no. 10 (2003): 532, https://www.jstor.org/stable/27664818.

[384] Johnson, *The War to Oust Saddam Hussein*, 17.

USCCB presumption against war runs counter to a more classical iteration of the tradition. This is aggregable so long as classical equates to historical.

A central position within the presumption against war model relates to the criterion of last resort. While the bishops allow for the internationally recognised right of self-defence against acts of aggression, *The Challenge of Peace* maintains: "For resort to war to be justified, all peaceful alternatives must have been exhausted".[385] This requires continued attempts at nonviolent methods for conflict resolution, such as diplomatic negotiations. Johnson rejects this as ultimately pacifist language, as there can never be a state in which all alternatives have been exhausted since new peaceful alternatives may eventually be found.[386] Brian Orend agrees, claiming that last resort is not meant to be considered a "literal last-ness", rather a relative last-ness that accounts for context: the gravity of the threat, actions taken by the aggressor, and the capabilities of the victim and its allies.[387] In this manner, last resort remains tied to what is reasonable, with reasonable defined as questioning if "not resorting to force [will] lead to unreasonable, unacceptable, [or] unjust consequences".[388]

Johnson similarly contends that rather than relying on exhaustibility to observe the last resort criteria, a more meaningful approach would contend "that a broad range of nonmilitary alternatives must be carefully thought through, and any genuinely promising ones must have been tried and failed to produce the desired result".[389] This approach, of which complies with strand one thinking, may be considered different as it limits alternatives to those which have been determined as practical by prudential calculations of success, rather than maintaining a perpetuality of avoiding war for the sake of potentially ingenuine limitations. However, this view promotes a reliance on prudential calculus based upon state objectives. Alternatively, the last resort considerations of strand two remain focused on fulfilling all possible non-military measures of justice before the enaction of military means.

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[385] National Conference of Catholic Bishops, *The Challenge of Peace*, 23, 30.
[386] Johnson, *The War to Oust Saddam Hussein*, 58.
[387] Brian Orend, *War and Political Theory* (Cambridge: Polity Press, 2019), 87.; Walzer, *Just and Unjust Wars*, Fifth ed., xiv, 258-259.
[388] Orend, *War and Political Theory*, 87.
[389] Johnson, *The War to Oust Saddam Hussein*, 58.

J. Bryan Hehir notes that the just war tradition seeks to "restrain resort to force", whereby it begins "with a presumption against it, then places the burden of proof on the actor who seeks to legitimate the use of force as a valid exception to the presumption".[390] The last resort criterion exists not only to limit the enactment of war and the spread of unnecessary violence, but to reinforce individual rights and international justice. This remains particularly pertinent within cases of intervention. Hehir acknowledges the modern tradition upholds the Westphalian wisdom, that is, "the ethic should protect the presumption of nonintervention".[391] Episodes of great tragedy, such as genocide, remain exceptions to non-intervention. However, it is a test of last resort which requires "political prior to military means of resisting injustice".[392] Exhausting the last resort criterion with non-military actions protects the rights held by states within international justice against unwarranted intervention, while at the same time creating an enhancement to the cause of justice of those who ultimately intervene against grave harm.

A further contention with which Johnson takes aim, is the failure of the American bishops to include the criterion of the aim of peace in *The Challenge of Peace*. He muses that this is due to the bishops' understanding that the tradition begins with a presumption against war, whereby war is always something negative and therefore "it is conceptually impossible to represent it as a way to peace".[393] Johnson argues that this position goes against a fundamental assumption of the tradition, for which Augustine claims "We do not seek peace in order to be at war, but we go to war that we may have peace".[394] Yet the bishops did not claim that war may never bring peace, only that war may only commence once non-violent means of justice have failed. This is a limitation on the use of force, not a universal prohibition.

Despite the above critiques, the USCCB maintains elements of the just war tradition of which Johnson and others may understand. With regards to nuclear weapons, the bishops rejected the "city-busting" strategy inherent in their use as

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[390] J. Bryan Hehir, "Expanding Military Intervention: Promise or Peril," *Social Research* 62, no. 1 (1995): 46-47, https://www.jstor.org/stable/40971075.

[391] Ibid, 47.

[392] J. Bryan Hehir, "Just War Theory in a Post-Cold War World," *The Journal of Religious Ethics* 20, no. 2 (1992): 253, https://www.jstor.org/stable/40015155.

[393] Johnson, *The War to Oust Saddam Hussein*, 29.

[394] Augustine, "Letter 189 to Boniface," quoted in Johnson, *The War to Oust Saddam Hussein*, 29.

indiscriminate.[395] They opposed nuclear first strike on prudential grounds and exhibited a strong scepticism toward nuclear deterrence. Yet, they did not rule out a limited deterrence as a means of self-defence.

Deterrence could be considered acceptable if: it was limited to deterring nuclear use and did not involve nuclear-war fighting strategies; sufficiency, not nuclear superiority, was the goal; and deterrence was a step toward progressive disarmament.[396] If these points were met, an interim ethic permitted limited deterrence in the short- to mid-term, within the overall long-term goal of a global ban on nuclear weapons. As Cardinal Cormac Murphy-O'Connor argued in an article with the London *Times*,

> There are occasions when a short-term response to an imminent threat serves an important preventive purpose. However, the problems of our planet cannot be solved by unilateral military action alone.[397]

As *The Challenge of Peace* was in part a response to the nuclear deterrence strategies of the Reagan Administration (1981-1989), who sought to use the Strategic Defense Initiative (SDI) programme in a long-term brinkmanship with the Soviet Union, the limited allowance of defensive deterrence coupled with a long-term global nuclear disarmament was a resounding critique of SDI and Cold War era politics.

The above allowance of nuclear weapons acknowledges the overarching ambition of nuclear disarmament. The presumption against war position maintains nuclear weapons *as a card* in diplomacy insofar as the possession of said weapons can ultimately aid in bringing opposing states to the negotiating table. There is an inherent lack of usability risk in this regard, of which cannot be said in such visions in which war remains a tool of statecraft. Michael Walzer has rejected nuclear weapons in respect of their potential usability arguing that "nuclear weapons are politically and militarily

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[395] Gerard F. Powers, "Catholic Approaches to Security and Peace," in *The Routledge Handbook of Religion and Security*, eds. Chris Seiple, et al. (New York: Routledge, 2013), 40.; Gerard F. Powers, "The U.S. Bishops and War since the Peace Pastoral," *U.S. Catholic Historian* 27, no. 2 (2009): 75, doi: 10.1353/cht.0.0006. (73-96)

[396] Powers, "The U.S. Bishops and War since the Peace Pastoral," 76.

[397] Cormac Murphy-O'Connor, "The Standards by Which War with Iraq Must Be Judged," *National Catholic Reporter*, 18 September 2002, https://natcath.org/NCR_Online/documents/murphyoconnorarticle.htm.; Cf. Cardinal Murphy O'Connor, "The Standards by Which War with Iraq must be Judged," *The Times, London*, 5 September 2002.

unusable only because and insofar as we can plausibly threaten to use them in some ultimate way".[398] In statecraft which presumes war to be a tool of good governance, all aspects of the tool must be on the table. Therefore, the threat of nuclear weapons in deterrence, or even in a limited-use capacity, becomes an unknown factor which cannot be understood even by ourselves.[399] If nuclear weapons were not explicitly denied within the first strand, the potential for these weapons to appear in international conflict would dramatically rise. By contrast, the inherent danger of nuclear weapons themselves creates an inherent presumption against their deployment by second strand thinkers. The USCCB assumes that weapons of this kind may be held in the near-term to affect long-term denuclearisation without the risk of their usage, so long as the use of force is measured through proportional means. These positions, therefore, contrast one another based on their likelihood of usage, rather than on the overarching morality of nuclear weapons themselves.

Beyond nuclear weapons, but in relation to the application of weapons as policy, we turn to John Paul II in 1992 when he argued: "Today the scale and horror of modern warfare—whether nuclear or not—make it totally unacceptable as a means of settling differences between nations".[400] This aligns with the American bishops insofar as it rejects the usage of weapons as a means of statecraft. John Paul reiterates a foundational understanding of the presumption against war strand whereby warfare is a last resort, a defensive measure, and not a tool of good governance. This claim was made a decade after the Falklands War between the United Kingdom and Argentina, where military engagement was used to produce desired domestic and foreign policy results.[401]

This opposition to the use of force in statecraft has been deeply criticised by Johnson as "invalid".[402] Johnson argues this scepticism toward the utilisation of force

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[398] Walzer, *Just and Unjust Wars*, Fifth ed., 277.

[399] Ibid, 281.

[400] John Paul II, "Homily of John Paul II, Solemnity of Pentecost," *Libreria Editrice Vaticana*, 30 May 1982, http://www.vatican.va/content/john-paul-ii/en/homilies/1982/documents/hf_jp-ii_hom_19820530_coventry.html. [emphasis in original].

[401] See: Peter J. Beck, "Britain's Antarctic Dimension," *International Affairs* 59, no. 3 (1983): 429-444, doi: 10.2307/2618796.; Brian Lai and Dan Reiter, "Rally 'Round the Union Jack? Public Opinion and the Use of Force in the United Kingdom, 1948-2001," *International Studies Quarterly* 49, no. 2 (2005): 255-272, doi: 10.1111/j.0020-8833.2005.00344.x.

[402] James Turner Johnson, "Threats, Values, and Defense: Does Defense of Values by Force Remain a Moral Possibility?" *Parameters* 15, no. 1 (1985): 20.

amounted to a "functional pacifism" which emasculated the just war tradition.[403]
Johnson notes:

> circumstances may come into being in human history in which the use of force,
> at appropriate levels and discriminatingly directed, may be the morally
> preferable means for the protection and preservation of values. In forgetting or
> ignoring this, sometimes in the name of ostensibly moral considerations, those
> who would reject such a use of force are in fact choosing a less moral course than
> the one historically given form in the tradition which says that just war must also
> be limited war.[404]

In a seemingly pointed reply to the American bishops and *The Challenge of Peace*,
Johnson argues:

> Who could want a nuclear holocaust? Yet the effort to avoid such a catastrophe
> is not itself justification for rejection of the possibility that lower levels of force
> may justifiably be employed to protect value.[405]

Johnson maintains that the denial of force based on the destructive nature of modern
weapons remains a dangerous distortion of the guiding essence of the tradition. For
Johnson, the purpose of the tradition is to guide, not inhibit, state functions.

However, the vision of the tradition expressed by the American bishops does not
reject the possibility for the use of force in the contemporary era. Instead, the strand
reinforces a commitment against unnecessary uses of violence through strict adherence
to the last resort and aim of peace criteria. This does not make light of the overwhelming
fear relating to nuclear holocaust, rather the greater attention given to the last resort
criterion seeks to limit any potential breach of international peace which may accelerate
toward nuclear weapons. This view is present within the articulations by the bishops
surrounding the concept of intervention.

In *The Harvest of Justice*, the American bishops claimed that the United States
had a "special responsibility" to play a leading role in building a new system of global
"cooperative security".[406] Equally so, John Paul II argued that it was not only a right but

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[403] James Turner Johnson, "Just War, As It Was and Is," *First Things* 149 (2005): 14-24.; George Weigel, "The Just War Tradition and the World After September 11th," *Catholic University Law Review* 51, no. 3 (2002): 689-714.; Powers, "The U.S. Bishops and War since the Peace Pastoral," 81.

[404] Johnson, "Threats, Values, and Defense," 16.

[405] Ibid, 20.

[406] National Conference of Catholic Bishops, "The Harvest of Justice is Sown in Peace," *United States Conference of Catholic Bishops*, 17 November 1993, http://www.usccb.org/beliefs-and-teachings/what-we-believe/catholic-social-teaching/the-harvest-of-justice-is-sown-in-peace.cfm.

a duty of states to intervene in foreign affairs in order to disarm an aggressor when "the survival of peoples and whole ethnic groups" has been compromised.[407] This understanding of power implies a more human-centric vision of the world, rather than the state-centric vision associated with strand one. For while in *The Harvest of Justice* the bishops reiterate the teaching of the Church in which sovereignty and non-intervention are crucial to international peace, they equally claim these are not absolute norms. The bishops note that "military intervention may sometimes be justified . . . to ensure that starving children can be fed or that whole populations will not be slaughtered".[408] The bishops therefore unified intervention with the "broader effort to strengthen international law and the international community", rather than to the inherent right of sovereignty of Westphalian international relations.[409]

Yet despite their support for necessary interventions in extreme circumstances, the American bishops would later criticise the implementation of these actions. The bishops called upon intervening states to provide "safe havens" to those most vulnerable in a conflict, while additionally rejecting the use of bombing campaigns due to their inherent risk of increased aggression.[410] This position directly contrasts elements of Michael Walzer's "measures short of war" in support of military force as a tool of the state.[411] This results from the view taken by the bishops that airstrikes remain indiscriminate and are opposed to the human-centric mission of the just war tradition.

The presumption against war strand of the modern just war tradition begins with an understanding that war is not inevitable. The use of force must meet the tested criteria of the tradition to override this presumption. Ultimately, as noted in this section, strand two does not rule out the use of force, of which the USCCB has indicated in their visions of intervention, but requires the execution of force to remain aligned with a human-centric vision of the just war tradition.

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[407] John Paul II, "Opening of the International Conference on Nutrition: Address of His Holiness Pope John Paul II," *Libreria Editrice Vaticana*, 5 December 1992, http://www.vatican.va/content/john-paul-ii/en/speeches/1992/december/documents/hf_jp-ii_spe_19921205_conference-on-nutrition.html.; Pontifical Council for Justice and Peace, *Compendium of The Social Doctrine of the Church*, 217-219.

[408] National Conference of Catholic Bishops, "The Harvest of Justice is Sown in Peace."

[409] Ibid.; Powers, "The U.S. Bishops and War since the Peace Pastoral," 82-83.

[410] Powers, "The U.S. Bishops and War since the Peace Pastoral," 84; Joseph A. Fiorenza, "Statement on Crisis in Kosovo," *United States Conference of Catholic Bishops*, 24 March 1999, http://www.usccb.org/issues-and-action/human-life-and-dignity/global-issues/europe/kosovo/statement-on-crisis-in-kosovo-by-bishop-fiorenza-1999-03-24.cfm.

[411] Walzer, *Just and Unjust Wars*, Fourth ed., xiv.

4.3: Modern Implications

The disparity in last resort between the two strands of modern just war critically impacts the tradition's ability to uniformly guide political decision-making. As noted previously, the just war tradition remains the framework and grammar through which the United States debates the use of force.[412] When making the case for war in Iraq, the Bush Administration approached their justification in a just war manner. Similar grammar was utilised by states who opposed the war, such as France, Germany, and the Holy See, where questions related to authority, cause, and intention were referenced. This division within just war persists today with the Trump Administration's arguments against Iran. While President Trump's efforts to shape geo-politics has strayed towards expressions of *realpolitik*, the Administration has continued the historic engagement of the just war tradition in the presentation of their opposition to Iran. This remains clear both in the grammar used in articulating Administration policy and in outright expressions claiming "moral clarity" in sanctioned publications.[413]

In May 2018, the Trump Administration withdrew from the Joint Comprehensive Plan of Action (Iran Nuclear Deal) citing the agreement "failed to guarantee the safety of the American people from the risk created by the leaders of the Islamic Republic of Iran".[414] Later that year, Secretary of State Michael Pompeo (2018-Present) described North Korea and Iran as "chief among the outlaw regimes", thereby mirroring the 'axis of evil' designation instilled by President Bush in 2002.[415] Pompeo noted the Administration's ambition to block the Iranian nuclear programme and effect behavioural changes in the ruling regime, another element of the Bush Administration's blueprint on Iraq.[416]

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[412] Totten, *First Strike*, 80.

[413] Michael R. Pompeo, "Confronting Iran: The Trump Administration's Strategy," *Foreign Affairs* 97, no. 6 (2018): 70, https://www.foreignaffairs.com/articles/middle-east/2018-10-15/michael-pompeo-secretary-of-state-on-confronting-iran.

[414] Michael R. Pompeo, "After the Deal: A New Iran Strategy," *U.S. Department of State*, 21 May 2018, https://www.state.gov/after-the-deal-a-new-iran-strategy/.; Kulsoom Belal, "Uncertainty over the Joint Comprehensive Plan of Action: Iran, the European Union and the United States," *Policy Perspectives* 16, no. 1 (2019): 23, https://www.jstor.org/stable/10.13169/polipers16.1.0023.

[415] Pompeo, "Confronting Iran," 60.; George W. Bush, "President Delivers State of the Union Address," *The White House*, 29 January 2002, https://georgewbush-whitehouse-archives.gov/news/releases/2002/01/20020129-11.html.

[416] Pompeo, "Confronting Iran," 65-66, 70.

The State Department report *Outlaw Regime: A Chronicle of Iran's Destructive Activities* showcased the presence of just war logic within the Administration by highlighting the just causes of reintroducing economic sanctions: the facilitation and active participation in global terrorist activity (Ch. 1), the illicit activities of the regime (Ch. 3), the threat to maritime security in the Persian Gulf (Ch. 4), and various breaches of human rights (Ch. 6).[417] Secretary Pompeo contended that these just causes required action which exceeded the arrangement negotiated by the Obama Administration (2009-2017) under the Iran Nuclear Deal and that the Deal was "deeply counterproductive" in protecting American interests.[418] In an echo of President Bush, Trump argued that "America will not be held hostage to nuclear blackmail" and therefore greater action was required.[419]

The January 2020 assassination of General Soleimani by the US military demonstrates the prevalence of the use of force under the just war tradition. In this instance, the Administration calculated the dangers posed by the General and justified the targeted killing of a foreign military leader on foreign soil under the grammar of self-defence. This strike contrasts the position taken by Trump's predecessor, President Obama, and his European allies who sought to avoid military conflict through a negotiated settlement. The dangers of geo-political interests, such as the proximity of Israel to Iran, made exhaustive last-ness paramount.[420] Therefore, in negotiating the Iran Nuclear Deal, there remained an overarching presence of a presumption against the use of military force. This showcases a disparity in the provision of last resort since the Trump Administration argued an end to alternatives, while Europe continues to assert that alternatives remain.

This example showcases the continued and relevant tensions present within the modern just war tradition. On one hand, the use of force relative to Iran was averted by the Obama Administration and its European allies in favour of a negotiated settlement

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[417] Iran Action Group, "Outlaw Regime: A Chronicle of Iran's Destructive Activities," *U.S. Department of State*, 25 September 2018, https://www.state.gov/wp-content/uploads/2018/12/Iran-Report.pdf.

[418] Pompeo, "Confronting Iran," 60-61; 62.

[419] Donald Trump, "Remarks by President Trump on the Joint Comprehensive Plan of Action," *The White House*, 8 May 2018, https://www.whitehouse.gov/briefings-statements/remarks-president-trump-joint-comprehensive-plan-action/.

[420] Isabel Kershner, "Iran Deal Denounced by Netanyahu as 'Historic Mistake'," *The New York Times*, 14 July 2015, https://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-israel.html.

to avoid unnecessary human suffering from modern weapons of war, notwithstanding the disproportionate power dynamics between the negotiating partners. The presence of a presumption against the use of force narrative on the part of Obama and his allies remains underscored by their exhaustive approach to last resort. The United States could have chosen a pathway reminiscent of the invasion of Iraq, contending the dangers posed by a nuclear Iran outweighed the negatives of war. However, President Obama and his European counterparts resorted first to alternative means of de-escalation, despite Israeli protest, as non-violent routes remained open under Iranian President Hassan Rouhani (2013-Present). The devotion to exhaustive last-ness may be best shown following the Trump Administration's de-certification of the Iran Nuclear Deal, where the remaining signatories pressed to maintain the agreement in an effort to avoid military conflict.[421] On the other hand, force is utilised by the Trump Administration as a means of national defence and the achievement of policy goals. In this latter case, relative rather than exhaustive last-ness has produced an outcome within the Trump Administration favouring the use of force reminiscent of Bush in 2003, rather than pressing for an alternative means of settlement.

Concluding Remarks

This chapter has sought to present a short mapping of the inconsistencies of the contemporary just war tradition. The disparities witnessed in the chapter are not an exhaustive list, rather they are indicative of a wider divergence in the tradition which has impacted events like the Iraq invasion debate. The tensions within the modern tradition have inhibited the creation of a coherent picture of moral wisdom which could have been used as a guide for political decision-making since the Second World War. For example, the disparities within just war thought in the case of Iraq, to be shown in Part Two, indicate an episode of divergence between the US and parts of Europe in relation to the use of force at a time when non-military means remained unexhausted. The two visions of the tradition have followed paths which have embroiled differing positions on the meaning of last resort. These trends have conditioned the administration of just war grammar, leading to broader disparities in classifying modern just wars.

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[421] Belal, "Uncertainty over the Joint Comprehensive Plan of Action," 29.

The strand of just war which has developed under the condition that war remains a tool of the state offers a vision of just war which follows the historical model in conjoining moral wisdom with political decision-making. This strand envisions the use of force as a kind of tool which may be employed by the just state to defend its interests and its populace. The strand works within the modern, Westphalian system whereby states have sovereignty over their own territory. Threats may be pre-empted if prudence requires, while the intervention in another territory mandates that the foreign sovereign has broken with the social contract on which the state's authority rests. This may occur only through acts that "shock the moral conscience of mankind", a high bar which Michael Walzer did not fully identify.[422] Ultimately, this vision of just war follows past iterations where the tradition has bent to meet political will rather than stand to test prudence through moral wisdom.

In contrast, the alternative strand of the modern tradition, which indicates a base presumption against the use of force, argues in favour of the exhaustion of non-military means. This vision does not ban the use of force outright, but rather offers the tradition's criteria as a benchmark which must be met in order to override the anti-war presumption. This strand has shown a preference for only allowing war for defensive reasons or for the purpose of intervening in tragedy where non-military options have been exhausted. Unlike strand one, this strand does not envision sovereignty as a deterrent for action. Rather, human-centric additions to the tradition claim that intervention is a "duty" for states who possess the capacity to aid against suffering.[423] This duty should commence with non-violent means of resolution before questions of forceful intervention are considered. Furthermore, this strand demonstrates a willingness to stand as a barrier against the misuse of moral authority by political ingenuity. However, this strand lacks the capacity to mitigate suffering at the hands of those armed with power and the moral vision of force as a weapon of justice. This is discussed further in Part Two within the context of the Iraq War debate from 2002-2003 and the contrasting vision between the United States and members of Europe.

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[422] Walzer, *Just and Unjust Wars*, Fifth ed., 107.; Johnson, *The War to Oust Saddam Hussein*, 33.
[423] John Paul II, "Address of His Holiness John Paul II to the Diplomatic Corps Accredited to the Holy See," *Libreria Editrice Vaticana*, 16 January 1993, http://www.vatican.va/content/john-paul-ii/en/speeches/1993/january/documents/hf_jp-ii_spe_19930116_corpo-diplomatico.html.

The implications of the disparity in just war strands remain wide reaching, least not in the continued inconsistency of the tradition's moral guidance. For example, since the two strands of the modern tradition significantly differ in their limitations of what constitutes last resort, the sources of just war thought utilised in forming political positions remains dependent upon the literature consulted. If consultation leans toward sources of permissible force, then the actions of political leaders will mirror the Trump Administration and their questionable military strike on Iran. If, however, the sources of the tradition presented to political leadership remain grounded in a presumption against the use of force, the outcome may mirror the refusal of France and Germany to accept a 2003 proposal for war in Iraq. What sources of just war are utilised remains divisive in the field, with the moral development of states playing a significant role. This will be highlighted further in Part Two.

Conclusion to Part One

Part One has sought to answer the question: how has the historical and modern just war tradition demonstrated inconsistencies relative to issues of politics, economics, and power? To answer this question, Part One employed four chapters ranging from historical cases of shifting eschatology to modern implementations of just war grammar in the enaction of political assassinations. The inconsistencies of the just war tradition remain firmly present in both the relationship between power and moral wisdom and in the modern conception of last resort and the general function of force.

The historical record of the just war tradition remains vast. Early Christian eschatological movements away from sectarianism and toward unity with the Empire birthed a tradition of moral wisdom which permitted the use of force for justice. Augustine's conditions for forced conversion were ultimately developed by later writers into a moral wisdom which engaged with political and economic desires rather than pastoral correction. For example, the medieval Church was considered justified in enacting the Crusades as a means of protecting Church lands from emerging local lords who wished to expand their personal wealth. However, by the sixteenth century, scholars deemed economic gains protected under just war. Spanish conquerors in the Americas were permitted under the tradition to utilise force to gain wealth. If the American natives stood against the expanse of European trade they were deemed unjust. Economics, therefore, was absolute in the Colonial period, while a less satisfactory cause less than five hundred years before.

Similarly, the tradition has taken conflicting positions on pre-emptive uses of force. Permissive action was conceded by various scholars in history including Alberico Gentili and Emer de Vattel. Both authors acknowledged the presence of just fear in allowing pre-emptive action. Daniel Webster would articulate this under the heading of imminence. However, Gentili's contemporaries in the Salamanca school saw the infliction of harm as a precursor for action. Likewise, Hugo Grotius in 1625 was clear that the greatest pre-emption a state may take is the enhancement of one's own

fortification.[424] These contrasting positions represent the conflicting character of just war. At times, prudential considerations funded a wealth of just war grammar permitting pre-emption, like with Gentili and Vattel. At other times, deontological concerns of moral wisdom expressed unwavering commitment to peace by preventing unprovoked violence. Grotius demonstrates this vision in the context of European holy wars.

The inconsistencies of the tradition continue within modern just war. Conflicting views on the use of force prevent a unified stance on warfare in the name of peace. Those who consider the use of force permissible under statecraft tend to reflect on the criterion of last resort as a solely prudential and supportive calculation, as indicated by Johnson in his writings on the Iraq War.[425] Contrastingly, those who possess a presumption against the use of force find last resort as encompassing an exhaustive last-ness, as envisioned by the United States Conference of Catholic Bishops. Brian Orend notes that the just war tradition has developed over "hundreds of years . . . from such diverse sources as religious writings, traditional practices, ethical values, political debates, and direct military experience".[426] However, as Part One has shown, this development from such a multitude of sources and for such a length of time has produced a tradition of moral wisdom that is as inconsistent as it is diverse. This inconsistency is ever present in the context of the Iraq invasion, a case to be discussed in Part Two.

Having understood the existence of these disparities within the singular just war tradition, Part Two will discuss the example of the Iraq invasion debate from 2002-2003 in order to define a context where the dangers of disparity have emerged. Within this discussion, not only is the inconsistent nature of just war exemplified but the tradition is shown to possess certain limitations in its modern application due to the origins of moral difference between the opposing actors. The diverging origins of moral wisdom to be discussed can be broadly applied to the United States and Europe due to historical experiences.

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[424] Reichberg, "Preventive War in Classical Just War Theory," 24.; Cf. Grotius, *On the Law of War and Peace*, 302.

[425] Johnson, *The War to Oust Saddam Hussein*, 35-38.

[426] Orend, *War and Political Theory*, 80.

Part Two: The Limitations of Just War

Transatlantic Moral Character and the Just War Tradition

Introduction to Part Two

As explored in Part One, the just war tradition possesses a particular relationship with political decision-making. The tradition has historically demonstrated a propensity to bend to power, with writers articulating a moral wisdom that justifies political and economic decisions rather than express a consistent custom of justice. Even with the advent of the modern two strand tradition, neither strand is capable of challenging the status quo political order with a more powerful moral discourse.

The Iraq War debate from 2002-2003 provides a contextual example of the issues surrounding the just war tradition. The arguments presented by the United States and its allies fall within the moral bounds of strand one of the modern tradition discussed in Chapter Four, while certain voices from Europe, particularly those of the Holy See, lend toward the moral presumptions of the second strand. The Iraq War example demonstrates the division present among the oft described homogenous West. This disparity in moral vision on the use of force represents a wider moral divergence among the transatlantic allies grounded in their respective historical relationship with war and peace. While the American providential mythos has tied the moral use of force with the power of the state, in Europe, where religious and politically motivated violence has held a strong historic prevalence, moral wisdom has generated a modern presumption toward non-military means.

Two primary factors have contributed to the transatlantic separation of the United States and Europe in this regard. The first is the relationship between religion and the state. The origins of European statehood involved the establishment of sovereignty as a protective implement from religious influence following centuries of confessional violence. The organisation of state religions as a branch of the sovereign further limited the undercutting influence that religion may possess over state affairs. This narrative differs significantly from that of the United States, where the separation of religion and state was established in order to prevent the government from favouring one religion over another.[427] Religious language has been visible within the United

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[427] Haller, *The Limits of Atlanticism*, 21.

States from the early days of the American Revolution to the presidency of George W. Bush, and onwards.

The second factor remains the essence of territory. The formation of European territory was "historically predetermined" by the common origin and history of those who lived within its borders.[428] This would come to have influence over the future rise of nationalism across the continent. In the United States, however, this style of belonging remains impossible as the origins of the vast majority of the American population remains historically linked to non-American roots. Such is the case with those who claim a distinct European heritage, yet are several generations removed from the motherland. As Anatol Lieven notes:

> the United States, lacking a feudal tradition and an aristocracy, also escaped violent social revolution, socialism, and most of the political forms and traditions that stemmed from these movements and collisions.[429]

Thus, the United States did not embark upon the violent struggle for power as was the case in Europe, and therefore, the rise of nationalism in the US contained religious components which aided in the protection of the social order. This becomes significant in the formation of American identity, which embraced a divinely inspired revision of national unity.

The Iraq War context of Part Two allows for the visible manifestation of this transatlantic moral divergence and demonstrates the present limitations of the just war tradition. Since neither the United States nor Europe shares a common moral vision on the use of force, a recovery of just war consistency remains impossible. From this understanding, Part Two seeks to answer the question: how have the inconsistencies present within just war thought converged with the historical development of the United States and Europe to form limitations on the contemporary use of the tradition? To accomplish this task, Part Two will employ four chapters.

Chapter Five will explore the arguments given by the United States in favour of the invasion. Early assertions by the Bush Administration provided much argumentation which maintained that the use of force against the Iraqi regime was necessary for the

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[428] Ibid, 20.
[429] Anatol Lieven, *America Right or Wrong: An Anatomy of American Nationalism*, 2nd ed. (Oxford: Oxford University Press, 2012), 18.

insurance of international peace. These justifications, while not inherently focused on complying with just war principles, were nevertheless in the spirit and language of the tradition. For as James Turner Johnson contends, "[m]odern international law is one of the bearers of this tradition".[430] Therefore, it is a suitable exercise to analyse the Administration's justifications in light of the just war tradition.

Chapter Six will explore the millennialist influence on the moral discourse of the United States. The influence of Puritan settlers in New England brought forth an apocalyptic vision of history which impressed an eschatological discourse of exceptionalism into the politics of the early United States. This moral compass has remained within the American political discourse since the colonial period and has attained great prominence in the neoconservative agenda which influenced the Bush Administration. This chapter will discuss the origins of American millennialism and the influence of apocalyptic belief on the neoconservative-led use of just war grammar.

Chapter Seven will discuss the contrasting arguments made by those states who opposed the invasion of Iraq. The chapter identifies the Holy See as a significant opposition voice, who disputed the American position as both a political actor on the world stage and a moral voice via its position as the magistrate of the global Catholic Church. This dual mantle has provided the Holy See with a unique position to credibly express moral and political pronouncements on the use of military force. The Holy See remained the main political voice who intentionally discussed the war through just war grammar, going as far as to invoke the paradigm directly. Additionally, voices from both France and Germany will be highlighted as accompanying and supporting the Holy See in their rejection of the invasion through their use of just war grammar, intentional or otherwise.

Chapter Eight will discuss the factors which led to the modern moral presumption against the use of force in Europe. Before the horrors of two World Wars, Europe was involved in centuries of conflict that were shaped by an imbalance of power in various forms. Historically this imbalance was between the Church and Empire, manifesting itself in a final stand during the Thirty Years' War, which ultimately led first to a suppression of public religion in favour of state interests, and second, to a resultant

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[430] Johnson, *Can Modern War Be Just?*, 14.

increase in nationalism. These factors shaped the basic moral principles of Europe insofar as war was a tool of the powerful. Yet the horrors of nationalism during the Second World War implemented a change in vision which imparted a moral framework among European states which promotes not violence, but the use of alternative means of conflict resolution. This chapter will discuss first, the conflicts which led to the fluctuations of moral discourse, and second, the methods of pursuing peace within the new moral framework.

Chapter Five

Arguments from Washington

Introduction

During the early stages of the Iraq War debate, the United States appealed to the international community for recognition of their concerns regarding the ever-present dangers of the Iraqi regime led by Saddam Hussein. The Bush Administration asserted Iraq exemplified unyielding contempt for international peace. This assertion was supported by more than a decade of Iraqi defiance of United Nations Security Council resolutions. On 8 November 2002, the Administration successfully secured a unanimous adoption of UNSC resolution 1441, which declared Iraq

> has been and remains in material breach of its obligations under relevant resolutions, including to resolution 687 (1991), in particular through Iraq's failure to cooperate with United Nations inspectors and the IAEA, and to complete actions required under paragraphs 8 to 13 of resolution 687 (1991).[431]

The resolution was designed to afford Iraq a "final opportunity" to comply with previously mandated disarmament obligations and instigated the resumption of arms inspections on 27 November.[432] Additionally, Iraq was compelled to provide a "currently accurate, full, and complete" declaration that accounted for its stocks of weaponry and vehicles, along with the locations of weapons production and storage facilities.[433] The resolution acknowledged Iraq's previous failings to comply with the relevant resolutions and indicated that a failure to comply with 1441 would "constitute a further material breach of Iraq's obligations".[434] The Security Council asserted that further breaches would result in "serious consequences" for Iraq.[435]

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[431] UNSC Res 1441, UNSCOR, UN Doc S/RES/1441(2002), 8 November 2002, 3, https://undocs.org/en/S/RES/1441(2002).;
Resolution 687 required that Iraq eliminate all WMD and give a full and verifiable account of their disposal—a central condition of the cease fire agreement. See: UNSC Res 687 (1991), UNSCOR, UN Doc S/RES/687(1991), 3 April 1991, para. 8, https://undocs.org/S/RES/687(1991).
[432] United Nations General Assembly, *Report of the Security Council: 1 August 2002-31 July 2003*, Supp. No. 2, UN Doc A/58/2(SUPP), 23 September 2003, 7, https://undocs.org/A/58/2(SUPP).
[433] UNSC Res 1441, 3.
[434] Ibid, 5.
[435] Ibid.

As the calendar rolled into 2003, the position of the Bush Administration remained void of an improved opinion, and the Iraqi regime was declared by the US to be in breach of resolution 1441. On 24 February 2003, the United States, with support from the United Kingdom and Spain, submitted a draft resolution to the Security Council declaring their position on Iraq's failure to comply with the aforementioned demands.[436] Eventually this draft was to be rescinded by its sponsors on 17 March, with the invasion of Iraq commencing just three days later.

In defence of their accusations and subsequent military actions, the Bush Administration articulated a three-pronged approach in asserting the necessity for the use of force: that the Iraqi regime exhibited disregard for international norms and threatened international peace; enacted policies which jeopardised Iraqi human rights; and displayed outward signals of aggression toward the United States and its allies.[437] These elements may be weighed in reference to the existence of just fear, which supposes that past actions and present signals may inform upon future designs.[438] This chapter seeks to explore these elements through outlining the major justifications employed by the Bush Administration and addressing them within the context of the just war tradition.

To accomplish the above, Chapter Five will be divided in four sections. First, the past actions of the Iraqi regime will be discussed in relation to breaches of the peace as a cause for invasion. Second, the alleged duplicity by the Iraqi regime at the time of the invasion debate will be observed. Third, the chapter will explore the Bush Administration's view that there existed a real potential for a future event to be enacted by Iraq against the United States or its allies and that this danger necessitated and justified an anticipatory, pre-emptive strike. Finally, Chapter Five will explore the above points within the context of the problem of evil which underlay the Bush Administration's position. This chapter will focus on the outward expression of these positions, in particular through speeches and government documents, as the

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[436] United Nations General Assembly, *Report of the Security Council: 1 August 2002-31 July 2003*, 7.
[437] Cian O'Driscoll, *Renegotiation of the Just War Tradition and the Right to War in the Twenty-First Century* (Basingstoke: Palgrave Macmillan, 2008), 44-49.
[438] For an overview of just fear, see Chapter Three.

Administration's right authority to invoke the Iraq invasion relied on Congressional and public support acquired from outward displays of necessity.

5.1: Past Actions

A major consideration of the Bush Administration's logic of invasion was the relationship between Iraq's past actions and its future potential. The Administration underscored breaches of the peace committed by Iraq's ruling regime in order to demonstrate the possible threats which may be faced by the United States. The usage of past actions aligned with a Vattelian understanding of prudence, whereby past actions may inform upon future events.[439] Thus, the Administration highlighted the utilisation of weapons of mass destruction by the Iraqi regime during the 1980-1988 war with Iran and the unprovoked invasion of Kuwait in 1990. Other egregious behaviour was also considered as amounting to a propensity for violence by Iraq, culminating in a legitimate cause of fear.

In remarks across a six-month period, President Bush and his Administration highlighted the fact that Saddam Hussein ordered the invasion of "two countries in 22 years".[440] The invasions of Iran and Kuwait were emphasised as part of the regime's larger ambition of "conquest in the Middle East and [to] create deadly havoc in [the] region". [441] The Administration went so far as to claim that Iraq continued to hide its WMD programme, of which evidence of usage can be noted in the war with Iran, as a means to "dominate, intimidate, or attack" other nations.[442]

In remarks made during his 28 September 2002 radio address, President Bush highlighted previous Iraqi usage of what he called "weapons of mass death" against Iran.[443] Bush later linked this past use to imply future harm on the United States, noting:

[439] Vattel, *The Law of Nations*, 464-565, 471.
[440] George W. Bush, "Remarks by the President at Bob Ehrlich for Governor Reception," *The White House*, 2 October 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021002-14.html.
[441] George W. Bush, "President Delivers 'State of the Union'," *The White House*, 28 January 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/01/20030128-19.html.
[442] Ibid.
[443] George W. Bush, "Radio Address by the President to the Nation," *The White House*, 28 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020928.html.

> [Saddam has] used chemical weapons against some of his neighbours. He used chemical weapons, incredibly enough, against his own people. He can't stand America. He can't stand some of our closest friends.[444]

President Bush conveyed an understanding of aggression which was transferable between regional and international disputes. Doubling down on this narrative, Bush re-emphasised Saddam Hussein's "professed hate to America" and his previous WMD use at a campaign luncheon in December 2002.[445] Again the notion that the use of weapons in past regional disputes held the potential to open the United States to future targeted aggression was expressed. For if Iraq was willing to disrupt regional peace for potential domineering gains, why would the regime hesitate to strike against foreign powers they so greatly despised?

Beyond Iraq's regional disruptions, the Bush Administration also sought to underscore Iraq's previous assaults on peace through the attempted assassination of world leaders, in this case the Emir of Kuwait and former-US President George H. W. Bush in April 1993.[446] According to a CIA report declassified in April 2002, the Iraqi Intelligence Service recruited a team of terrorists to "infiltrate Kuwait and carry out a series of bombings".[447] The team were trained, issued passports, and armed with explosives equipped to a vehicle in order to carry out the attack.[448] The assassination was to occur during a visit by Bush to Kuwait marking the end of the Gulf War. However, its execution was prevented by Kuwaiti authorities on 15 April 1993.[449]

The assassination plot followed a series of aggressively public claims by the Ba'athist newspaper *Al-Thawrah* against the then-President Bush. For example, on 27 November 1991 the paper claimed that Bush committed "barbaric aggression" against

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[444] George W. Bush, "Iraq Must Disarm Says President in South Dakota Speech," *The White House*, 3 November 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/11/20021103-3.html.

[445] George W. Bush, "Remarks by the President in Terrell for Senate and Louisiana Republican Party Luncheon," *The White House*, 3 December 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/12/20021203-3.html.

[446] Richard Cheney, "The Vice President Makes Remarks at the NRCC Gala Salute to Dick Armey and J.C. Watts," *The White House*, 2 October 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021002-15.html.

[447] Central Intelligence Agency, *The Attack That Failed: Iraq's Attempt to Assassinate Former President Bush in Kuwait, April 1993*, Doc 67 (25 February 1997, approved for release April 2002): 17, available at: https://www.cia.gov/library/readingroom/docs/DOC_0000756374.pdf.

[448] Ibid, 2, 23-24.

[449] Ibid, 27

the Iraqi nation and that "Bush and his aggressor allies are responsible . . . for the suffering of the Iraqi people".[450] On 28 July 1992, Saddam Hussein's press secretary wrote in the same paper that the president was a "savage one" and a "villain".[451] Additionally, the pro-regime newspaper *Al-'Iraq* claimed that Bush's actions would not go unpunished and "forgetting the acts of scoundrels and murderers like him is not an Iraqi characteristic".[452] These papers promoted the potential for future aggression insofar as the Iraqi regime had sought justice in the past for what they perceived as wrongs committed by the United States, and then, based on the CIA report, worked to achieve this revenge publicly.

With revenge and hatred already having played a role in Iraqi foreign policy, George W. Bush and his Administration additionally sought to illustrate the danger and potential destruction posed by the Iraqi possession of weapons of mass destruction, and, furthermore, to accentuate the destructive potential of said weapons if distributed to terrorist organisations allegedly connected to the regime. From this perspective, the Bush Administration not only worked to highlight the history of WMD usage by Iraq, but also called to attention the discrepancies between Iraq's declared holdings on 7 December 2002 and the reporting by the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC). These discrepancies were referred to by the Administration at various stages across the debate, particularly within Colin Powell's explanation to the Security Council whilst acting as Secretary of State. Beyond these past considerations, the next section will highlight certain concerns held by the United States in relation to the Iraqi regime's modern behaviour.

5.2: Present Duplicity

The position presented by the United States in relation to the duplicity of the Iraqi regime around the time of the war debate relied upon informational discrepancies between what the regime claimed and what the intelligence community believed to be true. For example, in his 5 February 2003 address, Secretary of State Colin Powell acknowledged an Iraqi government declaration of 8,500 litres of anthrax, however,

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[450] Ibid, 12
[451] Ibid.
[452] Ibid.

Powell argued that UNSCOM had estimated that Iraq may have produced upwards of approximately 25,000 litres.[453] Previous Administration assertions maintained that additional weapons in Iraqi possession may have included "mustard gas, sarin nerve gas, [and] VX nerve gas".[454] The Secretary emphasised his own "conservative estimate" of Iraqi possessions to be in the neighbourhood of between 100 and 500 tonnes of chemical weapons agent.[455] This, he noted, was sufficient to fill "16,000 battlefield rockets".[456] Only 100 tonnes of a chemical weapons agent would be needed to cause mass casualties across more than 100 square miles—an area Powell noted as nearly five times larger than Manhattan, New York City.[457]

These assertions by Powell followed claims made by President Bush in his 2003 State of the Union, referencing information given to the United States by "three Iraqi defectors" who claimed that Iraq possessed "several mobile biological weapons labs" during the 1990s weapons ban imposed by the Security Council.[458] Bush noted that these facilities were designed to evade inspectors. Colin Powell would subsequently stress to the Security Council that these mobile production facilities amounted to confirmatory evidence of present duplicity as trucks and trains were confirmed to be in use as mobile facilities in 2000 and remained in use throughout the summer of 2002.[459] Seven confirmed facilities were noted, with allegations levelled by the Secretary of their use as anthrax and botulinum toxin production sites.[460]

Additionally, Powell cited evidence of illicit chemical weapons infrastructure having been erected within legitimate civilian industry. [461] Using satellite photos acquired in May 2002, Powell showed cargo vehicles accompanied by decontamination machinery used for biological and chemical weapons were present at non-military

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[453] Colin Powell, "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council," *The White House*, 5 February 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/02/20030205-1.html.
[454] George W. Bush, "President Bush Outlines Iraqi Threat," *The White House*, 7 October 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html.
[455] Powell, "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council."
[456] Ibid.
[457] Ibid.
[458] Bush, "President Delivers 'State of the Union'."
[459] Powell, "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council."
[460] Ibid.
[461] Ibid.

locations.[462] These hidden sites could have been used to evade inspections in the 1990s and subsequent inspections required under UNSC resolution 1441.

Accompanying fears of chemical and biological weapons, the United States maintained concerns over the Iraqi possession of ballistic missiles and nuclear materials. A White House report entitled "What Does Disarmament Look Like?" highlighted Iraqi attempts to manufacture missile fuels suited "only to a type of missile which Iraq's declaration does not admit to developing".[463] The report indicates Iraqi insistence that their missile designs complied with UN-mandated limits. However, the White House report highlighted contradictions between the Iraqi statements and reports delivered by Hans Blix directly to the Security Council. Blix referenced two particular missile projects: "a liquid-fuelled missile named the Al Samoud 2" and "a solid propellant missile, called the Al Fatah".[464] Both missile types were tested to a range exceeding the permitted 150 kilometres by the UNSC, with the Al Samoud 2 tested to "a maximum of 183 km" and the Al Fatah to "161 km".[465]

Additionally, during his 2003 SOTU, President Bush maintained the notion that Iraq was wholly focused on increasing their nuclear weapons capabilities. He claimed:

> The International Atomic Energy Agency confirmed in the 1990s that Saddam Hussein had an advanced nuclear weapons development program, had a design for a nuclear weapon and was working on five different methods of enriching uranium for a bomb.[466]

The President cited intelligence sources which informed that Iraq was attempting to acquire uranium from Africa.[467] These sources were later enhanced by Secretary Powell

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[462] Ibid.

[463] The White House, "What Does Disarmament Look Like?" *US Department of State Archive*, 23 January 2003, https://2001-2009.state.gov/t/isn/rls/other/16820.htm.; This report also acknowledges differences between the Iraqi disarmament approach and the approaches taken by other states, such as South Africa, Ukraine, and Kazakhstan.

[464] Hans Blix, "The Security Council, 21 January 2003: An Update on Inspections," *United Nations Security Council*, 27 January 2003, https://www.un.org/Depts/unmovic/Bx27.htm.

[465] Ibid.

[466] Bush, "President Delivers 'State of the Union'."

[467] Ibid.; A National Intelligence Estimate entitled *Iraq's Continuing Programs for Weapons of Mass Destruction* (1 October 2002) included a State Department (Bureau of Intelligence Research) assessment that "claims of Iraqi pursuit of natural uranium in Africa are highly dubious". This was confirmed in the US Senate Select Committee Report on 7 July 2004 (p. 54). See: US Congress, Senate, Select Committee on Intelligence, *U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq together with Additional Views*, 108th Cong., 2d sess., 2004, S. Rep. 108-301, 36-83, http://purl.access.gpo.gov/GPO/LPS51511.

130

in his address to the Security Council, who charged the Iraqi regime with attempts to acquire aluminium tubes and purchase magnet production plants from firms in Romania, India, Russia, and Slovenia in order to produce 20 to 30 gram magnets in 1999 and 2000.[468] This was the reported weight requirement for Iraqi centrifuge programmes initiated prior to the Gulf War and was claimed by Powell to be evidence of a reconstituted nuclear program.[469]

The Administration also referenced the risks associated with a nuclear-armed Iraq possessing the capability to pursue an aggressive agenda under nuclear protection. President Bush asserted that Saddam Hussein "would be in a position to blackmail anyone who opposes his aggression . . . [,] would be in a position to dominate the Middle East . . . [, and] would be in a position to threaten America".[470] Perhaps more significant, however, was the Administration's considerations that Iraq may pass along weapons technology to terrorist organisations.

The Administration envisioned that terrorist organisations, such as al Qaeda, could acquire WMD technology from rogue states like Iraq and level assaults against the United States. The Bush Administration advanced suspicions of links between the Iraqi regime and al Qaeda, while asserting the dangers of an Iraqi transferral of weapons or weapons technology to such groups. These fears harken back to 9 December 2001, when Vice President Cheney commented on reports of a senior Iraqi intelligence official meeting with an al Qaeda operative, Mohamed Atta al-Sayed, in Prague five months prior to the September 11 attack.[471] In this interview, Cheney claimed that "the evidence is pretty conclusive that the Iraqis have indeed harbored terrorists", immediately linking this with notions of the Iraqi nuclear programme and WMD usage against Iran.[472]

Just three days prior to the invasion of Iraq, President Bush again progressed allegations of the connections between Iraq and terrorism:

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[468] Powell, "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council."
[469] Ibid.
[470] Bush, "President Bush Outlines Iraqi Threat."
[471] Richard Cheney, "The Vice President Appears on NBC's Meet the Press," *The White House*, 9 December 2001, https://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/vp20011209.html.
[472] Ibid.

> [Iraq] has a history of reckless aggression in the Middle East. It has a deep hatred of America and our friends. And it has aided, trained and harbored terrorists, including operatives of al Qaeda.[473]

This builds upon Colin Powell's address to the Security Council in which claims were levelled that Iraq harboured Abu Musab Al-Zarqawi, a collaborator of Osama bin Laden, who fled to north-eastern Iraq after coalition forces invaded Afghanistan.[474] Powell alleged that it was here that al-Zarqawi developed a new camp for poison and explosive training. The Secretary made reference to al-Zarqawi's acquisition of medical attention in Baghdad in May of 2002, during which time al Qaeda established a base of operations within the Iraqi capital.[475] He suggested an evolution in the Iraqi-al Qaeda relationship, with further accusations that Saddam Hussein and Osama bin Laden reached an 'understanding' that al Qaeda would no longer support attacks in Baghdad in the early to mid-1990s.[476]

This purported cooperation was used to equate the two parties, levelling accusations which highlighted the danger posed to American security. As President Bush noted:

> The danger is . . . that al Qaeda becomes an extension of Saddam's madness and his hatred and his capacity to extend weapons of mass destruction around the world . . . you can't distinguish between al Qaeda and Saddam when you talk about the war on terror . . . I can't distinguish between the two, because they're both equally as bad, and equally as evil, and equally as destructive.[477]

Across the war debate, additional claims of association between Iraq and terror organisations, such as the Palestinian Liberation Front, added weight to fears that destructive weapons could be transferred among the parties.[478] The undertone echoed

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[473] George W. Bush, "President Says Saddam Hussein Must Leave Iraq Within 48 Hours," *The White House*, 17 March 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/03/20030317-7.html.

[474] Powell, "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council."

[475] Ibid.

[476] Ibid.

[477] George W. Bush, "President Bush, Colombia President Uribe Discuss Terrorism," *The White House*, 25 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020925-1.html.

[478] Powell, "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council.";
In an interview with CNN, Condoleezza Rice, speaking on behalf of the Administration, claimed Saddam Hussein paid $25,000 to Hamas bombers. See: Wolf Blitzer, "Interview with Condoleezza Rice; Pataki Talks About 9-11; Graham, Shelby Discuss War on Terrorism," *CNN Transcripts*, 8 September 2002, http://transcripts.cnn.com/TRANSCRIPTS/0209/08/le.00.html.

by Administration arguments asked; if training in small arms and explosives was provided, why not WMD?

To Bush and his team, the step from supporting terrorism to arming terrorists was not a great leap. In the end, the overarching message from the Administration was the fear that a nuclear-armed Iraq might distribute technologies to al Qaeda which could not be defended against, for as President Bush claimed, "Terrorists and terror states do not reveal . . . threats with fair notice".[479] This was the underlying thought amid the continued reference to a "smoking gun" in the form of a "mushroom cloud" touted by President Bush and then-National Security Advisor Condoleezza Rice.[480] In this light, the arguments for invasion aligned to support preventive applications of force by the United States, as will be shown in the next section.

5.3: Future Necessity of Anticipation

In his 7 October 2002 Cincinnati speech, President Bush labelled Iraq as inhabiting "the most serious dangers of our age in one place".[481] He described the dangers that America faced: weapons of mass destruction "controlled by a murderous tyrant", ties to terrorism, and possessing "an unrelenting hostility toward the United States" in a contextual history of striking its immediate neighbours "without warning".[482] Bush maintained that his Administration held "every reason to assume the worst" about Iraq and held "an urgent duty to prevent the worst from occurring".[483]

The Administration provided assurances to the public that their determination of anticipatory warfare fell under the Caroline standard, namely that the necessity for self-defence remains "instant, overwhelming, leaving no choice of means, and no moment of deliberation".[484] This historical distinction by Daniel Webster is mirrored by the more modern comments of Michael Walzer, who claims that a state may "use military force in the face of threats of war, whenever the failure to do so would seriously

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[479] Bush, "President Says Saddam Hussein Must Leave Iraq Within 48 Hours."
[480] Bush, "President Bush Outlines Iraqi Threat."; Blitzer, "Interview with Condoleezza Rice."
[481] Bush, "President Bush Outlines Iraqi Threat."
[482] Ibid.
[483] Ibid.
[484] Webster, "Mr. Webster to Lord Ashburton," 27 July 1842, quoted in Miller, ed., *Treaties and Other International Acts of the United States of America*, vol. IV, 449.

risk their territorial integrity or political independence".[485] This level of anticipation relies upon imminence for its legitimisation, seeking to learn only from the present course of events.[486] However, as Cian O'Driscoll notes, the Bush Administration maintained a strategy whereby imminence was jettisoned in favour of prevention—a move beyond the bounds of international norms.[487]

According to Gregory Reichberg, pre-emption and prevention occupy opposing ends of the anticipatory scale.

> While both sorts of action are anticipatory in character, the former is most often taken to designate an armed defence against an offensive that, by demonstrable signs, is imminent, while the latter presupposes a longer time-frame. Prevention thus seeks to counter an adversary who either is preparing to mount an attack at a still undetermined point in the future, or, still more remotely, has acquired a military capability which, if exercised, would have devastating consequences for the defender.[488]

In essence, the movement into prevention demands a stronger legitimisation on the basis that the requirement of imminence must be overridden in favour of some other authorisation. The Administration sought to encapsulate their cause of action in terms of redefining the character of imminence itself.

In the 2002 National Security Strategy of the United States (NSS), the US government maintained a right to "act against such emerging threats before they are fully formed".[489] They determined that the traditional visible signals of imminence, such as the "mobilization of armies, navies, and air forces preparing to attack", no longer exist in a world of rogue states and terrorism.[490] The NSS outlined:

> Given the goals of rogue states and terrorists, the United States can no longer solely rely on a reactive posture as we have in the past. The inability to deter a potential attacker, the immediacy of today's threats, and the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit that option. We cannot let our enemies strike first.[491]

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[485] Walzer, *Just and Unjust Wars*, Fifth ed., 84.
[486] Ibid, 80-81.
[487] O'Driscoll, *Renegotiation of the Just War Tradition*, 28, 44-45.
[488] Reichberg, "Preventive War in Classical Just War Theory," 6-7.
[489] Bush, *The National Security Strategy of the United States of America*, ii.
[490] Ibid, 15.
[491] Ibid.

There existed an ideological momentum that supported the belief that the United States "must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries".[492] Therefore, the United States considered the necessity of immediacy as perpetual and could act pre-emptually as required.

Like Emer de Vattel, who claimed that past actions and "firſt appearances" of suppression may indicate future intentions, the Bush Administration justified their position on anticipation in terms of just fears.[493] As noted previously, the US government drove home the notion that the war with Iran, the invasion of Kuwait, and the attempted assassinations of world leaders indicated a hostility representative of a rogue nation. Additionally, the alleged capacity for weapons of mass destruction and links to terrorist organisations magnified the threats to American security. As the President noted:

> Iraq could decide on any given day to provide a biological or chemical weapon to a terrorist group or individual terrorists. Alliance with terrorists could allow the Iraqi regime to attack America without leaving any fingerprints.[494]

Therefore, the expression of what the Administration held as justified fears, paired with their understanding of modern imminence, amplified and validated, from their position, the invasion of Iraq to avoid future suffering.

When the Administration defended their case before the Security Council and agreed to allow the implementation of inspections, they envisioned this as a measure of last resort. When they arrived at the opinion that the inspections had failed, the Administration chose preventive action rather than to await the reception of aggression. As noted by President Bush on 17 March 2003, just days before the invasion:

> Should enemies strike our country, they would be attempting to shift our attention with panic and weaken our morale with fear. . . . we will not be intimidated by thugs and killers. . . . We are now acting because the risks of inaction would be far greater. In one year, or five years, the power of Iraq to inflict harm on all free nations would be multiplied many times over. With these capabilities, Saddam Hussein and his terrorist allies could choose the moment of deadly conflict when they are strongest. We choose to meet that threat now, where it arises, before it can appear suddenly in our skies and cities.[495]

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[492] Ibid.

[493] Vattel, *The Law of Nations*, 464.

[494] Bush, "President Bush Outlines Iraqi Threat."

[495] Bush, "President Says Saddam Hussein Must Leave Iraq Within 48 Hours."

The United States reasoned that the engagement of a threat before it materialised was in a sense a preservation of justice.

The above action followed the judgement of Emer de Vattel who asserted that offensive war be may prudentially enacted against an enemy "when a favourable opportunity offers" in order to "hinder his acquiring too formidable a degree of power".[496] As those who attain strength "ſeldom fail of moleſting neighbours, of oppreſſing them, and when an opportunity offers . . . totally ſubduing them", the need to strike was a prudential consideration.[497] This applies in earnest in the face of nations with "reſtleſs and miſchievous diſpoſition, always ready to injure others, to traverſe their desſigns, and to raiſe domeſtic troubles".[498] This, Cian O'Driscoll notes, is the definition of rogue states.[499]

Michael Novak similarly contested that the invasion of Iraq would fall within the bounds of just war grammar. He argued that, on one hand, the invasion could command justice as a continuation of the Gulf War (1990-1991) as a reaction to the Iraqi breach of the 1991 settlement relative to WMD. On the other hand, Novak argued that the invasion would fit within "asymmetrical warfare", in that the Iraqi regime's connection to terrorist organisations endangered the United States as these groups operate secretly and without warning.[500] For Novak, the alleged relationship between Saddam Hussein and al Qaeda demonstrated the danger of terror organisations who depend upon rogue states without responsibility to said rogue states.

Novak maintained that the *Catechism of the Catholic Church* "assigns primary responsibility, not to distant commentators, but to such public authorities themselves".[501] He asserts two reasons for this condition: "they are the ones who bear the primary vocational role and constitutional duty to protect the lives and the rights of their people" and "they are by the principle of subsidiarity the authorities closest to the facts of the case and . . . privy to highly restricted intelligence".[502] As the *Catechism*

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[496] Vattel, *The Law of Nations*, 469.
[497] Vattel, *The Law of Nations*, 462.
[498] Vattel, *The Law of Nations*, 242.
[499] O'Driscoll, *Renegotiation of the Just War Tradition*, 38.
[500] Michael Novak, "'Asymmetrical Warfare' & Just War," *National Review*, 10 February 2003, https://www.nationalreview.com/2003/02/asymmetrical-warfare-just-war-michael-novak/.
[501] Ibid.
[502] Ibid.

notes: "The evaluation of these conditions for moral legitimacy belongs to the prudential judgement of those who have responsibility for the common good".[503] As an attack conducted by a terrorist organisation which employed Iraqi weapons would "come without imminent threat, without having been signalled by movements of conventional arms, without advance warning of any kind", Novak insisted that the proposed US invasion was a just response to protect American lives.[504]

The above argument by Novak asserts a definition of defence which unifies action with protection. Jeff McMahan notes that "all defence is preventive".[505] He claims that defence cannot occur against a harm committed rather only against the continuation of harm in progress and an impending harm to be committed.[506] Therefore, imminence itself provides only a signal of impending harm which allows for the preparation and enactment of defence. Brian Orend notes this view as classifying the essence of defence as concerning protection: "the protection of lives as well as the protection of such vital values as freedom and security".[507] Therefore, under this definition, protective defence maintains a mixture of "first-strike" and "secondary-reply" measures, depending on the context.[508] Orend likens this to police authorisation to use force in domestic society against criminals before they can strike.[509] Jeff McMahan concurs, noting that, while it remains illegal for individuals in society to enact a preventive defence against a purported enemy, preventive police action is deemed legal since conspiracy to commit a crime is a crime itself.[510] This is due to the duty of a state to protect society from the dangers posed by certain illegal activities and the greater capacity for intelligence gathering on a domestic scale.

At the international level, however, McMahan notes that it remains difficult to know certain truths which are more readily determinable on a domestic level:

> because intentions are private and not directly accessible to others, the evidence for the presence of a wrongful intention in another person is *always* fallible and

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[503] Catholic Church, *Catechism of the Catholic Church*, 615.
[504] Novak, "Asymmetrical Warfare."
[505] Jeff McMahan, "Preventive War and the Killing of the Innocent," in *The Ethics of War*, eds. Richard Sorabji and David Rodin (London: Ashgate, 2006), 172.
[506] McMahan, "Preventive War and the Killing of the Innocent," 172.; Orend, *War and Political Theory*, 97.
[507] Orend, *War and Political Theory*, 97.
[508] Ibid.
[509] Ibid, 97-98.
[510] McMahan, "Preventive War and the Killing of the Innocent," 173-176.

contentious, and is almost always insufficiently conclusive to provide an adequate basis for preventive action.[511]

The modern risk of international terrorism, and in particular the added dimension of complicit state actors in terrorist activities, creates a greater degree of unpredictability. McMahan suggests these instances open the possibility to morally justified pre-emption of a more distant nature.[512]

In this light, Condoleezza Rice's assessment of the American position, that "[a]nticipatory self-defense is not a new concept", remains sound.[513] However, as Michael Walzer contends, it is the use of past actions and future possibilities as indicators of intent which aligns anticipation to preventive warfare.[514] Therefore, the Administration's assessment of anticipation maintained a preventive stance and extended beyond the existing bounds of international norms outlined by the Caroline standard. In redefining the character of imminence, under the guise of rogue nations and terrorism, enabled a restructuring of defence as the basis for preventive actions. The definition of defence as a mixture of first-strike and secondary-reply protection empowers greater degrees of preventive parameters, according McMahan and Orend. Yet it was a further implication of this re-defining which added weight to the Administration's new definition of imminence, namely that Iraqi evil required punishment. This outlook held by the Bush Administration will be discussed in the next section.

5.4: The Concept of Evil

As noted in the previous sections, the American assertion of the necessity of war relied on an account of just fear, whereby the past and present actions of the Iraqi state enhanced their overall threatening nature in relation to the United States. Over the course of six months, from September 2002 to March 2003, the Bush Administration advanced their account of Iraq as a rogue state, in which the Iraqi state under Saddam

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[511] Ibid, 185.

[512] Ibid, 187-188.

[513] Condoleezza Rice, September 2002, quoted in David E. Sangar, "Beating Them to the Prewar," *The New York Times,* 28 September 2002, https://www.nytimes.com/2002/09/28/arts/beating-them-to-the-prewar.html.

[514] Walzer, *Just and Unjust Wars*, Fifth ed., 80-81.

138

Hussein was a "grave and gathering danger" to America, its allies, and international peace and security.[515] The notion that the United States was isolated from threats crashed as a result of September 11. As Condoleezza Rice explained, "9/11 crystallized our vulnerability".[516] Additionally, President Bush noted that America's "oceans no longer protect us".[517] As such, September 11 became the metric by which Iraq was to be judged—a fear-oriented account of insecurity.

According to Alberico Gentili and Emer de Vattel, the reliance on just fear only necessitates action if something greater than suspicion is present.[518] An underlying presence was required to give weight to the fear-based necessity of war. This presence took the form of evil and the responsibility of power to lessen the injustices of evil intent.

To understand the presence of evil in the Bush Administration's argumentation, we must first ask; what is evil? According to Marcus Singer, the concept of evil applies firstly to "persons and organizations" and secondly to "conduct and practices".[519] He notes: "Evil deeds must flow from evil motives, the volition to do something evil, by which I mean something horrendously bad".[520] Neither accident nor misadventure may make someone evil. It requires the will of the actor to commit evil in order to make it so. Thus, intention defines evil.

Within the vision of evil held by the Bush Administration, there exists a level of separation between what is considered evil and what is considered good. This manifested dichotomy harkens to episodes of Manicheanism which, as Robert Wright notes, has influenced elements of Protestant theology with visions of "a cosmic struggle between the forces of good and evil".[521] This, D. Jason Berggren and Nicol C. Rae argue, creates a "black and white" vision of international problems which lends a worldview

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[515] George W. Bush, "President Discusses Growing Danger Posed by Saddam Hussein's Regime," *The White House*, 14 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020914.html.

[516] Condoleezza Rice, "Dr. Condoleezza Rice Discusses President's National Security Strategy," *The White House*, 1 October 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021001-6.html.

[517] George W. Bush, "Remarks by the President at Pennsylvania Welcome," *The White House*, 22 October 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021022-2.html.

[518] Gentili, *De Iure Belli Libre Tres*, vol. 2, 62.; Vattel, *The Law of Nations*, 464-465.

[519] Marcus G. Singer, "The Concept of Evil," *Philosophy* 79, no. 308 (2004): 190, doi: 10.1017/S0031819104000233.

[520] Ibid.

[521] Robert Wright, "War on Evil," *Foreign Policy*, no. 144 (2004): 34, doi: 10.2307/4152976.

which may be perceived as "naïve and simplistic" as it lacks insights into the "complexity and ambiguity" of world affairs.[522] For example, in remarks following September 11, President Bush claimed: "Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists".[523] In earlier statements, the President maintained that the post-9/11 struggle "will be a monumental struggle of good versus evil. But good will prevail".[524] For Bush himself, elements of his Christian faith played into the Administration's views on evil in the world. Such elements were present in Bush's quotation of Psalm 23 during his remarks to the nation on September 11 itself.[525] A deeper reflection of these Christian articulations and the Administration's neoconservative mindset will appear in Chapter Six.

The manifestation of the world as black and white, or similarly good versus evil, enabled supporting states, such as the United Kingdom, to present the invasion as a condition of rooting out evil activity. Breaches of human rights, such as the torture of Iraqi citizens by the regime, helped to give weight to arguments for invasion and manifested room to navigate opposition voices. Such was the case for British Prime Minister Tony Blair, who voiced in Parliament that "the fate of the Iraqi people who have been brutalised by Saddam for so long" was at stake.[526] In the 1990s, Tony Blair had advanced the position that

> Non-Interference has long been considered an important principle of international order . . . But the principle of non-interference must be qualified in important respects. Acts of genocide can never be a purely internal matter.[527]

This position shaped arguments made by Blair against opposition parties in the course of the invasion debate.

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[522] D. Jason Berggren and Nicol C. Rae, "Jimmy Carter and George W. Bush: Faith, Foreign Policy, and an Evangelical Presidential Style," *Presidential Studies Quarterly* 36, no. 4 (2006): 625, doi: 10.1111/j.1741-5705.2006.02570.x.

[523] Bush, "Address to a Joint Session of Congress and the American People."

[524] George W. Bush, "Remarks by the President in Photo Opportunity with National Security Team," *The White House*, 12 September 2001, https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010912-4.html.

[525] George W. Bush, "Statement by the President in His Address to the Nation," *The White House*, 11 September 2001, https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010911-16.html.

[526] United Kingdom, House of Commons, Debate, 18 March 2003, vo. 401, §761.

[527] Tony Blair, "The Blair Doctrine," *Public Broadcasting Service*, 22 April 1999, available at: https://www.globalpolicy.org/component/content/article/154/26026.html.

In speeches, the Prime Minister located certain justifications for invasion under a moral design. Blair claimed: "The moral case against war has a moral answer: it is the moral case for removing Saddam".[528] He noted elements of oppression:

> Where in the past 15 years over 150,000 Shia Muslims in southern Iraq and Muslim Kurds in northern Iraq have been butchered; with up to four million Iraqis in exile round the world, including 350,000 now in Britain.[529]

And in his 25 February speech to the House of Commons, Blair argued:

> Let us not forget the tens of thousands imprisoned, tortured or executed by [Saddam Hussein's] barbarity every year. The innocent die every day in Iraq—victims of Saddam—and their plight, too, should be heard.[530]

According to Cian O'Driscoll, these arguments demonstrated the American-British coalition's readiness to utilise force in cases of oppression which had been historically "considered nasty but tolerable".[531]

Blair's assertions of the existence of a humanitarian crisis in Iraq nestled amongst the American claims that past actions and present signals necessitated just action. As noted in the NSS:

> The United States must defend liberty and justice because these principles are right and true for all people everywhere. . . . No people on earth yearn to be oppressed, aspire to servitude, or eagerly await the midnight knock of the secret police. America must stand firmly for the non-negotiable demands of human dignity . . . We will champion the cause of human dignity and oppose those who resist it.[532]

In this light, action to protect the oppressed is a moral duty demanded by justice. What adds to this duty are the threats imposed by the elements of evil found in the actions of the Iraqi regime. This is especially so in light of American analogies of the modern United Nations and the inaction of the League of Nations prior to the Second World War.

During the Interwar period, the League of Nations held the position of international arbiter among states. The failure of the League to prevent the Second World War and the effects of Nazism unfolding in the form of the holocaust remain, in

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[528] Tony Blair, "The Price of My Conviction," *The Guardian,* 16 February 2003, https://www.theguardian.com/politics/2003/feb/16/iraq.foreignpolicy.
[529] Tony Blair, "Blair Speech—Key Quotes," *BBC News*, 15 February 2003, http://news.bbc.co.uk/2/hi/uk_news/politics/2765763.stm.
[530] United Kingdom, House of Commons, Debate, 25 February 2003, vol. 400, §§125-126.
[531] O'Driscoll, *Renegotiation of the Just War Tradition*, 72.
[532] Bush, *The National Security Strategy*, 3-4.

the perspective of many commentators, a failure of diplomacy and moral discourse. For example, Michael Walzer characterised Nazism as an "ultimate threat" and judged their activity as "evil objectified in the world".[533] In her book *Just War Against Terror*, Jean Bethke Elshtain offers the culture of death and the German youth as an example of Nazi evil, whereby "starving, bewildered Hitler Youth were drafted into a children's militia" for what was to be effectively a suicide mission.[534] The mission was enacted in Berlin, where approximately five thousand children as young as eight years of age "perished in suicidal sabotage attempts and last-ditch stands in the last spasm of the agony of Berlin. Only five hundred survived".[535] These and other evils of Nazism were, in essence, a comparative tool for the Bush Administration to add weight to their arguments against evil.

The failure of the League of Nations to prevent German aggression and by extension the evils of Nazism which followed was used to lend a weight to the evils of Iraq purported by the United States. The Bush Administration maintained their licence for action as a direct response to the failings of the United Nations to uphold resolutions issued by the Security Council. At times President Bush suggested the UN had become little more than an "empty debating society", at times directly comparing the body to the League of Nations.[536] He called on the United Nations to act:

> The United Nations must act. It's time for them to determine whether or not they'll be the United Nations or the League of Nations. It's time to determine whether or not they'll be a force for good and peace, or an ineffective debating society.[537]

> We want the United Nations to be more than a debating society. We don't want the United Nations to become the League of Nations. We want the United Nations to have backbone and to enforced—enforce the resolutions and doctrines and mandates.[538]

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[533] Walzer, "World War II: Why Was This War Different?," 4.

[534] Elshtain, *Just War Against Terror*, 103-104.

[535] Ibid.

[536] Bush, "Remarks by the President in Terrell for Senate and Louisiana Republican Party Luncheon."; Bush, "Remarks by the President at Bob Ehrlich for Governor Reception."

[537] George W. Bush, "Remarks by the President at Lamar Alexander for Senate Luncheon," *The White House*, 17 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020917-5.html.

[538] George W. Bush, "Remarks by the President at Republican Governors Association Fall Reception," *The White House*, 19 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020919-14.html.

These parallels were designed to add weight to the dangers of evil when coupled with the dangers of WMD possession, terrorism, and just fears.[539]   The League of Nations had been "unable to stop totalitarianism", a failure which the United States sought not to repeat.[540] Appeals rung forth from Bush to the Security Council to "be firm in its resolve to deal with a truth [sic] threat to world peace, and that is Saddam Hussein".[541] Bush asserted that the UN was to "resolve itself to help keep international peace" or he would form a coalition to "disarm [Iraq] for the sake of peace".[542] The Administration hoped that the weight of evil would implore the international community to provide authorisation for American intervention.

Concluding Remarks

The justifications by the United States and those in favour of invading Iraq held within them elements of the just war tradition. These elements harkened on deontological justifications like just cause and right authority, while maintaining prudential considerations like the reasonability of success. The 2002-2003 Iraq invasion debate displayed a vision of the tradition in which elements of international law, human rights, and prevention were driving forces, while concepts such as evil worked to underline the moral necessity for action. The overarching conclusion by the Administration was that just fear allowed for action to prevent the reoccurrence of past behaviour and the maintenance of the future security of the American citizenry.

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[539] Condoleezza Rice noted Iraq's continued defiance under Resolution 1441 in her January 2003 *New York Times* Op-Ed "Why We Know Iraq is Lying". Rice claims that Iraq has "blocked free and unrestricted use of aerial reconnaissance", uses promises as "an attempt to stall for time", and treats inspections "as a game". These elements demonstrate the American presumption that Iraq was never going to change its character. See: Condoleezza Rice, "Why We Know Iraq is Lying," *The New York Times*, 23 January 2003, https://www.nytimes.com/2003/01/23/opinion/why-we-know-iraq-is-lying.html.;
In his 15 March 2002 radio address, President Bush remarked how the UNSC had previously failed to act in the cases of Bosnia, Rwanda, and Kosovo, and highlighted these connections to failures to act regarding Iraq. See: George W. Bush, "President Discusses Iraq in Radio Address," *The White House*, 15 March 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/03/20030315.html.
[540] George W. Bush, "President Presses Congress for Action on Defense Appropriations Bill," *The White House*, 27 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020927-3.html.
[541] George W. Bush, "President Bush to Send Iraq Resolution to Congress Today," *The White House*, 19 September 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020919-1.html.
[542] Bush, "Remarks by the President at Pennsylvania Welcome."

The first section noted the arguments relating to the past behaviour of the Iraqi regime. The wars of the 1980s and 1990s, and the associated WMD usage, gave a weight to the claims that Iraq posed a threat to regional stability in the Middle East. Furthermore, the targeting of American officials in an unearthed assassination plot demonstrated the wider range of danger beyond Iraq's immediate neighbours. The fact that one target in this plot was President Bush's own father may have lent further weight to the Administration's visions of danger that Saddam Hussein posed on the international community.

The second section expressed the American position that the present duplicity of the Iraqi regime demonstrated a level of concern. The discrepancy with reported and estimated armaments, especially the amounts and types of weaponry, detailed an untrustworthy regime in the face of assertions of cooperation. The uncertain potential of nuclear blackmail and the framing of the scale of destruction in terms of Manhattan, New York City amplified the Administration's allegations of Iraqi duplicity and international danger.

The third section highlighted the Administration's concerns over the future dangers posed by Iraq. As President Bush noted, America had "every reason to assume the worst" about Iraq insofar as they would strike "without warning".[543] From this perspective, the Administration expressed an adaptation of anticipation in which the requirement of imminence was superseded by information regarding the past and present actions of a state. As such, the notion of first appearances incurs new meaning informed by history rather than by immediacy. From this position of fear stems the view that the inspections were failing, therefore, war remained *the* last resort.

Just fear inspired the Bush Administration, from the 1990s assassination attempts to the 2001 terrorist attack. As the 2001 attack opened the door to new, foreign evils on American soil, so did the attack open the Administration to the duality of good versus evil. The fourth section spoke of the concept of evil and the manifestation of this vision in the language used by the Bush Administration to underscore the necessity of action against Iraq. The mixture of this concept and the just war tradition vocalised just cause under the banner of human rights and in the defence of

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[543] Bush, "President Bush Outlines Iraqi Threat."

international peace. The latter was so defined under the Administration's charge of the United Nations succumbing to the same fate as the League of Nations in the face of Nazi expansionism.

The justifications presented by the United States exhibited the historical and contemporary nature of the tradition as discussed in Part One. As discussed in Chapter One, the just war tradition has demonstrated a propensity to articulate moral wisdom which conforms to the desires of the powerful. The moral justifications offered by the United States exemplified their desire for an exhibition of strength relative to claims that the United Nations was failing to both uphold international peace and punish Iraqi breaches of UNSC resolutions. Michael Novak supported, from a declared just war position, a military response to these alleged breaches as justified under the settlement of the Gulf War. The Bush Administration presented a position not too dissimilar to that of the Church during the First Crusade, such that the failings of a higher authority to respond to an ongoing crisis re-directed the responsibility of action to an alternative source. Like the Church, the United States claimed responsibility to rebuke injustice. In doing so, the US asserted a moral cause in conjunction with their leadership, which, if successful, would increase both American global standing and its reach of influence.

In asserting the danger of global WMD blackmail, the United States effectively invoked the influence of economics as discussed in Chapter Two. The prevention of global blackmail argued by the US purported a moral character, namely that the possession of WMD by Iraq would allow the regime to violate the human rights of both Iraqi citizens and regional neighbours without the ability of the international community to respond with coercive force. Similarly, the dangers of launching a nuclear strike against the US, either directly by the Iraqi military or indirectly through terrorists, remained ever present in the calculus of the US. However, such a strike would open Iraq to a response similar to the Cold War's mutual destruction or that of the US retaliation to September 11 with the invasion of Afghanistan.

Of greater probability, however, would be the ability for Iraq to affect economic regional dominance in the Middle East. A dominant Iraq could disrupt the oil trade and represented an impediment to US geo-political influence. As *The 9/11 Commission Report* noted, the occupation of Iraqi oil fields had been in discussion at the National

Security Council level since the planning phases of the war on terror.[544] The expressions of moral concern for human life were ultimately held in conjunction with state economic interests. Therefore, economic factors exhibited great influence in the design of moral wisdom employed within the US grammar on war, as described within Chapter Two.

The Administration's reflections on imminence in light of terrorism highlights the usage of just war grammar for national interest reasons described in Chapter Three. As discussed previously, Daniel Webster's Caroline standard requires the presence of imminence as a prerequisite for a pre-emptive strike on another sovereign state. The Bush Administration did not refute this standard, rather it sought to expand upon the principle. As Michael Novak noted, the right to pre-emptive action is altered under the threat of terrorism.[545] The requirement of state authorities to protect their citizens under the unknowable designs of terror organisations necessitates levels of action that may border on the preventive. Jeff McMahan has argued this motivation may be morally just so long as the liability of non-combating soldiers is taken into account.[546] He has maintained that soldiers can possess a "dispositional, conditional, [and] wrongful intention" in such cases as there position as a soldier requires their participation under orders.[547] While the soldiers are not liable in peacetime, a condition of liability is imposed once state authorities begin the planning phases of war, as their "prior voluntary act of enlisting" makes a "substantial contribution" to the war planning efforts.[548] Conscripted soldiers who allow themselves to be conscripted also possess this state.[549] From this re-imagined position, the US grammar of imminence reinforces their arguments in favour of pre-emptive strikes as Iraq allegedly sought nuclear weapons for either a self- or terrorist-led enactment.

In light of Chapter Four's discussion of the disparities among the modern just war tradition, the arguments provided by the Bush Administration relate heavily to the position that war is a tool of the state. This remains knowable through the efforts of the

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[544] National Commission on Terrorist Attacks, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, Authorized ed. (New York: W.W. Norton, 2004), 334-336, esp. 335.
[545] Novak, "Asymmetrical Warfare."
[546] McMahan, "Preventive War and the Killing of the Innocent,"
[547] Ibid, 186, 186-187.
[548] Ibid, 187.
[549] Ibid.

Administration to achieve a Security Council authorisation for the use of force. Despite contradictory claims held by certain European states, the United States maintained that the authorised inspections failed to achieve the necessary reduction of the Iraqi WMD threat. This position reflects a relative last-ness contextualised to the calculus of the Administration. The US-led invasion began less than four months after the commencement of UN inspections. While the Bush Administration argued that the situation in Iraq had reached the point of last resort, France, Germany, and the Holy See each insisted that the inspections required additional time in order to exhaust the non-military means of addressing US concerns. However, the Bush Administration asserted that strength would provide greater results than non-violent means. This contrasting vision of last resort highlights the position taken in Chapter Four that the current just war tradition remains charged to poignant inconsistencies in the advice given to the decision-making process. The contrasting expressions of just war emanating from the Holy See, France, and Germany in relation to a presumption against the use of force, as noted above, will be discussed in Chapter Seven.

Overall, the United States exhibited an interpretation of the just war tradition whereby war was a tool of national defence and international peace. The narrative discussed in this chapter highlights both a strand of modern just war thought and a vision of moral principles which has arisen within the United States. The moral character of the US, which places demonstrations of strength at the centre of its foreign policy, contains a principle foundation in the religious and political origins of the state, particularly within millennialist and exceptionalist expressions. The origin of this US character and its relationship to the just war tradition will be discussed in the next chapter.

Chapter Six

The Moral Character of the United States

Introduction

This chapter will explore certain underlying factors which have influenced the modern moral discourse on the use of force in the United States. The main influence to be discussed is the early presence of Protestant millennialism in the foundation of the early American state. New England preachers held considerable influence on the mindsets of the general populace, so much so that political visionaries would advocate their own manifestos using religious tones. Early American political thought became heavily grounded in the moral thinking of preachers, a practice which remains in influence today within the Republican Party via Evangelical thought. Therefore, it remains incredibly salient to discuss religious influences in modern American politics.

This chapter will be divided in two sections. First, the origins of American moral discourse is discussed in relation to millennialist thinking. The colonial and revolutionary periods are touched upon in an effort to understand the aspects of millennialism present in the nascent United States and demonstrate the way in which this millennialist discourse influenced political thinking around revolution. This early moral discourse, in which war is an emphasis of divine will, not only holds importance for explaining bygone visions of power, but equally in understanding the religious symbolism which underpins modern conceptions of strength. In order to understand the contemporary American sentiments around war, one must follow the evolution of this millennialist discourse into that of modern exceptionalism.

Next, the chapter will discuss the presence of millennialism in the debate surrounding the Iraq invasion and how neoconservative thought engages with these principles. The Bush Administration was a coalition of Evangelical morals derived from the president and neoconservative power politics expressed by his advisors. This combination created the circumstances whereby millennialist language infiltrated the language of justification around the necessity of warfare. As such, moral conceptions of war as a weapon of sovereignty and justice found support in this Administration.

6.1: Millennialism in America

Any discussion of the moral discourse in the United States must begin with the Puritan influence in the colonial period. The end of the Puritan project in England led seventeenth century English Puritans to depart across the Atlantic in order to establish a *new* England in the Americas. In doing so, Puritans believed that their move to North America would "help inspire a thorough religious reformation in England and perhaps throughout the world".[550] However, distinctions would soon grow between the old and new worlds, particularly surrounding elements of purity.[551] Fast forward to the eighteenth century, and clergymen like Jonathan Edwards would hail the "convulsions of the Great Awakening" as the "harbinger of the final stage in man's progress toward redemption".[552]

Early colonial clergy united Puritan expectations of the millennium with perspectives of their work in America. This involved the adaption of biblical history to fit within the American experience, leading to the creation of a sacred history for the people of New England in relation to the concept of a New Israel.[553] References to apocalyptic literature would feature in colonial sermons, for example this passage from Revelation:

> Then I saw thrones, and those seated on them were given authority to judge . . . but they will be priests of God and of Christ, and they will reign with him for a thousand years.[554]

These millennialist expectations envisioned an imminent end of the world, driven by the return of Christ in divine judgement which would result in a cataclysmic end to evil, followed by a thousand years of peace.[555] The advancement of ideas surrounding the complete perfection of the human condition demonstrated a desire for the future rather

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[550] Christopher M. Beam, "Millennialism and American Nationalism, 1740-1800," *Journal of Presbyterian History (1962-1985)* 54, no. 1 (1976): 182; 183-184, https://www.jstor.org/stable/23327592.

[551] Sacvan Bercovitch, "The Typology of America's Mission," *American Quarterly* 30, no. 2 (1978): 136, doi: 10.2307/2712320.

[552] Beam, "Millennialism and American Nationalism," 182.

[553] Bercovitch, "The Typology of America's Mission," 135-136.

[554] Revelation 20: 4-6. Other apocalyptic versus include (but are not limited to): Revelation 20: 1-3; Matthew 24; Matthew 25: 31-46; Mark 13; Daniel 11: 36-45; Daniel 12.

[555] Michael Lienesch, "The Role of Political Millennialism in Early American Nationalism," *The Western Political Quarterly* 36, no. 3 (1983): 447-448, doi: 10.2307/448402.; Bercovitch, "The Typology of America's Mission," 137.; James W. Davidson, "Searching for the Millennium: Problems for the 1790's and the 1970's," *The New England Quarterly* 45, no. 2 (1972): 242, doi: 10.2307/364758.

than the present. As a result, a political pessimism and a separation from human events developed.[556] This vision of the millennium is known as pre-millennialism.

According to David E. Smith, a pre-millennialist was "conservative in his views of human history and the possibility of salvation".[557] There was a reactionary emphasis in the politics of pre-millennialists, driven by their base assumption of an imminent conflict.[558] This led ultimately to an attitude of "cosmic despair".[559] As Ernest L. Tuveson has noted, this world view held that it was

> not the intention of God to convert the world before the advent . . . No radical spiritual change in the condition of the world will take place, on the contrary, it will grow worse and worse, under the present dispensation[560]

As such, the seventeenth century pre-millennialists lacked an initiative to create a social order in which the millennium could occur.

Alan Heimert has contended that pre-millennialists saw the redemption of Christ to be the only means by which sin would be stricken from the world and it was therefore not the work of man to usher in this period. [561] Heimert attributed an eighteenth century shift away from this model of discourse to Johnathan Edwards, whose achievement it was to push for a social construction which would usher in the millennium, rather than await its arrival.[562] This would ultimately wind down the cosmic despair sentiments of the previous century.

The Great Awakening of the 1730s and 1740s, led by protestant clergy like Jonathan Edwards, saw a series of renewals in Britain and the American colonies focusing on individual piety and religious devotion.[563] These renewals would coincide with an eschatological shift in New England whereby the return of Christ did not denote

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[556] Martha Lee and Herbert Simms, "American Millenarianism and Violence: Origins and Expression," *Journal for the Study of Radicalism* 1, no. 2 (2007): 108, https://www.jstor.org/stable/41887580.; Lienesch, "The Role of Political Millennialism in Early American Nationalism," 447-448.; Bercovitch, "The Typology of America's Mission," 137.

[557] David E. Smith, "Millenarian Scholarship in America," *American Quarterly* 17, no. 3 (1965): 539, doi: 10.2307/2710907.

[558] Lienesch, "The Role of Political Millennialism," 448.

[559] Bercovitch, "The Typology of America's Mission," 140.

[560] Ernest L. Tuveson, *Redeemer Nation: The Ideas of America's Millennial Role* (Chicago: University of Chicago Press, 1968), 34.

[561] Alan Heimert, *Religion and the American Mind: From the Great Awakening to the Revolution* (Cambridge, MA: Harvard University Press, 1966), 59-66.

[562] Ibid.

[563] Beam, "Millennialism and American Nationalism," 182.; Lienesch, "The Role of Political Millennialism in Early American Nationalism," 446-447.

the start of the millennium, but the end. This vision would come to be known as post-millennialism.

Post-millennialism discourse contends that the millennium will reign for a thousand years prior to the return of Christ.[564] This vision is described by David E. Smith as:

> a liberal theology, an optimistic view of man's historical progress, and a fundamental conviction that salvation through works is somehow a possibility at least in the American landscape.[565]

The eventual thousand-year reign of post-millennialism envisioned the active participation of humanity as a necessary catalyst for any change in the social landscape.[566] This new form of millennialism conceived of a "cosmic optimism" which Tuveson describes as a "progressive" view of human history.[567]

Post-millennialism offers a gradual realisation of the Kingdom of God, in which the influence of the spirit of Christ rather than his physical presence will guide the new millennium.[568] Within this view, the millennium was to be generated "as much by human effort as by divine will", with worldly reforms developing through achievements in religion, the sciences, and the arts.[569] Post-millennialism offers a dualistic approach, seeking absolute purity on one hand and the full involvement in world affairs on the other.[570] This translated into an active participation by believers in politics, especially in the context of the American Revolution.

According to Jean B. Quandt, the movement of millennialist Protestantism into the public sphere "entailed a partial transfer of redemptive power from religious to secular institutions".[571] This shaped the debate around republican ideology in the face of monarchical rule of the American colonies and cases of calls for domestic purity and

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[564] Davidson, "Searching for the Millennium," 242.

[565] Smith, "Millenarian Scholarship in America," 539.

[566] Bercovitch, "The Typology of America's Mission," 137.

[567] Ibid, 140; Tuveson, *Redeemer Nation*, 34.

[568] Jean B. Quandt, "Religion and Social Thought: The Secularization of Postmillennialism," *American Quarterly* 25, no. 4 (1973): 391, doi: 10.2307/2711630.; Stow Persons, *American Minds: A History of Ideas* (New York: Henry Holt and Company, 1958), 176-177.; Hugh Urban, "The Secrets of the Kingdom: Spiritual Discourse and Material Interests in the Bush Administration," *Discourse* 27, no. 1 (2005): 148, https://www.jstor.org/stable/41389722.

[569] John Gray, *Black Mass: Apocalyptic Religion and the Death of Utopia* (London: Penguin Books, 2008), 30.; Lienesch, "The Role of Political Millennialism," 448.

[570] Bercovitch, "The Typology of America's Mission," 143.

[571] Quandt, "Religion and Social Thought," 391-393.

foreign reform. Movements like the American Revolution possessed a "quasi-religious fervor" in respect to the language utilised to affect social change.[572] This raised political discussions to a plane of religious millennialism, sharing with the latter an anticipation of the "imminent and final confrontation of good and evil that will bring about the final stage of history".[573] Martha Lee and Herbert Simms contend that these political millennialists understood the agency of change "to be of this world, either rooted in human nature, or linked to human interaction with the world".[574] This practical appearance of millennialism in politics takes the form of a mixture of pessimism and optimism. Pessimism may be found in relation to historic colonial suffering at the hands of English corruption and optimism insofar as America could surpass the old world and deliver itself as the great city on a hill.[575] Alternatively, John Motley argues that the 'New Jerusalem' imagery of America denotes an optimistic vision whereby the American experience was the result of a unique, and fortunate, alliance of religion, nature, and technology.[576]

The essence of this political millennialism displayed in colonial America, and later within the nascent United States, may be observed in the shifting visions of millennial Anti-Christ rhetoric. Prior to the American Revolution, the great enemy of the New England Protestants culminated in the Holy See and associated Catholic states, such as France and Spain. A central component of this rhetoric was the understanding that negative historic events which had taken place in England had occurred at the hands of Catholic-connected monarchs. For example, Charles I married the sister of the French monarch prior to the state plunging into the English Civil War and the rise of Oliver Cromwell as Lord Protector, while James II was linked to Catholicism which ultimately led to an eruption and his deposition.[577] However, these colonial millennialists saw the

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[572] Lee and Simms, "American Millenarianism and Violence," 108.
[573] Ibid.
[574] Ibid.
[575] Lienesch, "The Role of Political Millennialism," 448.
[576] John Lothrop Motley, *Historic Progress and American Democracy: An Address Delivered Before the New-York Historical Society* (New York: Charles Scribner and Co., 1868), 31-39, esp. 31-33.
[577] Nathan O. Hatch, "The Origins of Civil Millennialism in America: New England Clergymen, War with France, and the Revolution," *The William and Mary Quarterly* 31, no. 3 (1974): 426, doi: 10.2307/1921630.

re-establishment of the Protestant Crown with the Glorious Revolution and the later establishment of the House of Hanover as having saved England.[578]

What solidified this apocalyptic vision of Protestantism over Catholicism within historic events was the British victory over France in 1763 and the subsequent removal of France from Canada.[579] Equally so, within the early days of the United States, the French Revolution and the "de-Christianization campaign of the French radicals" were envisioned as temporary events designed to destroy the "mortal enemy" of Protestantism.[580] The overthrow of the nobility and clergy were considered positive steps and a "providential blow against the papacy".[581] However, the overarching anti-Christian sentiments which emerged in France were weighed as dangerous if allowed to carry beyond the isolated instance of the Revolution, and therefore a re-emphasis of American religious sentiments as the natural protector of social order and liberty was expounded within the nineteenth century's Great Revival, or Second Great Awakening. This Great Revival worked to quell religious fears through social order reform.[582]

As noted above, colonial and early US millennialist interpretations of political events took Catholicism to be the great enemy of the Protestant faith. Yet this vision of religious providence was not to occupy the main millennialist discourse in later years. It was the republican discourse of the American Revolution which would come to dominate the usage of millennialist language in US politics, even to modern times.

For example, the eighteenth century provided a discourse in which the epicentre of the providential mission of Protestantism began to shift from England to the New World, with the Motherland of England and her Crown taking Catholicism's place.[583] The American Revolution contained the view that America was no longer an extension of the English project, but now the "true Church" unto itself.[584] With this shifting vision, the former goal of achieving a purity of religion was replaced with a political purity of republicanism over monarchy.[585] In turn, anti-monarchism imbued a sense of "liberty as

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[578] Ibid.
[579] Ibid, 420-421.
[580] Beam, "Millennialism and American Nationalism," 189.
[581] Ibid, 192-193.
[582] Ibid.
[583] Ibid, 183-184.
[584] Ibid, 185.
[585] Hatch, "The Origins of Civil Millennialism in America," 408-409, 429.

the virtue of the New Israel.[586] The essence of this political millennialism during the American Revolution can be seen in the language of Thomas Paine's *Common Sense*.

Thomas Paine was not a millennialist protestant. He was instead a deist, who believed "that the existence of a divine being could be demonstrated by the use of reason" and held deep concerns regarding religion.[587] Yet despite his differing views, *Common Sense* harkened upon millennialist tones, such that Paine made his republican appeal for the separation of the colonies from the English Crown linguistically millennialist.[588]

Paine foretold the Revolution to be a means of making the world over again. He denounced both the English monarch and the constitution, implying the former a thief and the latter a fraud.[589] In his defence of a republic, Paine noted the biblical election of Saul as setting an elected precedence for the history of Israel, yet this was brought to error with the subsequent rule of David and his hereditary succession which ultimately created a falsity of government.[590] For Paine, the true design of government came with the right of election which could be found within a republic.

According to Paine, government "even in its best state, is but a necessary evil", with security as "the true design and end".[591] He noted republican government as "the simple voice of nature and reason" which would prove to be the least oppressive version of rule.[592] Paine explained the American project as something which held no equal in Europe. Emphasising Saul's biblical election and the dangers of monarchical rule, Paine equated the future American republic with the city on a hill and asserted elected government to be emblematic of the coming Kingdom.[593] These assertions claimed a special status for the American nation. Ultimately, the Revolutionary nationalism which

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[586] Ibid, 409.

[587] Gray, *Black Mass*, 153.

[588] Ibid.; Stephen Newman, "A Note on Common Sense and Christian Eschatology," *Political Theory* 6, no. 1 (1978): 106, https://www.jstor.org/stable/190888.

[589] Ibid, 101.; Thomas Paine, "Common Sense," in *The Writings of Thomas Paine*, vol. 1 (1774-1779), ed. Moncure Daniel Conway (London: G.P. Putnam's Sons, 1894): 79-82, 72-74.

[590] Paine, "Common Sense," 78-79, 81.

[591] Ibid, 69.

[592] Ibid, 71.

[593] Paine on the American republic: "The Sun never shined on a cause of greater worth" in Paine, "Common Sense," 84.; Paine, "Common Sense," 96-99.; Newman, "A Note on Common Sense and Christian Eschatology," 102.; Eric Foner, "Tom Paine's Republic: Radical Ideology and Social Change," in *The American Revolution: Explorations in the History of American Radicalism*, ed. Alfred F. Young (DeKalb: Northern Illinois University Press, 1976): 205-206.

developed in the period arose out of this belief in America's "exceptionalism" through a mixture of millennialist visions and trust in republican institutions of law, both of which persisted into the early United States.[594] As Alan Heimert has noted, elements of American nationalism were displayed in the Great Awakening.[595]

American exceptionalism has long defined the position and activity of the United States both domestically and in the world. In describing the atypical nature of America, Alexis de Tocqueville noted:

> The position of the Americans is therefore quite exceptional, and it may be believed that no democratic people will ever be placed in a similar one. Their strictly Puritanical origin, their exclusively commercial habits, even the country they inhabit . . . the proximity of Europe . . . [and] a thousand special causes . . . have singularly concurred to fix the mind of the American upon purely practical objects. . . . [H]is religion alone bids him turn, from time to time, a transient and distracted glance to heaven.[596]

While this statement was made in reference to the more practical and less philosophical focus of the United States, Tocqueville nevertheless distinguishes the influence of puritan millennialism on the origins of American exceptionalism.

This exceptionalism remains prominent beyond the nascent period of the United States and has held perpetual influence in the patterns of thought in and around historical events. For example, the US Civil War was envisioned by some commentators to be a test of the American measure to survive certain trials in order to bring about a golden age.[597] The influx of immigrants in the nineteenth and twentieth centuries reinforced the providential experience of the US through the so-called American dream. In the aftermath of the First World War, Woodrow Wilson claimed that "America had the infinite privilege of fulfilling her destiny and saving the world".[598] During the Cold War, Ronald Reagan often "paint[ed] the world in stark good versus evil terms, with the

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[594] Lieven, *America Right or Wrong*, 18.

[595] Heimert, *Religion and the American Mind*, 94.

[596] Alexis de Tocqueville, *Democracy in America*, vol. 2, trans. Henry Reeve (Mattituck NY: Amereon House, 1995), 36-37.

[597] Quandt, "Religion and Social Thought," 394.

[598] Woodrow Wilson, "Address at Cheyenne, WYO, 24 September 1919," in US Congress, Senate, *Addresses of President Wilson; Addresses Delivered by President Wilson on his Western Tour, September 4 to September 25 1919, on the League of Nations, Treaty of Peace with Germany, Industrial Conditions, High Cost of Living, Race Riots, etc.*, 66th Congress, 1st session, Document 120 (Washington, DC: Government Print Office, 1919), 336.

United States as the divinely chosen defender of freedom and liberty".[599] Meanwhile, in the 1990s, Madeline Albright titled the United States as the "indispensable nation".[600]

In framing their perception of the years following September 11, the Bush Administration captured the terms of the war on terror as a conflict of good versus evil, tapping into the millennialist-republican discourse. As Bush noted,

> The advance of freedom is the calling of our time; it is the calling of our country . . . We believe that liberty is the design of nature; we believe that liberty is the direction of history. We believe that human fulfilment and excellence come in the responsible exercise of liberty. And we believe that freedom—the freedom we prize—is not for us alone, it is the right and capacity of all mankind . . . And as we meet the terror and violence of the world, we can be certain the author of freedom is not indifferent to the fate of freedom.[601]

This alignment of millennialist convictions and modern terrorism offers an account not dissimilar to the eighteenth-century defeat of the Anti-Christ and the supremacy of republican government. However, twenty-first century language replaces the Catholic and monarchical expressions of the Anti-Christ with terrorism and Middle East regimes, while republicanism is expressed as democracy, freedom, and liberty.

Despite this trend of usage by political leaders, American millennialism is often contradictory. Visions of interventionism filled the thoughts of the post-Revolution United States, based in the assumption that America held a certain mission to aid emerging republican governments, such as those of revolutionary France.[602] The millennialist vision of violence against the Anti-Christ made the French Revolution appear as providential to the extermination of those enemies found in Catholicism and monarchical rule.[603] Yet this pull to intervene has long been countered by preferences toward isolationism, or the proclivity to withdraw from the global field in order to protect oneself at home.[604]

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[599] David Domke, *God Willing?: Political Fundamentalism in the White House, the War on Terror and the Echoing Press* (London: Pluto Press, 2004), 8.

[600] Madeleine K. Albright, interview by Matt Lauer, 19 February 1998, transcript, US Department of State, available at: https://1997-2001.state.gov/statements/1998/980219a.html.

[601] George W. Bush, "President Bush Discusses Freedom in Iraq and Middle East," *The White House*, 6 November 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/11/20031106-2.html.

[602] Lienesch, "The Role of Political Millennialism," 445.

[603] Ibid, 449-451.

[604] Ibid, 445.

156

The post-Revolution policy of neutrality toward Europe driven by President George Washington (1789-1797) was in many ways recast in millennialist grammar. The peace achieved in the former colonies through the expulsion of the English equated to the providential future peace described within millennialist belief. The achievement of establishing a republican government in the United States was to be a model for future peace to all nations.[605] Maintaining purity at home would be a greater triumph than any potential exportation of republican governance to late-eighteenth century France. The success at home was paramount to the project and outside interference could not be tolerated. It was not until the victory of the Second World War that the United States abandon their isolationist tendencies and embarked upon a defence of democratic purity against the enemies of communism, tyranny, and terrorism. The Iraq invasion debate remains an example how of these millennialist mentalities of ideal governance and global change continue within the contemporary United States, the influence of which was only enhanced by the introduction of neoconservative ideology.

6.2: Neoconservative Influence

Irving Kristol describes neoconservatism as a "persuasion", or moral and political attitude, rather than a coherent movement or party.[606] Neoconservatives operate under the assumption that religion, presented by Kristol as less of a creedal tradition and more of a broad moral platform akin to creedal traditions, provides authoritative moral and cultural structures which are absent in the modern world.[607] This reflection by Kristol stems from an anti-communist rhetoric within the mid- and late-twentieth century, a period noted for the presence of a "religious vacuum" in the US and elsewhere.[608]

Neoconservatives themselves tend to be "short on personal religion" of a creedal kind, yet are often "long on giving meaning to their lives through political causes".[609] This has historically led to a sharing of concerns with creedal traditions in relation to

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[605] Ibid, 452.

[606] Irving Kristol, "The Neoconservative Persuasion: What It Was and What It Is," *Weekly Standard*, 25 August 2003, available at: https://www.washingtonexaminer.com/weekly-standard/the-neoconservative-persuasion.; Urban, "The Secrets of the Kingdom," 151.

[607] Ira Chernus, "The War in Iraq and the Academic Study of Religion," 76, no. 4 (2008): 247-248, doi: 10.1093/jaarel/lfn076.

[608] Irving Kristol, *Neoconservatism: The Autobiography of an Idea* (New York: Free Press, 1995), 178.

[609] Gary Dorrien, *Imperial Designs: Neoconservatism and the New Pax Americana* (New York: Routledge, 2004), 132.

criticisms of "sexual promiscuity, the breakdown of family ties, and the erosion of traditional cultural values".[610] In the United States, this strategy has lent well to the establishment of relations between neoconservatives and the Evangelical Right.

According to Ira Chernus, neoconservative discourse is structured by dichotomies, such as strong/weak and order/chaos, which are coded in moral vocabulary like right versus wrong, virtue versus vice, pure versus impure, and good versus evil.[611] Moral strength is derived from political purity and power, such as Cold War anti-Communism and positive views on military expansion.[612] David Brooks contends that the neoconservative worldview following September 11 could be surmised as the following: "Evil exists . . . To preserve order, good people must exercise power over destructive people".[613]

Kimberly Kagan asserts that despite the self-interested foreign policy of the United States, America "chiefly hungers for peace".[614] This peace is exemplified within the neoconservative vision of a world that is converging on a single type of government, universal democracy, which echoes the republican-millennialism of the eighteenth-century American revolutionaries.[615] Neoconservatives attest that US-style democratic capitalism is the "final form of human government", of which they seek to export abroad.[616] Under this utopian vision, war becomes an acceptable vehicle for democracy.[617] Here, the use of force is not only a vehicle for human progress, but it echoes the insistence of millennialist punishment for wrongdoing.[618] This has remained particularly noteworthy since the Cold War in relation to the Middle East, as the war on terror has provided the neoconservative-oriented Bush Administration an opportunity to implement this vision through the invasions of Afghanistan and Iraq. In essence,

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[610] Ibid, 207.

[611] Chernus, "The War in Iraq and the Academic Study of Religion," 851.

[612] Ibid, 849.

[613] David Brooks, "The Age of Conflict: Politics and Culture after September 11," *Weekly Standard*, 5 November 2001, available at: https://www.washingtonexaminer.com/weekly-standard/the-age-of-conflict.

[614] Eric Adler, "Post-9/11 Views of Rome and the Nature of 'Defensive Imperialism'," *International Journal of the Classical Tradition* 15, no. 4 (2008): 594-595, doi: 10.1007/s12138-009-0069-7.

[615] Gray, *Black Mass*, 1.

[616] Francis Fukuyama, "The End of History?" *The National Interest*, no. 16 (1989): 4, https://www.jstor.org/stable/24027184.; Gray, *Black Mass*, 40, 45.

[617] Gray, *Black Mass*, 3-4.

[618] Chernus, "The War in Iraq and the Academic Study of Religion," 867.

neoconservatives rely on war as a just tool of the state, a view very much present within the Administration's 2002 *National Security Strategy*.[619]

As noted above, the neoconservative outlook on world affairs mirrors in many ways the perspectives of the American millennialist discourse. The election of George W. Bush made the connection ever more apparent as the millennialist Christian Right moved to coalesce around the Bush candidacy, and further so under the Administration. While different in their level of religiosity, the neoconservatives in the Administration shared a unique vision of global affairs with the Christian Right, which unified their political goals. This unity offered the Christian Right a focus for their millennialist pursuits, namely Saddam Hussein and the Middle East.[620] Meanwhile, the alliance provided a platform for neoconservative discourse to move beyond "a few dozen ideologues" into the broader public realm and contributed to the mobilisation of millions of Americans in support of the Iraq invasion.[621] This millennialist homogeneity is of particular note in relation to US foreign policy under the Bush Administration, which sought to extend democracy abroad. This democratisation initiative was neither unique to President Bush nor the neoconservatives, rather it remains a consistent focus of US foreign affairs.

American foreign policy under the Clinton Administration in the 1990s sought to shape the world through the extension of free markets and peaceful institutions like the International Monetary Fund, however, neoconservatives, both in the 1990s and later within the Bush Administration, wished to effect global change through "the intensive application of military force".[622] According to Michael C. Desch, the American understanding of foreign affairs draws on Kantian principles, namely that international peace is attainable under republican government. As Immanuel Kant notes:

> [f]or the sake of its own security, each nation can and should demand that others enter into a contract resembling the civil one and guaranteeing the rights of each," in such that republican forms of government elicit security.[623]

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[619] See: Bush, *The National Security Strategy of the United States of America*, i-iii, 3-4, 21-23.

[620] Gray, *Black Mass*, 165.

[621] Gray, *Black Mass*, 166-167.

[622] Gray, *Black Mass,* 45.

[623] Michael C. Desch, "America's Liberal Illiberalism: The Ideological Origins of Overreaction in U.S. Foreign Policy," *International Security* 32, no. 3 (Winter 2007/2008): 12-13, doi: 10.1162/isec.2008.32.3.7.; Cf. Immanuel Kant, *Perpetual Peace and other Essays on Politics, History and Morals* (Indianapolis: Hackett, 1983), 115.

This view is emblematic of the vision that the international community is fixable only "through the radical transformation of countries' domestic orders and the international system" via the spread of representative government.[624] This is ultimately expressed in terms of millennialist sentiments under the Bush Administration after September 11.

American foreign policy, particularly under the Bush Administration, construes non-democratic states as an "unjust enemy" until which time they embrace ideal government.[625] This has been seen historically with the nascent United States in relation to the English monarchy, Ronald Reagan toward the Soviet Union, and George W. Bush regarding Iraq. Meanwhile, domestic enemies are uncovered via references to purity, such as equating those deemed as "un-American" with the potential to be "dangerous, immoral, subversive and deluded".[626] This was the case under 1950s McCarthyism.

As noted above, millennialist language has historically featured in the United States as "an extremely useful phenomenon, which modern social and political movements can profitably utilize to spread their range of influence".[627] According to Hugh Urban,

> [Bush's] display of piety thus provides a sense of divine justification and messianic certitude for the neoconservatives' political agendas, while at the same time concealing and obfuscating their deeper motivations.[628]

Michael Gerson, President Bush's chief speech writer from 1999 to 2004, was known for inserting pertinent religious language and biblical references into a majority of Bush's speeches.[629] This was a tactical use of millennialist language to increase resonation with Evangelical supporters yet had the range to reach non-Evangelical Americans as well. As Paul Froese and F. Carson Mencken note, Bush's framing of the war as a struggle between good and evil appealed "to a certain segment of the population that is not fully identified as Republican or conservative".[630] This suggests that the use of religious

[624] Desch, "America's Liberal Illiberalism," 13.
[625] Ibid, 14, Cf. Immanuel Kant, *The Philosophy of Law: An Exposition of the Fundamental Principles of Jurisprudence as the Science of Right* (Indianapolis: Liberty Fund, 2005), 78.
[626] Lieven, *America Right or Wrong*, 17.
[627] Eric J. Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries* (New York: W.W. Norton, 1965), 106.
[628] Urban, "The Secrets of the Kingdom," 143.
[629] Paul Froese and F. Carson Mencken, "A U.S. Holy War? The Effects of Religion on Iraq War Policy Attitudes," *Social Science Quarterly* 90, no. 1 (2009): 104, doi: 10.1111/j.1540-6237.2009.00605.x.
[630] Ibid, 112.

language to sell policy is further reaching than simply to one political party alone. This holds in the face of the 2012 Democratic National Convention, where a major address was delivered by social activist Sister Simone Campbell in relation to competing American economic values and Catholicism.[631]

In the case of Iraq specifically, rhetoric of "freedom" as a gift from God and the "goal of history" increased the dramatic nature of the millennialist call to remake the world.[632] Apocalyptic expectation and the belief in human progress pressed warfare as an essential weapon for the exportation of democracy.[633] For instance, the overthrow of tyranny for the sake of democratic ideals emphasised the nature of progression toward the achievement of the millennium.[634] As Bush noted in the aftermath of September 11, "our responsibility to history is already clear: to answer these attacks and rid the world of evil".[635] Equating the concept of evil with terrorism, and later with tyranny, reinforced the end-times rhetoric of democratic government as *the instrument* of peace. During the Iraq invasion debate, the Administration applied equally divisive dualistic language toward "Old Europe" with implications of impurity in reference to the American position of expanding democracy and freedom.[636] President Bush employed similar rhetoric in his 2002 State of the Union when he announced his 'axis of evil' in the form of North Korea, Iran, and Iraq.[637]

In addition to democratic citations of the impending millennium, the Bush Administration highlighted the notion of punishment derived from millennialist expectations.[638] The often referenced biblical passage of "The Judgement of the Nations" underscores the punishment of the unrighteous: "You that are accursed,

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[631] Molly Worthen, "The Power of Political Communion," *The New York Times*, 15 September 2012, https://www.nytimes.com/2012/09/16/opinions/sunday/catholics-and-the-pwer-of-political-communion.html.

[632] Urban, "The Secrets of the Kingdom," 143.

[633] Gray, *Black Mass*, 170-172.

[634] Ibid, 218.

[635] George W. Bush, "President's Remarks at National Day of Prayer and Remembrance," *The White House*, 14 September 2001, https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010914-2.html.

[636] Donald H. Rumsfeld, "Secretary Rumsfeld Briefs at the Foreign Press Center," *US Department of Defense*, 22 January 2003, https://archive.defense.gov/Transcripts/Transcript.aspx?TranscriptID=1330.; Guy B. Hammond, "The Relevance of Langdon Gilkey's Theology of History," *American Journal of Theology and Philosophy* 28, no. 1 (2007): 123, https://www.jstor.org/stable/27944394.

[637] Bush, "President Delivers State of the Union Address."

[638] Gray, *Black Mass*, 30.

depart from me into the eternal fire prepared for the devil and his angels . . . go away into eternal punishment".[639] This passage may be interpreted as an image of the impending end-times. Post-millennialist visions of human progress dictate that a social adjustment of the world order will precede the day of judgement, therefore, millennialists press corrective measures to aid in the preparation of the millennium. The Administration's focus on the past failures of Iraq to comply with UNSC resolutions and the focus on human rights violations which the regime imposed upon its citizens underscored this conception of duty-bound punishment.[640]

Additionally, the Administration's attempt at redefining pre-emptive defence, which fell under certain assumptions that the possibility for future attacks may be coupled with past ill-will in order to determine the conditions for defence, highlights the millennialist necessity of preserving the righteous. This follows in light of the view that the destruction of sin aids in the protection of the good and that those who sin deserve redemptive punishment. Furthermore, the focus on future outcomes is a direct influence of millennialist discourse insofar as American millennialists concern themselves with the coming of the end-times and the progressive actions in the here-and-now which may aid in achieving said end-time.[641]

The fact that white Evangelical Protestants were largely absent from anti-war demonstrations and more likely to support pre-emptive invasion and the use of torture, not only demonstrates their political cooperation with the Bush Administration but also exhibits their religious commonality with Bush himself.[642] While Catholics and more 'mainline' Protestants were more likely to believe the Administration was "misappropriating religious stories and symbols to rationalize [their] political and economic interests in the region", Evangelicals largely accepted the rhetoric of WMDs, the desire for nuclear acquisition, and connections with terrorism as true.[643] Considerations for this support include the belief by some Evangelicals that the conflict

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[639] Matthew 25: 31-46.
[640] Chernus, "The War in Iraq and the Academic Study of Religion," 867.
[641] Bercovitch, "The Typology of America's Mission," 137.; Gray, *Black Mass*, 30; Lienesch, "The Role of Political Millennialism," 448.
[642] Ronald E. Brown, et al., "Religion and Military Policy Attitudes in America," *Review of Religious Research* 55, no. 4 (2013): 574, doi: 10.1007/s13644-013-0120-7.
[643] Ibid, 576.

with Iraq was a stepping stone in the fulfilment of the requirements of the millennium.[644]

Certain language surrounding the use of pre-emptive measures by President Bush signified a millennialist vision. This includes the claim in the 2002 NSS that "uncertainty remains as to the time and place of the enemy's attack", therefore, measures must be taken to defend the state.[645] Additionally, as Guy B. Hammond notes, Bush's claim of the "call of history" coalesced with a vision of the nation's vocation as the New Israel:

> Especially with the doctrine of preemption Bush is to be found among the most crusading of American presidents: with the reluctant crusader, William McKinley, with Theodore Roosevelt, and (at least in his later years) with Woodrow Wilson.[646]

Such is the case that the pre-emptive design of the Bush Doctrine coincided with the expectational dimensions of the millennium and the defence of freedom as a part of the ultimate fight against evil. The focus of this pre-emption on Saddam Hussein illustrated the overarching millennialist dimension within the 'axis of evil' commentary.

What has been discussed above details the millennialist nature of not only the religiously influenced, foundational, political outlook on world affairs found within the United States, but also the similar vision employed by the neoconservatives in the fulfilment of their agenda. In the United States, religion and politics have a history of acting as co-ordinating partners for the possession and expression of power. This view, employed by the Bush Administration during the Iraq invasion debate, is contrasted by the European experience of conflict in the desire for state power between religious and political entities. The consequence of the American experience of religious-political co-operation has historically been the expression of American exceptionalism that shaped the domestic reality of the US during their stint as isolationists. More recently, it has led to a US expansionism for hegemonic gains through economic and military force, out of which bore the Iraq War and the post-war suffering of the Iraqi people.

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[644] Ibid, 577.
[645] Bush, *The National Security Strategy of the United States of America*, 15.
[646] Hammond, "The Relevance of Langdon Gilkey's Theology of History," 123.

Concluding Remarks

This chapter has sought to outline the foundational influences on moral discourse in the United States. The presence of millennialist thinking in the nascent American nation enabled the overarching sense of exceptionalism which has since lurked in the nationalism of the country. This exceptionalism lends a weight to the forcefulness of conviction displayed by the Bush Administration in the Iraq debate.

Section one discussed the early manifestations of American millennialism and its changes following the Great Awakening. Whereas early millennialist discourse framed itself in relation to its English past, the Great Awakening established an American centricity to millennialism which envisioned a progressive human history. This pressed colonial Protestants into active participation in civil society to remake the world in preparation for the return of Christ. Additionally, American settlements were retconned into a new Israel, while the expelling of France from North America evoked sentiments of certain truth.

The effect of the Great Awakening promoted a vision of American society which aligned with Revolutionary politics. Thinkers such as Thomas Paine exhorted the republican form of government as a universal good in the language of millennialist thought. These millennialist-republican pronouncements would remain within the American psyche to the present, outlining a vision of American exceptionalism which grounds itself on certain truths.

Section two explored neoconservatism, which gained prominence in the Bush Administration through its shared policy goals with the Christian Right, the modern inheritors of the millennialist tradition and a group who remained largely away from anti-war protests against the Administration. Looking to the Iraq invasion, the shared sentiments of universal good, black and white duality of thought, and the hunger to spread democracy echoed the millennialist visions of the downfall of evil. The language used by President Bush in the 2002 *National Security Strategy* echoes Revolutionary considerations that tyranny must end.

As discussed in the previous chapter, the Bush Administration's arguments favouring the invasion of Iraq developed from a lens of relative last-ness and the permissibility of war as a tool of statecraft. The moral wisdom of the Administration in

favouring the use of force derives prominently from the American moral foundation borne from millennialist discourse and two centuries of exceptionalist experience. As the core American mythos embraces divine providence enacted through the exercise of democratic freedom, the use of force by the United States remains an act of justice.

US self-reflection on historical experience has supported this American confidence in their possession of certain justice. The victories in both World Wars and the defence of democracy in the face of Cold War communism successfully perpetuates the millennialist notion of history within a lens of divine providence first experienced during the time of the Revolution. This historical expulsion of evil, in the form of Catholic France and the English monarchy, is generated in the modern instances of tyranny, communism, and terrorism. The success of America within these primarily foreign engagements have left the United States relatively unscathed. As such, no challenge to the American mythos has effectively displaced the internal view that America *is exceptional* and, therefore, any use of force which can be framed within just war grammar must be an act of justice. For how could a nation of providence be unjust? Prudential calculations of relative last-ness thusly comprise a combination of this preferential American position and the historical experience of victory.

The next two chapters will explore a contrasting experience within the European continent. First, Chapter Seven will provide a representation of the arguments expressed by those states opposed to the Iraq invasion. This will demonstrate both a presumption against the use of force relative to an exhaustive last-ness which contrasts the US approach. Second, Chapter Eight will comprise a mapping of the origins of the European moral discourse expressed in the Iraq debate which derived from a narrative of victimhood in the face of confessional and nationalist violence.

Chapter Seven

Arguments from Opposition

Introduction

Since the conclusion of the Second World War, European authorities have sought to avoid war among themselves. The horrors of this war instilled a mindset that the use of violent force could not be classified as a tool of the state in international affairs, as had been the case during the previous century. Instead, a presumption against the use of force became the prevailing norm, instigating an integrationist mentality which would shape the eventual formation of today's European Union. While this mentality has not held the same weight among external military engagements, such as the case of the Falklands War between Argentina and the United Kingdom, it has led to the second-guessing of calls for immediate action abroad. This was the case during the Iraq debate.

State opposition to the Iraq War came in two forms: an overt pronouncement and a subtle pronouncement of moral discourse. The former developed in the form of the Holy See, a unique political actor who melds political and moral discourse in its nature as head of the global Catholic Church. The latter instance developed through the positions of France and Germany, two secular-oriented states who focused their arguments within political terms. Yet the language of the latter instance developed in a style consistent with that of the modern just war tradition in terms of a moral undertone which presumes war to be a last resort. For as James Turner Johnson has noted, "[m]odern international law is one of the bearers of this tradition".[647]

This chapter will discuss the oppositional state voices present within the Iraq invasion debate. First, the chapter will discuss the Holy See as a political actor. In modern times, the Holy See has achieved a level of recognition equal to that of a state in international organisations such as the United Nations. Yet this designation is not a modern conception, as the Holy See has held various political influences, from a tug-of-war between Church and Empire to the lordship of the Papal States.

Second, the position of the Holy See in relation to the Iraq invasion will be discussed, namely the rejection of military action through an interpretation of just force

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[647] Johnson, *Can Modern War Be Just?*, 14.

that runs in contrast to the United States. This section will outline the major instances of opposition which relate directly to just war grammar, such as authority, cause, intention, and last resort. Additionally, this section will also discuss the concerns held by the Holy See that the war might be construed as the start of a clash of civilisations between Christianity and Islam, thereby breaking the tradition's overarching aim of peace.

Finally, Chapter Seven will briefly discuss the positions of France and Germany in relation to their use of just war grammar in rejecting the American call for war. The basis of their arguments relate to the popular derivation of authority in a democracy, a lack of sufficient causality, and the failure of the United States to allow inspections to run their course. While both states did not intentionally seek to ground their arguments in the just war tradition, the influence of the tradition on international political discussions of war and peace, as previously noted by Johnson, remains apparent.

7.1: The Holy See as a Political Actor

Before embarking on a discussion of the oppositional voices from the Holy See, this section must first exemplify how the Holy See is a modern political actor. As the Holy See is to a great degree synonymous with the Catholic Church, it must first be understood in what way the Holy See is different from any other Christian denomination and is indeed a political actor on the same level as other states. First, let us note the legal status of the Holy See.

Within international law, the Holy See is classified as a sovereign state, while at the same time remaining "a non-territorial entity composed of the Pope and the Roman Curia", the central administration of the Roman Catholic Church.[648] The Holy See's status as a modern state may be traced back to the 1929 Lateran Treaty with Italy, in which the Italian state recognised the sovereignty of the Holy See in the international sphere.[649] According to Lassa Oppenheim, "[t]he grant of recognition is an act on the

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[648] Yasmin Abdullah, "The Holy See at United Nations Conferences: State or Church?" *Columbia Law Review* 96, no. 7 (1996): 1837, doi: 10.2307/1123295.

[649] Article 2: "Italy recognizes the sovereignty of the Holy See in the international domain as an attribute inherent in its nature, in accordance with its tradition and with eh requirements of its mission in the world. See: Holy See and the Kingdom of Italy, "Treaty of the Lateran," 11 February 1929, in *Constitutions of Nations*, vol. III, ed. Amos J. Peaslee (Concord: Rumford Press, 1950), 435.

international plane, affecting the mutual rights and obligations of states, and their status or legal capacity in general".[650]

Pursuant to Article 3 of the Lateran Treaty, the Holy See is declared to have "full ownership, exclusive and absolute power, and sovereign jurisdiction over the Vatican", while Article 24 declared "the City of the Vatican shall always and in every case be considered as neutral and inviolable territory."[651] In essence, the Holy See is, in modern international law, a sovereign state present within the physical territory of Vatican City as a temporal platform for its spiritual mission.[652] Yet while the modern legal status of the Holy See may be traced to 1929, the sovereign status which the Holy See has historically enjoyed predates modern international configurations.

The early history of the Holy See was a period of conflict between the spiritual mission of the Church and the temporal politics of the state. Much of the early years of the Holy Roman Empire involved a tug-of-war between the pope and the emperor for power, as was the case with the Investiture Controversy and the instigation of the Crusades.[653] The political battles between the Holy See and the Imperial court ceased with the Peace of Westphalia, which ended the special status of the pope and emperor, relegating each to the status of a monarch. In the case of the emperor, his kingdom became the Habsburg territory of the German-bound Holy Roman Empire, while the pope ruled as an elected monarch of the Papal States until their annexation by the Kingdom of Italy in 1870.[654]

With annexation and the loss of temporal authority, the Holy See's influence was diminished locally, insofar as it no longer possessed sovereign territory. However, the Holy See flourished through its transnational spiritual reach as the head of the Roman

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[650] Lassa Oppenheim, *Oppenheim's International Law*, vol. 1, 9th ed., eds. Robert Jennings and Arthur Watts (London: Longman, 1992), 128.

[651] Holy See and the Kingdom of Italy, "Treaty of the Lateran," 11 February 1929, in Peaslee, ed., *Constitutions of* Nations, vol. III, 435, 441.

[652] There are three general interpretations of the relationship between the Holy See and Vatican City: the Holy See is a sovereign entity which governs the Vatican as a vassal state; the Holy See is the name for the government of the Vatican City state; the Holy See and the Vatican City are personalities joined together in a "real union". See: Abdullah, "The Holy See at United Nations Conferences," 1857-1858.

[653] See Chapter One.

[654] Mariano Barbato, "A State, a Diplomat, and a Transnational Church: The Multi-layered Actorness of the Holy See," *Perspectives* 21, no. 2 (2013): 28, https://www.jstor.org/stable/24624544.; Daniel Philpott, "The Religious Roots of Modern Relations," *World Politics* 52, no. 2 (2000): 212, doi: 10.1017/S0043887100002604.; Abdullah, "The Holy See at United Nations Conferences," 1855.

Catholic Church, which in turn enhanced its international profile. The return of territorial independence with the Lateran Treaty had the dual impact of returning the Holy See to a recognised sovereign state, as well as impressing an understanding that the recognition of a state by the Holy See could instil legitimacy onto foreign regimes, something Mussolini sought in 1929.[655]

Mariano Barbato explains the modern, post-Lateran Holy See as possessing three levels of actorness. First, as the Church, whose transnational membership has reached more than one billion today and holds significant influence over the moral and political behaviour of its faithful.[656] Samuel P. Huntington notes that the third wave of democratisation stemmed in part from the favouring of democracy over communism by the Church.[657] Thus, the global reach of the Church extends the soft power of the Holy See and enables the penetration of said power into the local discourse of foreign states.

Second, as the State, providing the Holy See with territorial independence which prevents external state influence in its affairs.[658] Through Vatican City, the Holy See retains its physical independence, yet at the same time cannot be reduced to the boundaries of the Vatican due to its transnational status via the Church. In the words of Pope Paul VI, the State aspect of the Holy See provides the pope and his Administration "the minimum needed in order to be free to exercise his spiritual mission and to assure those who deal with him that he is independent of any sovereignty of this world".[659]

Third, as the Diplomat, in which the status of the pope as the sovereign of the Holy See imbues his office with the ability to exercise soft power among his sovereign peers.[660] Historical instances of this exercise include the mediation of the Treaty of Tordesillas (1494) between the Kings of Spain and Portugal, the support of Christian Democrats in post-war Italy, and the aspired containment of communism prior to the

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[655] Barbato, "A State, a Diplomat, and a Transnational Church," 37-38.
[656] Ibid, 29.
[657] Samuel P. Huntington, "Democracy's Third Wave," *Journal of Democracy* 2, no. 2 (1991): 13, doi: 10.1353/jod.19910016.
[658] Barbato, "A State, a Diplomat, and a Transnational Church," 29.
[659] Paul VI, "Address of the Holy Father Paul VI to the United Nations Organization," *Libreria Editrice Vaticana*, 4 October 1965, http://www.vatican.va/content/paul-vi/en/speeches/1965/documents/hf_p-vi_spe_19651004_united-nations.html.
[660] Barbato, "A State, a Diplomat, and a Transnational Church," 29.

United States.[661] In recent times, the Holy See mediated the return of mutual diplomatic recognition between Cuba and the United States.[662]

As a recognised state, the Holy See is afforded certain privileges in modern politics. For example, the Holy See is a Non-Member state of the United Nations with Permanent Observer status. This was identical to Switzerland, who held this status until 10 September 2002.[663] While not a member state of the General Assembly under this status, and therefore unable to vote in the Assembly, the Holy See may participate in the work of the UN "on the same level as if it were a member".[664] This lack of a vote does not diminish the Holy See's recognition as a state, just as it did not diminish Switzerland in the same role before 2002. For example, the Holy See is able to participate at UN conferences in equity to other states, and is able to greatly influence debate under a consensus driven model.[665]

In a modern context, the Holy See has internationally exhibited a soft power approach, for example in relation to the terrorist attacks of September 11. In the aftermath, John Paul II called the attack "a dark day in our history, an appalling offence against peace, [and] a terrible assault against human dignity".[666] In his 2002 World Day of Peace message, John Paul stated:

> It is a profanation of religion to declare oneself a terrorist in the name of God, to do violence to others in his name. Terrorist violence is a contradiction of faith in God, the Creator of man, who cares for man and loves him. It is altogether contrary to faith in Christ the Lord . . .[667]

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[661] Ibid, 40-41.; H. Vanderbilts Linden, "Alexander VI. and the Demarcation of the Maritime and Colonial Domains of Spain and Portugal, 1493-1494," *The American Historical Review* 22, no. 1 (1916): 2, doi: 10.2307/1836192.

[662] Emma Dwight, "Dissecting a Miracle: Pope Francis the Peacemaker," *Harvard International Review* 36, no. 3 (2015): 7-9, https://www.jstor.org/stable/43639277.; Peter Baker, "U.S to Restore Full Relations with Cuba, Erasing a Last Trace of Cold War Hostility," *New York Times*, 17 December 2014, https://www.nytimes.com/2014/12/18/world/americas/us-cuba-relations.html.

[663] United Nations, "About Permanent Observers," *United Nations*, accessed 3 April 2020, https://www.un.org/en/sections/member-states/about-permanent-observers/index.html.

[664] Abdullah, "The Holy See at United Nations Conferences: State or Church?", 1843.

[665] Ibid, 1835.

[666] John Paul II, "General Audience," *Libreria Editrice Vaticana*, 12 September 2001, http://w2.vatican.va/content/john-paul-ii/en/speeches/2003/january/documents/hf_jp-ii_spe_20030113_diplomatic-corps.html.

[667] John Paul II, "Message of His Holiness Pope John Paul II for the Celebration of the World Day of Peace," *Libreria Editrice Vaticana*, 1 January 2002, http://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_20011211_xxxv-world-day-for-peace.html.

This rebuke by John Paul underscored the Holy See's position that religiously-inspired violence contains no moral justification, countering claims made by some individuals associated with the September 11 attacks. This was ever more pronounced by Archbishop Jean-Louis Tauran's 12 October 2001 interview with *La Croix*.

In his interview, Tauran, Vatican Secretary for Relations with States (1990-2003), defended the American action against terrorism as a measure of self-defence, noting that "Operation Enduring Freedom is a response to the terrorist acts of aggression against innocent civilians".[668] He drew from a mix of international law and the just war tradition in his expression of "legitimate defense" as it is a state's "duty to guarantee the security of its citizens".[669] The Holy See, as expressed in the *Catechism of the Catholic Church*, supports the use of force when legitimated by moral considerations which override the general presumption against the use of force and is supported by the hard power actions of other states in a clear vocalised moral context.[670]

The support expressed by the Holy See noted above is significant in light of later expressions of opposition to the use of force in the case of Iraq. The conditions relating to Iraq were different than those in the aftermath of September 11, and as such, the Holy See expressed a different characterisation of the United States' right to military engagement. As John Paul noted, there exists "a right to defend oneself against terrorism", however, this right must be "exercised with respect for moral and legal limits in the choice of ends and means".[671] Or in other words, the United States held a right of self-defence against the terrorist attacks on September 11, but they did not have a right to expand their military action beyond the limited scope of combating terrorism.

As demonstrated in this section, the Holy See has long maintained a presence within international political engagement. Having emerged from historical brinkmanship of pope versus emperor, the Holy See has developed into a vehicle for soft power. In modern times, this legally defined sovereign state has sparred with

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[668] John L. Allen Jr., "New American Ambassador says U.S. has Vatican Support," *National Catholic Reporter*, 26 October 2001, http://natcath.org/NCR_Online/archives2/2001d/102601/102601f.htm.; Cf. Jean-Marie Guenois, "Attentats terroristes aux Etats-Unis," *La Croix*, 12 October 2001, https://www.la-croix.com/Archives/2001-10-12/Attentats-terroristes-aux-Etats-Unis-_NP_-2001-10-12-142814.
[669] Ibid.
[670] Catholic Church, *Catechism of the Catholic Church*, 615-617.
[671] John Paul II, "Message of His Holiness Pope John Paul II for the Celebration of the World Day of Peace."

political opponents in areas from the family to war and all in between. The next section will detail the occasion of the Iraq debate and the articulations from opposition expressed by the Holy See against the United States.

7.2: The Holy See in Opposition

Since the end of the Second World War, the Holy See has maintained that any just determination of war must come from within the framework of the United Nations. Paul VI addressed the United Nations claiming that the work of the UN was to prevent war through dialogue and equality among members. He envisioned the United Nations as "coming to the establishment of a world authority capable of taking effective action" in relation to justice and politics.[672]

In what may be a by-product of its lack of hard power, the Holy See maintains that the medium of the United Nations allows for the greatest legitimacy of debate. According to Archbishop Jean-Louis Tauran, speaking at the Catholic University of the Sacred Heart, Milan in April 2002, "war must always be rejected and priority given to negotiation and the use of juridical instruments".[673] The Holy See contended that in the context of an Iraq war, a unilateral invasion by the United States would exceed state sovereignty rights as permitted under modern international law. As Archbishop Tauran noted to ambassadors accredited to the Holy See around the time of the invasion:

> No rule of international law authorizes one or more states to resort unilaterally to the use of force in order to change a regime or the form of government of another state because, for example, it is considered to possess weapons of mass destruction . . . only the Security Council can make this decision.[674]

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[672] Paul VI, "Address of the Holy Father Paul VI to the United Nations Organization".; In his 2003 World Day of Peace Message, John Paul II noted the capacity of the United Nations "to promote and defend international security" has been a Holy See position since John XXIII's encyclical *Pacem in Terris*, See: John Paul II, "Message of His Holiness Pope John Paul II for the Celebration of the World Day of Peace," *Libreria Editrice Vaticana*, 1 January 2003, http://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_20021217_xxxvi-world-day-for-peace.html.

[673] Jean-Louis Tauran, "Lecture by Archbishop Jean-Louis Tauran on the theme 'The Presence of the Holy See in the International Organizations'," *Libreria Editrice Vaticana*, 22 April 2002, http://www.vatican.va/roman_curia/secretariat_state/documents/rc_seg-st_doc_20020422_tauran_en.html.

[674] John L. Allen Jr., "Vatican: War Threatens U.N.'s Status," *National Catholic Reporter*, 21 March 2003, http://www.natcath.org/NCR_Online/archives/032103/032103d.htm.; Cf. John L. Allen Jr., "Keynote Address," *Journal of Catholic Legal Studies* 45, no. 2 (2006): 234, https://scholarship.law.stjohns.edu/jcls.

In this light, the Holy See maintains that the decision to go to war must remain within the medium of the United Nations and additionally must involve not only the permanent members of the Security Council, but smaller and less powerful states in order to remain a "democratic", and therefore legitimate, exercise.[675] This is particularly pronounced within the remarks of Cardinal Pio Laghi just days before the invasion who, following a meeting with President Bush, noted that a war against Iraq under the Administration's expressed conditions would be both "unjust" and "illegal" since the "decision regarding the use of military force can only be taken within the framework of the United Nations".[676]

Additionally, the Holy See argued that a unilateral attack by the United States "would destroy the system of alliances and amount to a challenge to the role and prestige of the United Nations".[677] This directly confronts the Bush Administration's assertion that by intervening in Iraq the United States would uphold the dignity of the UN and prevent the body from falling into the trap which previously damaged the League of Nations beyond repair.[678] These contrasting visions demonstrate a divide among American and Holy See interpretations on just authority. Whereas the Bush Administration defended their imposition in Iraq as a just defence of international law, thereby delineating to themselves authority for war-making based on UN ineffectiveness, the Holy See argued that any unilateral action by the United States "would represent the imposition of hegemony by a superpower founded on force and not on law."[679]

Furthermore, the Holy See contended that the exclusion of smaller states undermines the efficacy of the United Nations insofar as it would see the will of the strongest in the international system remaining unchecked. As Archbishop Tuaran

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[675] Allen Jr., "Vatican: War Threatens U.N.'s Status."

[676] Joe Feuerherd, "Papal Envoy, President Dialogue and Disagree," *National Catholic Reporter*, 14 March 2003, http://www.natcath.org/NCR_Online/archives/031403/031403d.htm.; Pio Laghi, "Statement of Cardinal Pio Laghi, Special Envoy of John Paul II to President George Bush," *Libreria Editrice Vaticana*, 5 March 2003, http://www.vatican.va/holy_father/special_features/peace/documents/peace_20030306_card-laghi-usa-meeting_en.html.

[677] John L. Allen Jr., "As Vatican Calls for Peace, Diplomat Plans Defense of 'Preventive War'," *National Catholic Reporter*, 31 January 2003, http://www.natcath.org/NCR_Online/archives/013103/013103j.htm.

[678] Bush, "Remarks by the President at Republican Governors Association Fall Reception."

[679] Ibid.

noted, the issue in relation to UN authority is "a matter of choosing between the law of force or the force of law".[680] On 10 September 2002, Tauran told the Italian newspaper *Avvenire* that:

> Obviously one cannot combat an evil with another evil, adding evil to evil. If the international community, drawing its inspiration from international law and in particular the resolutions of the United Nations Security Council, were to judge that a recourse to force is opportune and proportionate, it should happen within the framework of the United Nations, after having weighed the consequences for the civilian population of Iraq, not to mention the repercussions that it could have for the countries of the region and world stability; if not, it would simply be the law of the strongest that is imposed.[681]

Tauran also argued in an interview on 23 December 2002 with the Italian paper *La Repubblica*:

> A single member of the international community cannot decide: 'I'm doing this and you others can either help me or stay home.' If that were the case, the entire system of international rules would collapse.[682]

Cardinal Joseph Ratzinger, Prefect of the Congregation for the Doctrine of the Faith (1981-2005), concurred with this assessment. Speaking on the war, Ratzinger argued:

> It is necessary that the choice be made by the community of peoples, not a single power. The fact that the United Nations is seeking a way to avoid the war seems to me to demonstrate with sufficient proof that the damages which would result [from the war] are greater than the values it would seek to save.[683]

As such, the American invasion could not uphold the authority of the United Nations. Rather, the invasion undermined the recognised authority of the Security Council which

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[680] Allen Jr., "Vatican: War Threatens U.N.'s Status."

[681] "Interview with Archbishop Jean-Louis Tauran," *National Catholic Reporter*, 18 September 2002, https://natcath.org/NCR_Online/documents/tauraninterview.htm.; Cf. Zenit Staff, "Conditions Governing Military Intervention in Iraq," *Zenit.org*, 10 September 2002, https://zenit.org/articles/conditions-governing-military-intervention-in-iraq/.

[682] John L. Allen Jr., "Vatican Criticism of War Plans Chills Relations with U.S.," *National Catholic Reporter*, 24 January 2003, http://www.natcath.org/NCR_Online/archives/012403/012403g.htm; Cf. Zenit Staff, "Attack on Iraq Must Be Avoided, Says Vatican Official," *Zenit.org*, 23 December 2002, https://zenit.org/articles/attack-on-iraq-must-be-avoided-says-vatican-official/.; Karla Donaghey, ed., "What does the Church say about the War in Iraq?" *The Inside Passage: Diocese of Juneau* 38, no. 16 (2007): 4, http://www.dioceseofjuneau.org/core/files/dioceseofjuneau/uploads/files/DioceseofJuneau/Communication/Previous%20Issues/2007/7nov9%20web.pdf.

[683] Joseph Ratzinger, Speech in Trieste, September 2002, quoted in John L. Allen, Jr., "An 'Experiment' Still Isn't Law; More on Homosexuals and Priesthood; Ratzinger Joins Anti-War Voices; Legionaries Hold Orientation for Bishops," *National Catholic Reporter*, 27 September 2002, http://www.nationalcatholicreporter.org/word/word0927.htm.

in turn made the body closer to the League of Nations in terms of power than the Americans would admit.

The Holy See also argued that the stipulated causes for war did not meet the necessary criteria to be considered legitimate. Of particular importance was the insistence that pre-emptive measures were not applicable in the Iraq case, nor were preventive ones. Cardinal James Francis Stafford, president of the Pontifical Council for the Laity (1996-2003), argued that a "legitimate public authority cannot decide for war unless the nation or community of nations has undergone prior damages from an aggressor or is actually under a very imminent threat".[684]

As the *Catechism of the Catholic Church* states: "governments cannot be denied the right of lawful self-defense, once all peace efforts have failed . . . [and] the damages inflicted by the aggressor on the nation or community of nations must be lasting, grave, and certain".[685] Thus, the Holy See does not deny the right of a state to exercise its legitimate function of national security to defend its people. However, as noted above, the allowable defence must be preceded by damages of a lasting and grave manner. Only then can the presumption against the use of force be overridden in pre-emptive circumstances. In this instance, the Holy See did not find "clear and adequate evidence of an imminent attack of a grave nature".[686]

Cardinal Stafford additionally noted the American perspective as embracing elements of a "preventive war", which he claimed as having "no limits, is a relative term, and subject to self-serving interpretations".[687] In September 2002, Cardinal Ratzinger argued that "[t]he concept of preventive war does not appear in the *Catechism*".[688] He maintained:

> One cannot simply say that the *Catechism* does not legitimate war, but it's true that the *Catechism* has developed a doctrine such that, on the one hand, there are values and populations to defend in certain circumstances, but on the other, it proposes a very precise doctrine on the limits of these possibilities.[689]

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[684] James Francis Stafford, "The Prospect of War Between Iraq and the United States," *National Catholic Reporter*, 11 February 2003, https://natcath.org/NCR_Online/documents/stafford.htm.

[685] Catholic Church, *Catechism of the Catholic Church*, 615.

[686] United States Conference of Catholic Bishops, "Statement on Iraq," *United States Conference of Catholic Bishops*, 13 November 2002, http://www.usccb.org/issues-and-action/human-life-and-dignity/global-issues/middle-east/iraq/statement-on-iraq-2002-11-13.cfm.

[687] James Francis Stafford, "The Prospect of War Between Iraq and the United States."

[688] Ratzinger, September 2002, quoted in Allen, Jr., "An 'Experiment' Still Isn't Law".

[689] Ibid.

Ratzinger maintained that "[t]here was not sufficient reasons to unleash a war against Iraq", particularly from a preventive lens.[690]

The interpretations of justice by the Bush Administration presented issues with the efficacy of evidence in relation to the necessity of preventive action. The United States argued that an intervention in Iraq was necessary for reasons of defence, breaches of international law, and humanitarian crises.[691] From the Holy See's perspective there remained an inherent failure on the part of the Bush Administration to provide "conclusive evidence" relating to the necessity for military action.[692] With this came certain contentions surrounding the intentions of the United States in their demand for war.

The Holy See maintained a scepticism surrounding the requirement of right intention for military action under the just war tradition in relation to the Bush Administration's public rhetoric. Questions arose surrounding a possible desire of the United States to control Iraq's oil reserves, given the historical ties between members of the Administration, including President Bush, and oil corporations.[693] This focus on intention was repeated by various members of the Holy See.

On 4 February 2003, Archbishop Renato Martino, president of the Pontifical Council for Justice and Peace (2002-2009), was asked if he considered Secretary of Defence Donald Rumsfeld's interest in Iraq as connected to the country's possession of oil resources. The Cardinal replied in the affirmative, claiming: "I'm not the only one".[694] A few weeks prior, Fr. Pasquale Borgomeo, director of Vatican Radio (1985-2005), offered his view that the extensive media coverage of the mobilisation toward war was

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[690] Joseph Ratzinger, Interview on the Catechism, April 2003, quoted in Zenit Staff, "Cardinal Ratzinger on the Abridged Version of Catechism," *Zenit.org*, 2 May 2003, https://zenit.org/articles/cardinal-ratzinger-on-the-abridged-version-of-catechism/.

[691] See Chapter Five.

[692] James Francis Stafford, "The Prospect of War Between Iraq and the United States."

[693] John L. Allen Jr., "Vatican Keeps Up Drumbeat Against War in Iraq," *National Catholic Reporter*, 7 March 2003, http://www.natcath.org/NCR_Online/archives/030703/030703i.htm.

[694] John L. Allen Jr., "Pope's 'Answer to Rumsfeld' Pulls No Punches in Opposing War," *National Catholic Reporter*, 14 February 2003, http://www.natcath.org/NCR_Online/archives/021403/021403e.htm.; John Allen, interview by Bob Edwards, 11 February 2003, transcript, Morning Edition, National Public Radio, available at:
https://www.npr.org/programs/morning/transcripts/2003/feb/030211.edwards.html?t=158601707608 3.

linked to a desire for an increase in ratings among TV networks.[695] Meanwhile, Cardinal Cormac Murphy-O'Connor also questioned if the invasion by the United States was foremost to effect regime change, rather than to neutralize a possible WMD threat as the Administration claimed.[696]

Since the causes for and intention of the war remained in doubt, the Holy See maintained that any war begun under these circumstances would be in breach of the last resort clause of the just war tradition. Furthermore, a war of this kind would be disproportionate to the case at hand. Therefore, "[w]ar is not always inevitable".[697]

The *Catechism of the Catholic Church* continues to maintain that "[a]ll citizens and all governments are obliged to work for the avoidance of war".[698] This is considered especially important in light of "the power of modern means of destruction".[699] Therefore, the Holy See has remained firm in its position that the requirement of force must be clear. As John Paul has noted:

> war cannot be decided upon, even when it is a matter of ensuring the common good, except as the very last option and in accordance with very strict conditions, without ignoring the consequences for the civilian population both during and after the military operations.[700]

Taking his step from the above position, Archbishop Martino urged coalition officials shortly before the American launch of military operations that the inspection regime under UNSC resolution 1441 must be allowed to progress, as it contained the necessary ingredients for the avoidance of war.[701]

Throughout the Iraq debate, the obligation to avoid war underscored the Holy See's concern around a clash of civilisations insofar as an unjust American-led attack may be construed as an assault on the Islamic world itself.[702] As Archbishop Tauran noted:

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[695] Allen Jr., "As Vatican Calls for Peace, Diplomat Plans Defense of 'Preventive War'."

[696] Murphy-O'Connor, "The Standards by Which War with Iraq Must Be Judged," *National Catholic Reporter*.; Cf. Murphy O'Connor, "The Standards by Which War with Iraq must be Judged," *The Times*, *London*, 5 September 2002.

[697] John Paul II, "Address of His Holiness Pope John Paul II to the Diplomatic Corps."

[698] Catholic Church, *Catechism of the Catholic Church*, 615.

[699] Ibid.

[700] John Paul II, "Address of His Holiness Pope John Paul II to the Diplomatic Corps."

[701] Allen, "Pope's 'Answer to Rumsfeld' Pulls No Punches in Opposing War."

[702] Ernest Evans, "The Vatican and the Islamic World," *World Affairs* 169, no. 4 (2007): 172, https://www.jstor.org/stable/20672772.

> We need to think about the consequences for the civilian population and about the repercussions in the Islamic world. A type of anti-Christian, anti-Western crusade could be incited because some ignorant masses mix everything together.[703]

This echoes the assertions by Archbishop Stephen Hamao, president of the Pontifical Council for the Pastoral Care of Migrants and Immigrant People (1998-2006).

In an interview with the *National Catholic Reporter* on 24 September 2002, Hamao suggested that "a war between the United States and Iraq could not help but seem to many of the world's people [as] a war between white Westerners and Arabs".[704] A similar vocalisation was later made by Cardinal Pio Laghi who argued any invasion risked "the suffering of the people of Iraq and those involved in the military operation, a further instability in the region and a new gulf between Islam and Christianity".[705] This clash with which the Holy See was concerned with can be linked to the work of Samuel P. Huntington.

The Huntington principle upon which the Holy See's fear is based informs the idea that the post-Cold War era will amass, not wars of ideology or economics, but conflicts of civilisation informed by cultural identity.[706] Within the post-Cold War world exists "seven or eight major civilizations" defined as "Western, Confucian, Japanese, Islamic, Hindu, Slavic-Orthodox, Latin American and possibly African civilization".[707] The basic premise is that as globalisation shrinks the world, culture will come to define the modern "'us' versus 'them'" paradigm and bring about a conflict among the aforementioned civilisations.[708] Within this premise, Huntington suggested that the "centuries-old military interaction between the West and Islam is unlikely to decline. It could become more virulent".[709] As such, the growth of the non-Western powers will, according to Huntington, "require the West to maintain the economic and military power necessary to protect its interests in relation to these civilizations".[710]

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[703] Allen Jr., "Vatican Criticism of War Plans Chills Relations with U.S."; Cf. Zenit Staff, "Attack on Iraq Must Be Avoided, Says Vatican Official."

[704] Allen Jr., "Vatican Criticism of War Plans Chills Relations with U.S."

[705] Pio Laghi, "Statement of Cardinal Pio Laghi."

[706] Samuel P. Huntington, "The Clash of Civilizations?," *Foreign Affairs* 72, no. 3 (1993): 22-24, doi: 10.2307/20045621.

[707] Ibid, 25.

[708] Ibid, 25-29.

[709] Ibid, 31-32.

[710] Ibid, 49.

In light of the Huntington principle above, the Holy See maintained a high level of concern over the implications of the American-led invasion. This is of particular importance given the influence of neoconservative thinking among officials inside the Bush Administration, many of whom maintain Western democracy and capitalism to be the "final form of human government" and may be expanded abroad through "the intensive application of military force".[711]

A conference held between the Holy See and Cairo's al-Azhar institute from 24-25 February 2003 confirmed the Holy See's fear to be shared by members of the Muslim community. From this conference, the members of the Joint Committee offered in their concluding statement the interreligious position that "war is a proof that humanity has failed". The Joint Committee "condemned recourse to war as a means of resolving conflicts between nations" as it brings about "enormous loss of human life, great damage to the basic structures of human livelihood and the environment, displacement of large populations, and further political instability".[712] The Joint Committee expressed their concern that:

> In the present circumstances there is the added factor of increased tension between Muslims and Christians on account of the mistaken identification of some Western powers with Christianity, and of Iraq with Islam.[713]

The members warned against this conflation.

Others within the Holy See warned of the potential dangers of a US invasion in relation to lives lost. Archbishop Martino warned in an interview with the *National Catholic Reporter* on 4 February 2003 that a war of this kind would have an "unimaginable" cost.[714] He claimed that

> At Sigonella [a U.S. naval base in Sicily] 100,000 bags, the kind used for dead bodies, have been brought there, along with 6,000 coffins. Those are not for the Iraqi soldiers! There's a floating hospital with 1,000 beds, and it will not be treating soldiers who just got a scratch. We're talking about incredible loss of life . . . [and] that the Americans foresee a loss of 15,000 American soldiers.[715]

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[711] Fukuyama, "The End of History?," 4.; Gray, *Black Mass*, 45.

[712] Fawzi Fadel Zafzaf and Michael Fitzgerald, "Concluding Statement," Joint Committee of the Permanent Committee of al-Azhar for Dialogue with the Monotheistic Religions and the Pontifical Council for Interreligious Dialogue, Cairo, 24-25 February 2003, available at: https://zenit.org/articles/islamic-catholic-statement-on-terrorism-and-peace/.

[713] Ibid.

[714] Allen Jr., "Pope's 'Answer to Rumsfeld' Pulls No Punches in Opposing War."

[715] Ibid.

These figures demonstrate the dangers that war represents and the concerns surrounding the possibility of success. Martino notes that "[w]hoever is preparing a war has to take into account the cost that any strike will provoke on the enemies, in the area, on friends, and on its own side".[716] These considerations, Martino claims, will cause "fire, tumult, all over the Middle East".[717] Thus, for the Holy See, the success of war should be measured by "the maintenance of peace and development".[718] Along this vein, Cardinal Stafford also noted that while the invasion might seek to stabilise society, it would ultimately destabilize the region.[719]

Two parallels may be drawn between the expectations of the Holy See and its measures of the just war tradition. The first, by Archbishop Martino, compares the considerations with modern alternatives to the death penalty with considerations on alternatives to war:

> In the Catechism of the Catholic Church, there is an admission that the death penalty could be needed in extreme cases. But Pope John Paul II in *Evangelium Vitae* said that society has all the means now to render a criminal harmless who before might have been sent to the gallows. This could well apply to the case of war. Modern society has to have . . . the means to avoid war.[720]

Martino expressed the avoidance of war through the utilisation of the diplomatic powers of the United Nations, which he believed to be on full display in the inspection regime of UNSC resolution 1441.[721]

The second parallel may be drawn from John Paul II in relation to the Holy See's expectation of peace. In his 2002 Christmas Eve homily, John Paul said the birth of Jesus:

> is a sign of hope for the whole human family; a sign of peace for those suffering from conflicts of every kind; a sign of freedom for the poor and oppressed . . . a humble and quiet sign, but one filled with the power of God . . .[722]

Here, the use of peace reflects the ending of conflict, rather than its instigation. This use of freedom contrasts the American interpretation. Instead of a freedom designed

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[716] Ibid.

[717] Ibid.

[718] Allen Jr., "Vatican: War Threatens U.N.'s Status."

[719] Murphy-O'Connor, "The Standards by Which War with Iraq Must Be Judged."

[720] Allen Jr., "Pope's 'Answer to Rumsfeld' Pulls No Punches in Opposing War."

[721] Ibid.

[722] John Paul II, "Homily of the Holy Father," *Libreria Editrice Vaticana*, 24 December 2002, http://www.vatican.va/content/john-paul-ii/en/homilies/2002/documents/hf_jp-ii_hom_20021224_christmas-night.html.

around democracy and capitalism, John Paul speaks of lifting humanity from poverty and oppression.

In what may be considered a vocal opposition to the American justification of war by just fear, John Paul said:

> From the cave of Bethlehem there rises today an urgent appeal to the world not to yield to mistrust, suspicion and discouragement, even though the tragic reality of terrorism feeds uncertainties and fears.[723]

Here, John Paul rejects the Bush Administration's view that the fear of an attack, no matter how unlikely imminent, justifies protective action. He calls on all men and women to work to "extinguish the ominous smouldering of a conflict which, with the joint efforts of all, can be avoided".[724] Peace among states, he notes, is only possible through "genuine and constructive dialogue, in harmony with the principles of international law".[725]

The essence of peace for the Holy See outlined above encapsulates two distinct features. First, that peace is found through hope, originating within the promise of salvation in the birth of Christ. In this sense, sin takes on the forms of conflict and suffering which can be alleviated through the salvation of peace. Furthermore, peace remains "not merely the absence of war" nor is it "reduced solely to the maintenance of a balance of power between enemies".[726] Rather, "it is founded on a correct understanding of the human person and requires the establishment of an order based on justice and charity . . . [p]eace is the fruit of justice".[727] Second, that the just war tradition places war as a last resort. Only when alternative measures fail may the use of force ever be justified. This, the Holy See finds, is represented within international law through the creation of the United Nations as a platform for diplomatic solutions to

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[723] John Paul II, "Urbi et Orbi Message of His Holiness Pope John Paul II," *Libreria Editrice Vaticana*, 25 December 2002, http://www.vatican.va/content/john-paul-ii/en/messages/urbi/documents/hf_jp-ii_mes_20021225_urbi.html.

[724] Ibid.

[725] John Paul II, "Homily of John Paul II," *Libreria Editrice Vaticana*, 1 January 2003, http://www.vatican.va/content/john-paul-ii/en/homilies/2003/documents/hf_jp-ii_hom_20030101.html.

[726] Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, 247.

[727] Ibid, 247-248.

worldly affairs. This is the perspective through which John Paul calls war a "defeat for humanity".[728]

What is traced above represents the public articulations of opposition for which the Holy See was not alone. Other European states, such as France and Germany, articulated their own positions as to why the invasion of Iraq was not justified. These approaches, while more secular than those of the Holy See, both in their audience and in their language, encapsulated the guiding spirit of the just war tradition which ultimately aligned with that of the Holy See. The following section will discuss this occurrence.

7.3: Other States in Opposition

Beyond the arguments of John Paul and the Holy See came rejections of the use of force which derived from political operatives, namely the German Chancellor and the President of France. Both leaders rebuked the idea of military intervention in Iraq out of clear interpretations of the principles of authority and cause. While alternative motivations existed for each leader, their overarching positions find commonplace among the criteria of the just war tradition. This section will explore some arguments put forth by the two states who, as members of the Security Council during the Iraq invasion debate, held significant sway among their peers.

The German government, led at the time by Chancellor Gerhard Schroeder, upheld the position that the invasion of Iraq was a non-starter. Dieter Dettke contends that Germany held explicit concerns regarding American understandings of the invasion with respect to terrorism and pre-emption. From a German point of view, Iraq was not part of the war on terror and therefore early suggestions of invasion were dismissed. Schroder even claimed that "if it turns out that Iraq, like Afghanistan, was indeed harboring terrorists, as reliable partners we would side with the United States", yet noted that "at this time there is no proof for this".[729]

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[728] John Paul II, "Address of His Holiness Pope John Paul II to the Diplomatic Corps."

[729] Gerhard Schroeder, *Entscheidungen: Mein Leben in der Politik* (Hamburg: Hoffmann und Campe, 2006), 198, quoted in Dieter Dettke, *Germany Says 'No': The Iraq War and the Future of German Foreign and Security Policy* (Baltimore: Johns Hopkins University Press, 2009), 159.

Additional fears surrounded the pronouncement of Bush's so-called 'axis of evil', with this taken by the Germans as a warning for future military endeavours by the United States.[730] An invasion of Iraq would work to increase American unilateralism and ultimately open the door to future military acts which hold the potential to be masked by declarations of self-defence, especially in light of the American statements of pre-emption.[731]

Schroder worked to highlight German concerns around the American shift in focus from Afghanistan to Iraq. The Chancellor argued to NATO in 2002 that the focus of any anti-terror efforts should remain on Afghanistan as additional campaigns would be counterproductive to the overall mission. He noted that intervention in Iraq would create regional instability and any efforts for rapid democratisation would fail in light of political and social conditions present in the country.[732] It was through peaceful means that NATO allies should proceed, if required.

Germany upheld these concerns in conjunction with the reality that the wider German populace held ill-will towards the potential invasion. No more prevalent was this reality than in September 2002, when Chancellor Schroeder faced an election in which this anti-war majority held its greatest sway. A poll released by *Der Spiegel* on 5 August showed 51% of Germans preferring the country to not participate in an invasion. Five days later, a similar poll released by *Maerkische Allemeine* showed 62% of Germans were against participation.[733] Schroeder and his government saw an opportunity to undercut opposition parties and maintain an anti-war platform to win the ballot. Furthermore, Schroeder's own SPD and the Green Party, his coalition partner, maintained long-held pacifist tendencies.[734] Having already brought Germany into two prior engagements, Kosovo and Afghanistan, Schroder understood he would not survive

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[730] Dieter Dettke, *Germany Says 'No': The Iraq War and the Future of German Foreign and Security Policy* (Baltimore: Johns Hopkins University Press, 2009), 156-157.

[731] Ibid, 158.

[732] Ibid, 163-164.; Dieter Dettke, "The 2003 Iraq War as a Turning Point in German-American Relations: Political Leadership and Alliance Cohesion," *German Politics* 27, no. 2 (2018): 168, doi: 10.1080/09644008.2018.1446082.

[733] Dettke, *Germany Says 'No'*, 161.

[734] Dettke, *Germany Says 'No'*, 81-82.

a third.[735] Thus, self-interested political calculus motivated his anti-invasion stance to protect his leadership over the Red-Green coalition.

Yet these self-interested motivations for electoral success and leadership, while moving beyond the concerns around future implications of American expressions of power, do not negate the positive implications they hold. The just war tradition outlines the necessity of right authority as an integral part of legitimate warfare. In the days of Saint Augustine, this would have simply been the legitimate supreme authority of the commonwealth, yet in a modern democratic state this legitimacy is derived from the people themselves.[736] Governments who press beyond the mandate they have acquired from voters often suffer electoral defeats as signs of their illegitimate behaviour. Therefore, the Schroeder Government's fixation on the election showcases their underlying attachment to legitimacy via a public mandate on Germany's intentions on Iraq.

Schroeder recognized that his own authority was limited by the populace insofar as the social contract under which Germany functions outlines a citizen-state relationship where legitimacy of government is derived from the support of the people. As Schroeder would later note in his memoirs:

> How could I have survived the electoral campaign without taking a firm position on the war issue? To believe that such a weighty issue could be kept out of the election campaign is simply unrealistic.[737]

And while the German government did not actively judge their level of participation on the basis of moral discourse, *per se*, the government did adhere to the limits of the deontological bounds of the just war tradition and remained aligned to the demands of right authority. This demonstrates how the just war tradition remains active in political discourse, even subconsciously.

Along a similar vein as Germany lay France, who acknowledged an inability to act based on public opinion. On 15 February 2003, the day after a major UN speech by French Foreign Minister Dominique de Villepin, nearly a million people attended anti-

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[735] Martin Walker, "The Winter of Germany's Discontent," *World Policy Journal* 19, no. 4 (Winter 2002/2003): 38, https://www.jstor.org/stable/40209832.; Dettke, *Germany Says 'No'*, 160.

[736] See: Augustine, *Contra Faustum Manichaeum*, in Philip, ed., *The Nicene and Post-Nicene Fathers*, vol. IV., 301.

[737] Schroeder, *Entscheidungen*, 210-211, quoted in Dettke, *Germany Says 'No'*, 162.

war demonstrations in London, between one to two million in Rome, and almost a million participated across Madrid and Barcelona.[738] Frédéric Bozo notes that the demonstrations were smaller in Berlin and Paris on this day, to which he contends is a result of German and French opposition to the war at the government level.[739] However, French officials also maintained that a lack of just cause equally prevented them from participating. While France agreed as part of the Security Council to the terms of resolution 1441 and supported the inspection mechanisms outlined in the document, President Jacques Chirac and his Foreign Minister indicated that their support for 1441 was dependent upon language that did not permit an automatic trigger for the use of force.[740] Any further decision outside of the inspection mechanism, such as the implementation of force as a result of breaches of 1441, were subject to further consideration by the Security Council and an additional resolution. This was known to the French as *approche en deux temps*, or the "two-step approach".[741]

When the second resolution for the use of force was ultimately presented before the Security Council, President Chirac maintained that the American desire for invasion could not be supported on the basis of the inspections so far. As Chirac noted, "the progress isn't sufficient".[742] Previous indications by Hans Blix on 14 February 2003 had shown UNMOVIC to have verified all sites inspected prior to 1998, that more than 200 chemical and 100 biological samples were analysed with findings "consistent with Iraq's declarations", that there were few issues accessing sites, and that concessions had been obtained from Baghdad in relation to U-2 and Mirage surveillance flights.[743] Therefore, a joint declaration instigated by France, Germany, and Russia held that there was "still an alternative to war".[744]

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[738] Frédéric Bozo, *A History of the Iraq Crisis: France, the United States, and Iraq, 1991-2003*, transl. Susan Emanuel (New York: Columbia University Press, 2016), 241.

[739] Ibid.

[740] Stefano Recchia, "Did Chirac Say 'Non'? Revisiting UN Diplomacy on Iraq, 2002-03," *Political Science Quarterly* 130, no. 4 (2014): 635, doi: 10.1002/polq.12397.

[741] Ibid.

[742] Jacques Chirac, "Interview Given to TF1 and France 2," 10 March 2003, quoted in Recchia, "Did Chirac Say 'Non'?" 643.

[743] Hans Blix, "Briefing of the Security Council, 14 February 2003," *United Nations*, 14 February 2003, https://www.un.org/Depts/unmovic/recent%20items.html; Bozo, *A History of the Iraq Crisis*, 218.

[744] Bozo, *A History of the Iraq Crisis*, 216.

Furthermore, based on the Blix report, Minister Villepin declared that: "The inspections are purchasing results".[745] He would go on to note:

> The option of war might seem a priori to be the swiftest, but let us not forget that having won the war, peace has to be built. Let us not delude ourselves. This will be long and difficult…[746]

As such, Villepin contended that "the use of force is not justified at this time".[747] However, this did not mean force could not be used in the future.

Stefano Recchia contends that the time allotted for inspections by the United States did not allow for the discovery of material which would have been sufficient to overturn the French position.[748] He notes Chirac's vocalisation of war as "inevitable" if material was found in breach of 1441 that could only be quelled through the use of force.[749] Therefore, the French position against the use of force remained greatly aligned to the justification of cause requiring force to be used, insofar as the inspections were allowed to progress to a stage in which viable targets and the means of neutralisation could be established.

Akin to Germany, the French government also maintained alternative motivations for avoiding war beyond the lack of justified cause. The French government sought to pin France not as a bridge between the United States and Europe, as was the British intention, but as a leading force in the European Union to guide the bloc against US power.[750] France demonstrated a capacity to use their Permanent Member veto on the Security Council as a mechanism of "soft balancing" against American power.[751] This motivation not only worked to limit American influence globally but equally held the ideal of limiting British influence in the European Union to the benefit of the French. Yet while this alternative motivation held self-interested outcomes, it nonetheless fell within the parameters of the just war tradition.

The just war tradition maintains a deontological requirement of just cause as a limitation on the use of force. Within the modern tradition, there exists, as noted

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[745] Villepin, "Statement by France to Security Council".; Cf. Bozo, *A History of the Iraq Crisis*, 219.
[746] Villepin, "Statement by France to Security Council."
[747] Ibid.
[748] Recchia, "Did Chirac Say 'Non'?" 626.
[749] Ibid, 643.
[750] Chari and Cavatorta, "The Iraq War: Killing Dreams of a Unified EU?," 26-27.
[751] Recchia, "Did Chirac Say 'Non'?" 626.

previously, a strand which grounds itself on the basis of a presumption against the use of force. France exhibited this presumptive vision in their justifications against the Iraq invasion. They refused to authorise force within the Security Council as alternative means of disarmament had yet to be exhausted. President Chirac's indication of a possible enactment of war to disarm Iraq were limited to instances where inspections had shown the neutralisation of weapons to be only possible through forceable means.[752] The indication of alternative motivations does not lessen the requirement of cause and, akin to the case of Germany, does not lessen the benchmark qualities of the just war tradition.

Modern politics by its very nature is a multifaceted arena. No decision is black or white. While neither France nor Germany openly attached themselves to just war criteria, both states embodied aspects of the tradition. This series of events underscores James Turner Johnson's assertion that the just war tradition underlines modern international relations.[753]

Concluding Remarks

Opposition to the invasion of Iraq was expressed by multiple state sources. The voices that carried the greatest weight were the Holy See, France, and Germany, with the Holy See offering a clear just war approach. France and Germany, meanwhile, presented opposition arguments which upheld the spirit and grammar of the tradition without a direct, explicit reference to just war itself. Chapter Seven explored these arguments across three sections.

The first section demonstrated the manner by which the Holy See is a political actor, not only in a historical context of Church and Empire but presently within organisations such as the United Nations. The soft power approach taken by the Holy See not only exemplifies its character as a state, but also its style of reach manifested in its nature as the magistrate of the Catholic Church. The political influence of the Holy See is therefore limited only by global belief.

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[752] Chirac, "Interview Given to TF1 and France 2," 10 March 2003, quoted in Recchia, "Did Chirac Say 'Non'?, 643.

[753] Johnson, *Can Modern War Be Just?*, 14.

The second section discussed the Holy See in opposition to the Iraq invasion. Here the articulations are shown to fit within a just war rejection of military action. The Holy See stood in opposition to the invasion of Iraq on numerous grounds, including due to a lack of authority. The failure of the United States to achieve authorisation from the Security Council indicates a failure to achieve approval within the modern international system. Additionally, the lack of a clear and immediate cause, certain questions of intention surrounding the Bush Administration's connections to oil, and the failure of the US to exhaust alternative options like inspections demonstrated a failure of the Iraq debate to meet the just war test levelled by the Holy See. Furthermore, the overarching fear that a breach in international peace might lead to a mistaken vision of conflict which could commence a clash of civilisations weighed heavily on the Holy See's rejection of the invasion.

The third section highlighted insights into the approach taken by France and Germany in their opposition to the use of force which aligned with the position of the Holy See. The French and German attitudes were clearly derived from secular politics, and not religious moral discourse. However, their positions underscored not only the principles of the just war tradition, particularly a lack of authority via the electorate and the failure to overcome the limits of last resort, but also utilised the grammar of the tradition in the expression of their rejection.

The positions of opposition taken by the Holy See, France, and Germany signify the second strand of the modern tradition discussed in Chapter Four, namely that the tradition extends from a base assumption against the use of force. This presumption is held by all three opposition states noted in this chapter and lends further to the notion that the contemporary just war tradition remains inconsistent and divergent. When compared with the language upheld by the United States, the grammar invoked by the opposition states appears almost foreign.

The grammar identified in this chapter can be compared with the conclusions drawn in Chapter Five: that the US embraced a power-driven moral discourse that emphasised American supremacy, argued economic influences existed within the purported moral vision, and presented an extension of imminence to fulfil the requirements of preventive force. Overall, the American grammar reflected a character of just war whereby war may be a tool of the state. However, European opposition

voices presented in this chapter argued the US conclusions amounted to a contra expression of the just war tradition which at its core presumes against the use of force.

As discussed in Chapter One, the just war tradition has historically acted as a means of morally justifying state power and status within interstate affairs. Opposition voices maintained that the Bush Administration's continued emphasis on American power and status in arguing for the invasion signified not a strengthening of the international community, but a weakening of the prestige of the United Nations. The Bush Administration's refusal to accept the general opposition within the Security Council to the invasion held the promise of weakening the influence of future UNSC resolutions insofar as a powerful state who disagreed could simply ignore the Council and enact their own policies. Similarly, a refusal to heed to the majority view of the Council held the potential to weaken the influence of smaller states who lacked the coercive capabilities of larger states and thereby damage the international community's ability to negotiate settlements among disproportionate powers.

While claiming the invasion was an effort to recapture the lost authority of the Council in the face of Iraqi defiance, the United States worked to weaken certain moral foundations of the United Nations which emphasised international dialogue rather than the use of military means.[754] The US hoped this would provide the necessary boost to secure future geo-political strategies. Therefore, in line with the characteristics of power described in Chapter One, the US invasion of Iraq held no real intention of rehabilitating the authority of the United Nations in the provision of international peace. Rather, the act was to advance the detriment already inflicted on the body to the benefit of US prestige. This position underscored an aspect of the opposition held by the Holy See, France, and Germany.

Similarly, the accusations levelled by the Holy See in regards to the US intentions surrounding oil acquisition accounted for comparable economic interests to those described in Chapter Two. Like the Spanish and Dutch scholars who deduced moral merits for the protection of economic interests, the Holy See regarded the US arguments of the humanitarian benefits of regime change as economically-driven moral guises. The United States articulated that regime change in Iraq was to the benefit of Iraqis, who for

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[754] *Charter of the United Nations*, Preamble.

decades suffered humanitarian hardships at the hands of Saddam Hussein. However, the Holy See maintained this moral grammar of humanitarianism did not match the internal loyalties of the Bush Administration as several members of the Cabinet were former oil executives, including President Bush himself. In this regard, the Cabinet's interest in Iraqi oil reserves, which at the time accounted for the second largest reserves globally, amounted to a conflict of interest against moral wisdom despite the usage of moral grammar in pressing for the invasion.[755] Given the Administration tied the recovery of Iraq to the production of oil offers a conflict between moral duty and economic gains.[756] The issue at hand remains the same as described in Chapter Two, namely that just war moral wisdom has historically remained malleable to the economic interests of the state as opposed to providing an opposition to potentially unjust practices.

The Holy See also took issue with the vision of defence presented by the United States in which the Bush Administration sought to extend the notion of imminence beyond the logic of Daniel Webster, as was discussed in Chapter Three. This expansion desired to address certain modern realities like terrorism and rogue states which the US claimed inhibited clear signals of preparation.[757] The Holy See maintained the American position held no limits and was implicitly self-serving, noting a particular lack of conclusive evidence.[758] Similarly, France and Germany maintained the danger posed by Iraq lacked the necessary evidence to abandon inspections in favour of a pre-emptive military engagement. Additionally, Germany asserted its own fear of a domino-effect, such that if the US was allowed to pursue a pre-emptive invasion unopposed, further explorations of power would be uncontainable.

As discussed in Chapter Three, the issue of imminence described by Daniel Webster was an effort to prevent further unnecessary violence. The Caroline standard was to mark a means by which the US could assert its own neutral sovereignty, while at the same time provide the British with the necessary grammar to evade war. In claiming the guidance of Webster, the Bush Administration failed to appreciate the requirements

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[755] A.F. Alhajji, "U.S. Energy Policy and the Invasion of Iraq: Does Oil Matter?" *The Journal of Energy and Development* 29, no. 2 (2004): 209, https://www.jstor.org/stable/24808881.
[756] Ibid, 214-215.
[757] Bush, *The National Security Strategy of the United States of America*, 15.
[758] James Francis Stafford, "The Prospect of War Between Iraq and the United States."

of justice and limitations on force at the core of Webster's self-defence rationale. The Caroline standard maintains a strict adherence to exhausted last-ness insofar as the immediacy of a threat prevents alternative courses of non-violent defence. The Administration's articulations in favour of preventive strikes failed to adhere both to the standard set for the use of force by Webster and the standard set by those European states who opposed the invasion.

As noted in Chapter Four, the modern just war tradition expresses a disparity over the permissibility of force, particularly surrounding the understanding of last-ness. The expression of last-ness by the oppositional states denotes a reflection of exhaustibility insofar as non-military means shall be depleted before the use of force becomes permissible. This contrasts the expression of just war by the United States which presupposes a relative last-ness contextualised to prudential calculations rather than an exhaustive last-ness relative to alternative resolutive means. Germany, for example, feared the possibility of an increase in regional instability following the invasion, which led to German support for peaceful processes of de-escalation, such as the UN-driven weapons inspections.

The Holy See held similar concerns for the implementation of unilateral action by the United States and the possibility for regional instability as an outcome of western-led violence. Cardinal Pio Laghi's conviction that any breach of international peace by the US may engineer an unintended conflict between Christianity and Islam denoted further support for the limitation of force.[759] Negotiation and juridical instruments unscored the Holy See's preferred path, with any military force to be implemented within the parameters of an international framework rather than a singular state or collection of states acting outside UN authority. By insisting on an invasion, the Bush Administration professed a disproportionate response to the Iraq case since nonviolent means of resolution had yet to be fully exhausted.

France similarly upheld a vision of exhaustive last-ness in supporting the inspections. In line with the modern tradition, France maintained an openness toward the potential merits surrounding the use of force. However, this was a conditional openness reliant on a metric of finality. As long as UN inspections produced consistent

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[759] Pio Laghi, "Statement of Cardinal Pio Laghi."

results, which was the case during the less-than four month period allowed before the US invasion, the French government were poised to hold firm against any enactment of force. This remained consistent with the French *approche en deux temps*.[760]

Consistent among the three oppositional voices is the condition of exhaustive last-ness found in contrast to the United States' relative approach. The base assumption in this vision of the tradition, that the use of force should overcome a consistent standard of a finality of alternatives, unites the broader rejections each state carried within their individual just war grammar. While the United States prescribed a greater emphasis to prudential calculations when judging the conditions of last resort in line with their vision of war as a tool of statecraft, the oppositional voices exhibited an interpretation of modern just war in which the tradition begins with a presumption against the use of force and moral discourse thusly requires a genuine exhaustion of alternatives. This understanding of the modern tradition accentuates a certain moral inclination in Europe, particularly among western European states, following the conclusion of the Second World War. For Europe, the horror of historical confessional and nationalist violence on the continent has developed a moral character which contrasts the position reflected by the United States. This character emphasises the non-military options of conflict resolution, such as diplomacy and economic incentivisation, which have developed integrationist practices and the achievement of the European Union. The advancement of this European character and its relationship to the just war tradition will be discussed in the next chapter.

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[760] Recchia, "Did Chirac Say 'Non'?" 635.

Chapter Eight
The Moral Character of Europe

Introduction

This chapter seeks to explore the origins of European moral thought in relation to war and peace. Patterns of victimhood extending from religious and nationalist violence have historically plagued the European continent throughout its history. Efforts to curb this destructiveness, such as moral interventions like the Geneva Conventions, have failed in the face of growing political thought. Realist thinking has encouraged power politics to displace moral considerations, as noted in Part One.

Yet Europe has undergone new experiences with violence which have necessitated a transformation of moral vision. To explore modern European thought in relation to the use of force, the origins of victimhood which have sparked this change must be discussed. In order to explore these origins, this chapter will employ two sections.

First, the chapter will explore the historical dichotomy of power between religion and the state. The pattern of confessional violence necessitated a reaction which would limit the interference of one sovereign in the affairs of another for the promotion of religious discipline. Sovereign territorial status solidified the rule of kings and princes across Europe, confining war to expressions of nationalism rather than as a weapon of the faith. Ultimately, this would generate two nationalist-oriented World Wars, whereby military force was a tool of the nation.

Second, the chapter will explore the aftermath of the Second World War, in which the destruction of Europe led states to seek alternative means of conflict resolution. War amongst neighbours was presumed immoral. Therefore, the European project, undertaken principally by only six nations, would integrate the economies, and later the politics, of Europe to prevent the outbreak of violence. This moral shift will be discussed in relation to the evidence provided by the oppositional states in the Iraq debate.

8.1: Europe and War

A great contrast between the United States and Europe remains in their foundational origins relating to the attainment of power. According to Louis Hartz, the United States remains unique among western liberal democracies for its origin deriving not from a feudal struggle for power, but instead having been "born" democratic.[761] As noted previously, the motivations of early Americans remained set upon, first as colonists and then within the nascent United States, millennialist designs of republicanism and the progressive march toward the end-time.

On the other hand, Europe was forced to contend with the fluctuating dynamics of papal and imperial pursuits for more than a millennium. The modern conception of the European nation-state only formed from beneath a violent negotiation for power. As Max Weber notes, the historical church-state dynamic, which at times plunged the European continent into protracted confessional wars, can be defined by the dual principles of territoriality and monopolistic claims. He argues that in the case of the Church, the struggle centred on the monopoly of salvation, while for the state, the struggle sought a monopoly over the legitimate use of violence.[762]

According to José Casanova, the Church and the state have historically been "mutually dependent, enforcing and legitimating each other's claims, or mutually exclusive and antagonistic".[763] For example, the feudal system in Europe fell into instability as the role of protecting the masses evolved, leaving the welfare of the people as a matter for the Church and the growing state instead for local lords. Following this institutional transformation, the state demonstrated itself to be ill-equipped in the late sixteenth and early seventeenth centuries to handle this growing responsibility, eventually relegating control of societal welfare to the Church.[764]

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[761] Marvin Meyers, "Louis Hartz, The Liberal Tradition in America: An Appraisal," *Comparative Studies in Society and History* 5, no. 3 (1963): 262-263, https://www.jstor.org/stable/177646.; Desch, "America's Liberal Illiberalism: The Ideological Origins of Overreaction in U.S. Foreign Policy," 10.

[762] Max Weber, Economy *and Society: An Outline of Interpretive Sociology*, vol. 1, eds. Guenther Roth and Claus Wittich (Berkeley: University of California Press, 1978), 54-56.; S. H. Steinberg, *The 'Thirty Years War' and the Conflict for European Hegemony 1600-1660* (London: Edward Arnold Ltd., 1966), 97.

[763] Jose Casanova, "Religion, the New Millennium, and Globalization," *Sociology of Religion* 62, no. 4 (2001): 424, https://www.jstor.org/stable/3712434.

[764] C. V. Wedgwood, *The Thirty Years War* (London: Jonathan Cape, 1967 [reprint]), 15.

The general condition of flux between Church and state has ebbed and flowed since the eschatological evolution of the early Church and its alignment with the Empire.[765] At times one would dominate or challenge the place of the other, giving rise to incidences like the Great Interregnum.[766] However, it was the Reformation, and subsequent confessional wars across Europe, which brought forth a new urgency on the side of the Church to safeguard its influence, whilst introducing new concepts of sovereignty into the vocabulary of the state.

On the eve of the Reformation, the Church held great temporal influence, holding approximately one-third of the land within the Holy Roman Empire.[767] The emperor remained aligned to the papacy, with Charles V acting as a sort of "temporal enforcer of ecclesiastical orthodoxy".[768] Yet in post-Reformation Europe the battle for orthodoxy encompassed various actors and cracks in the Church's control emerged as two teachings bore forth from Martin Luther and John Calvin.

According to C. V. Wedgwood, Luther fell "victim to the ambitions of the governing classes" with state officials delighted by the prospect of freedom from the interference of the pope.[769] On the other hand, Calvin saw religion as a "revelation of God's reason" and formed a "political theology" defined by the laymen's control of the ministers of God and the wellbeing of the community.[770] Violence broke out among the rising confessional faiths, eventually leading to a formal recognition by imperial law of certain confessions beyond the Roman faith at Augsburg.[771]

The Peace of Augsburg in 1555 emerged as a weakening force for the temporal authority of the pope via the premise '*curius regio eius religio*', or whose realm, his religion.[772] The spread of Protestantism through segments of Europe was either

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[765] See Chapter One.

[766] Leo Gross, "The Peace of Westphalia, 1648-1948," *The American Journal of International Law* 42, no. 1 (1948): 30, doi: 10.2307/2193560.

[767] Philpott, "The Religious Roots of Modern Relations," 210.

[768] Ibid, 210.; Daniel Philpott, "The Challenge of September 11 to Secularism in International Relations," *World Politics* 55, no. (2002): 72, https://www.jstor.org/stable/25054210.

[769] Wedgwood, *The Thirty Years War*, 19.

[770] Ibid, 20.

[771] Helmut Puff, "Belief in the Reformation Era: Reflections on the State of Confessionalization," *Central European History* 51 (2018): 48, doi: 10.1017/S0008938918000213.; Philpott, "The Religious Roots of Modern Relations," 211-212.

[772] Casanova, "Religion, the New Millennium, and Globalization," 424.; Philpott, "The Religious Roots of Modern Relations," 211.

encouraged by social pressure amongst members of the populace or by the land-oriented pragmatism of the elites.[773] The vague language of Augsburg led to questions surrounding a prince's right to expel minorities in their territory, while equally inciting demands for toleration from external princes of their co-religious.[774] On a political level, the Augsburg allowance of a Catholic majority representation in imperial institutions caused resentment across Germany. With these issues came an increase in violence within European societies, all of which brought pressure upon the Church to reassert its control.[775] Thus the Thirty Years War wreaked havoc across Europe, with papal interests represented by Catholic kingdoms against the Protestants.

The Thirty Years War was brought to an end with the Peace of Westphalia in 1648. This peace was the culmination of two distinct treaties developed concurrently to one another. The Peace of Osnabrück confirmed peace among the Christian states (Article I), reconfirmed the principle *curius regio eius religio* from the Peace of Augsburg (Article V), and confirmed the territorial independence of German principalities from the Emperor (Article VIII).[776] Meanwhile, the Peace of Münster had the additional effect of clarifying the imperial recognition of French sovereignty (Article 69-91).[777] The Peace of Westphalia also brought an end to the Eighty Years War between Spain and the Netherlands for Dutch independence.[778]

Ultimately, the Peace of Westphalia "achieved an albeit precarious balance of power between the various national states of Europe" which allowed the concept of the nation-state to develop.[779] Under this new model, state churches began to function as a "community of cults of the absolutist state", whereby the "national religious communities integrated by emerging national vernaculars" and became an arm of

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[773] Daniel Philpott outlines three forms of reform: reformation from below in Germany, reformation from above in England, and the politique solution in France. See: Philpott, "The Religious Roots of Modern Relations," 219-239.; Helmut Puff, "Belief in the Reformation Era: Reflections on the State of Confessionalization," 50.

[774] Peter H. Wilson, *The Thirty Years War: A Sourcebook* (London: Palgrave Macmillan, 2010), 6.

[775] Ibid, 8.

[776] Ibid, 305, 309, 312.

[777] Ibid, 321-322.

[778] Wyndham A. Bewes, "Gathered Notes on the Peace of Westphalia of 1648," *Transactions of the Grotius Society* 19 (1933): 61, https://www.jstor.org/stable/742907.

[779] Anthony Pagden, "Introduction," in *The Idea of Europe: From Antiquity to the European Union*, ed. Anthony Pagden (Cambridge: Cambridge University Press, 2002), 13.

emerging nationalist tendencies.[780] These tendencies were supported by the political powers of the state demonstrating how nationalism serves as a function of domestic legitimisation and belonging.[781]

As nationalism developed to replace the state function of religion, an important feature of European nationalism developed, namely the essence of individuality. For example, Agnes Heller notes that "[t]here is Italian and German music, there is Florentine and Venetian painting, but there is no European music and no European painting".[782] The individuality of the states, separate from one another in Europe, implored colonial economic competition and nationalistic competitions to expand their own influence.

Individuality of the state bred elements of mistrust and "aggressive prejudices", which ultimately led to conflict among the European powers.[783] Europe grew to become a continent of "aggressive nation-states", whereby mistrust in others bore the necessity to protect the polity.[784] The former commonalities of religious creed no longer bound territories together, thus opening the floor for antagonism and the fear of *the other*.[785] This is demonstrated in the works of Emer de Vattel and his conceptions of just fear as discussed in Chapter Three.

The rise of Napoleon and his nationalistic crusade across Europe showcased the need to combat rising nationalist aggression between states, leading to the deployment of balance of power politics against potential European hegemons. This, however, proved ineffective as a long term policy as illustrated by the collapse of European peace with the outbreak of the First World War caused by the very alliances which were meant to keep each state safe.[786]

World War I brought the European continent into crisis. With a mixture of nineteenth century military tactics and twentieth century weaponry, such as planes,

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[780] Casanova, "Religion, the New Millennium, and Globalization," 425.

[781] Ludger Kühnhardt, *European Union – The Second Founding* (Baden-Baden: Nomos, 2008), 370, available at doi: 10.5771/9783845210285.; Stephen George, *Nationalism, Liberalism and the National Interest: Britain, France, and the European Community* (Glasgow: University of Strathclyde, 1989), 21.

[782] Agnes Heller, "Europe: An Epilogue?," in *The Idea of Europe: Problems of National and Transnational Identity,* eds. Brian Nelson, David Roberts and Walter Veit (Oxford: Berg, 1992), 23-24.

[783] Kühnhardt, *European Union – The Second Founding*, 381.

[784] Ariana Chebel D'Appollonia, "European Nationalism and European Union," in Pagden, ed., *The Idea of Europe: From Antiquity to the European Union*, 174.

[785] Kühnhardt, *European Union – The Second Founding*, 378.

[786] Cf. Kühnhardt, *European Union—The Second Founding*, 385-386.

tanks, and poisonous gas. The numbers of the deceased ranged upwards to 8.5 million. In the end, the war brought the finality of four imperial powers, wreaked human and economic hardship, and laid the nationalistic groundwork for another war.[787]

Additionally, the visible questions of security arose at the end of the First World War in the Treaty of Versailles. Here, the over-punishment of Germany and the other defeated parties of the war demonstrated both the nationalistic pride of the victors and their insecurity regarding future wars which may endanger their nation by foreign aggression. Furthermore, the nationalistic sentiments of the era are depicted in the aftermath of the war. Suffering attributed to Versailles became a rallying cry which fed into the "neurotic aggression among the losers of the war", ultimately informing, especially so in the case of Germany, the encore performance of World War II.[788] This encore would provide the required incentive to change European wisdom surrounding war as a weapon of statecraft.

8.2: Europe and Integration

The Second World War, brought on by nationalistic sentiments of Nazi Germany, led to the total destruction of the European moral wisdom of the previous era. Economic and political collapse spread across the continent. The annihilation of around fifty million people, many under the "conscious application of a policy of genocide", created a sense of international failure.[789] The fear of a possible third World War led to the deliberate division of Germany, and later the continent, under ideological factors like the so-called iron curtain. This produced spheres of influence under the guidance of the United States and the Soviet Union.

In the aftermath of the war, a self-reflection of power dynamics led to the movement toward economic, and later political, integration among western European states in order to rebuild the continent and avoid future wars. Integration presented a

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[787] John Graham Royde-Smith and Dennis E. Showalter, "World War I: 1914-1918," *Encyclopædia Britannica*, 1 November 2019, https://www.britannica.com/event/World-War-I/Killed-wounded-and-missing.; Newsround, "How did WWI Change the World?," *The BBC*, 9 November 2018, https://www.bbc.co.uk/newsround/45966335.

[788] Kühnhardt, *European Union – The Second Founding*, 387.

[789] M. L. Smith and Peter M. R. Stirk, eds., *Making the New Europe: European Unity and the Second World War* (London: Pinter, 1990), 2.; John Graham Royde-Smith and Thomas A. Hughes, "World War II: 1939-1945," *Encyclopædia Britannica*, last updated 7 November 2019, https://www.britannica.com/event/World-War-II.

means to foster reconciliation between historical foes, of which did not occur in the aftermath of the First World War.[790] This dedication to peace came out of two devastating wars in thirty years, the length of time which had previously produced the Peace of Westphalia and the reimagining of power in Europe. This new reimagining of Europe led to the rejection of "narrow nationalism" under the influence of the United States as the "European federator".[791]

While European integration is often considered a product of post-WWII thought, the concept of European integration and federation dates to the aftermath of previous continental wars, notably the period following the Napoleonic Wars in the nineteenth century. In 1814, Claude-Henri de Rouvroy articulated an early design for a federal and united Europe, consisting of a joint parliament among France and the United Kingdom, while each state retained their own national parliaments for domestic affairs.[792] Meanwhile, the Concert of Europe, borne out of a desire for power balancing among the European great powers, lacked the required integrative elements which would overcome issues of narrow nationalism that led to the outbreak of World War I. However, the Concert of Europe would come to influence global security arrangements with the creation of the Security Council and the Permanent Member status of the modern great powers in the post-WWII period.

The integrative arrangements of the nineteenth century targeted political and security arrangements from the offset, resulting presumably in their lack of stability and ultimate demise. Federalist objectives of the Council of Europe, for example, are noted to have impeded progress and cohesion due to opposing national stances.[793] The modern conception of European integration, however, developed through primarily economic objectives with the European Coal and Steel Community (ECSC) in 1951, and

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[790] Peter Sutherland, "European Integration and the Taming of Nationalism," Dr. Garret FitzGerald Memorial Lecture 2013/14, Galway, 31 January 2014, 6-22 (Dublin: National University of Ireland, 2014), 9.; Benita Ferrero-Waldner, "The Principles Underlying European Integration," *Foreign Policy*, no. 151 (2005): 2, https://www.jstor.org/stable/30048202.

[791] D'Appollonia, "European Nationalism and European Union," 185.; Kühnhardt, *European Union – The Second Founding*, 379.; Geoffrey Howe, *Nationalism and the Nation State* (Cambridge: Cambridge University Press, 1995), 11.; Gerard Quinn, "Response," Dr. Garret FitzGerald Memorial Lecture 2013/14, Galway, 31 January 2014, 26-38. (Dublin: National University of Ireland, 2014), 35.

[792] Wim van Meurs, et al., *The Unfinished History of European Integration*, eds. Amanda Getty and Louise Vines, transl. John Eyck (Amsterdam: Amsterdam University Press, 2018), 21-22.

[793] Ibid, 33.

later with the European Economic Community (EEC) from 1957.[794] This initial focus on economic rather than political integration could be said to have allowed cohesion to develop into the longstanding peace seen today in the European Union. Jean Monnet, a 'founding father' of the modern EU adopted a functionalist approach to the Union's development, with emphasis on 'spillovers' and the future economic, social, and political integrational possibilities that the initial ECSC's economic integration could achieve.[795] If a collection of countries were to have a common trade of, for example, bread, then they would require common health standards of manufacturing, a common policy on the movement of goods, special arrangements on competition, etc. This functionalist principle of spillovers has continued to inform the EU's operation as a single market and continued development as a supranational political organisation. The modern organisation of the EU now comprises twenty-seven Member States and includes remits on economic, social, and political matters.[796]

The voluntary post-war integration of Western Europe reimagined state sovereignty under the umbrella of supranationalism. The EU has defined powers, operating according to "the principle of subsidiarity" which dictates that action is taken at the appropriate political level. For example, cross-border issues of competition and trade are most efficiently addressed at the supranational level and are therefore an EU competence, whereas social policies and defence are largely national competences.[797] Foundational principles of the Union include human rights and the protection of minorities as well as the preservation of democratic governance, both of which are prerequisites for joining the EU as outlined by the Copenhagen Criteria. The Copenhagen Criteria additionally requires the acceptance and implementation of the EU's *acquis*

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[794] Treaty Establishing the European Coal and Steel Community, and Annexes I-III, Paris, France, 18 April 1951, EU Doc 11951K/TXT, exited force 23 July 2002.; Dietmar Petzina, "The Origin of the European Coal and Steel Community: Economic Forces and Political Interests," *Journal of Institutional and Theoretical Economics* 137, no. 3 (1981), 450-468, https://www.jstor.org/stable/40750370.; Treaty establishing the European Economic Community, or The Treaty of Rome, Rome, Italy, 25 March 1957, EU Doc 11957E/TXT, modified 1992, 1997, 2002, available at: https://ec.europa.eu/romania/sites/romania/files/tratatul_de_la_roma.pdf.; European Union, "The History of the European Union," *Europa.eu*, accessed 31 October 2019, https://europa.eu/european-union/about-eu/history_en#1945-1959.

[795] Wim van Meurs, et al., *The Unfinished History of European Integration*, 33-35.

[796] Member States accurate at the time of writing. On 29 March 2017, the United Kingdom invoked Article 50 of the Lisbon Treaty to leave the EU. On 31 January 2020, the United Kingdom officially left the EU with transitionary arrangements until the end of 2020.

[797] Ferrero-Waldner, "The Principles Underlying European Integration," 3.

communautaire, of which the four freedoms perhaps best represents the broader supranationalism of the Union.[798]

While the EU's laws hold legal supremacy over the laws of Member States, as developed in *Costa v ENEL*, this occurs only when there is a conflict between national and supranational laws.[799] Additionally, through the principle of conferral, the EU as a political actor can only act in policy areas that have been 'upgraded' to it by Member States.[800] This has produced a legal and political landscape where competencies are distributed to both the supranational level, such as trade and competition, and the national level where politically sensitive issues like defence remain intergovernmental in nature. However, the bloc retains certain powers in order to protect of the rule of law from manipulations, not least Treaty on European Union (TEU) Article 7, in order to prevent future cases of the "tactic of legality" used by Adolf Hitler and the Nazis in 1930s Germany.[801] However, the Court of Justice of the European Union (formally the European Court of Justice) remains judicially independent. Therefore, the rule of law may not be broken across the entire bloc despite potential failings in individual Member States.[802]

A premise of European integration is to instil the value of "unity through diversity" through a voluntary amalgamation of states, rather than through the historically tried homogeneity of the nineteenth and early twentieth centuries.[803] This style of integration creates a belonging via a "citizenship of the Union" through the Maastricht Treaty (1992).[804] This citizenship is not about losing national identity, rather it is envisioned as gaining a second identity. As Benita Ferrero-Waldner notes,

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[798] Neil Nugent, *The Government and Politics of the European Union* (London: Palgrave, 2017), 64-65.

[799] Flaminio Costa v E.N.E.L. (1964) Case 6-64, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:61964CJ0006.

[800] European Union, *Consolidated Version of the Treaty on European Union*, (2012) OJ C326/18.

[801] Quinn, "Response," 36-37.; European Union, *Consolidated Version of the Treaty on European Union*, (2012) OJ C326/19-20.; EU Affairs, "Rule of Law Concerns in Member States: How the EU Can Act (infographic)," *European Parliament*, last modified 12 September 2018, https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20180222STO98434/rule-of-law-concerns-how-the-eu-can-act-infographic.

[802] Ferrero-Waldner, "The Principles Underlying European Integration," 2.

[803] Quinn, "Response," 35.

[804] D'Appollonia, "European Nationalism and European Union," 185.; European Communities, *Treaty on European Union* (Brussels: Office for Official Publications of the European Communities, 1992), 15-16, available at: https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_on_european_union_en.pdf.

> The EU does not aim to replace individual national identities with a single European one. Instead, the EU is an entity "united in diversity" with the goal of enabling Member States to share sovereignty while preserving national, regional, and ethnic identities.[805]

Citizenship of one EU Member State entitles the individual to equal rights as though a citizen of another state while residing in that state. This broadens citizenship to not only mean individual states, but the entirety of the Union allowing for an expansion of economic and social protections.[806] This collective identity enhances the prevention of violent force between Member States in line with the original intentions for the integrated bloc.

The post-war integration project outlined above has been successful in creating peace among European states in a manner that remains different from past attempts at unity. Previous attempts at European integration were forceful attempts, such as by Napoleon Bonaparte or Adolf Hitler, where integration was based on a singular, dominant, national sovereignty.[807] These attempts to remake Europe by force and coercion immediately limited their chances of success, as such behaviour automatically provoked "nationalistic counter-reactions".[808] Today's approach provides a voluntary commitment toward integration which lends a new dimension of dual identity that works to limit the historic, nationalistic tendencies of continental war.

One important note on immigration: the modern European Union is not a *united states of Europe*. Rather it was designed as a primarily economic self-intervention among sovereign states, who retain their overall sovereignty but concede specific aspects of it to the supranational level in order to maintain peaceful arrangements. This has had the effect of spilling beyond economics to prevent outbreaks of violence between members. For as the nations are economically interdependent they do not risk upsetting the so-called apple cart. Issues that may have once provoked war, such as the tensions between Spain and the United Kingdom over their respective claims to

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[805] Ferrero-Waldner, "The Principles Underlying European Integration," 3.

[806] Claudia Wiesner and Anna Björk, "Introduction: Citizenship in Europe after World War II—the Challenge of Migration and European Integration," *Contributions to the History of Concepts* 9, no. 1 (2014): 54, doi: 10.3167/choc.2014.090103.

[807] Richard Robyn, "Introduction: National versus Supranational Identity in Europe," in *The Changing Face of European Identity*, ed. Richard Robyn (London: Routledge, 2005), 5; Pagden, "Introduction," 17.

[808] Kühnhardt, *European Union – The Second Founding*, 371.

Gibraltar have been mitigated. Similar tensions have emerged between states which may have historically resulted in violence, such as the Dollart bay boundary dispute between Germany and the Netherlands, the city of Olivenza dispute between Spain and Portugal, the Piran dispute between Croatia and Slovenia, and the Rockall fisheries dispute between Ireland and Scotland, among others. Diplomatic chess may play out among Member States within institutions in relation to these issues, yet the interstate tensions spill no further.

The European integration project has successfully prevented the historic slaughter between Member States which once plagued the continent. A presumption against the use of force has arisen out of the ashes of the early twentieth century which has promoted liberal economics as the key to political stability rather than military expansionism. Evidence of this presumption against force can be found in the neo-liberal project in Europe following the end of the Cold War, whereby market economics became viewed as a revolutionary force which holds the potential to overturn violent social structures and authoritarian regimes.[809] The EU applied this principle in its offer of membership in the Union to former members of the Soviet bloc in exchange for the adoption of democratic and capitalist policies.[810] This approach expanded EU influence on the world stage without utilising military means.

There are several contrasting perspectives on the means of the European Union's influence as an actor on the world stage. Most prominent are those of Normative Power Europe (NPE) as envisioned by Ian Manners and Market Power Europe (MPE) devised by Chad Damro.[811] Normative Power Europe has strong roots in the notion that the EU as an actor is "sui generis", or unique in its characteristics of influence.[812] Rather than perceiving the Union's power as stemming from purely power-oriented sources, a common thought within realist lenses, NPE instead views the

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[809] Gray, *Black Mass*, 135.

[810] See: Frank Schimmelfennig and Hanno Scholtz, "Legacies and Leverage: EU Political Conditionality and Democracy Promotion in Historical Perspective," *Europe-Asia Studies* 62, no. 3 (2010): 443-460, doi: 10.1080/09668131003647820.

[811] Ian Manners, "Normative Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 40, no. 2 (2002): 235-258, doi: 10.111/1468-5965.00353.; Chad Damro, "Market Power Europe," *Journal of European Public Policy* 19 (2012): 682-699, doi: 10.1080/13501763.2011.646799.

[812] William Phelan, "What is *Sui Generis* About the European Union? Costly International Cooperation in a Self-Contained Regime," *International Studies Review* 14, no. 3 (2012): 367, doi: 10.1111/j.1468-2486.2012.01136.x.

normative foundation of the EU, in its ability to transform global society through 'civilising' actions and efforts, as the true basis of its global influence.[813] This normative foundation is drawn from the foundational norms and values of the Union, namely peace, democracy, liberty, the rule of law, and human rights, along with several other minor normative values.[814] While the existence of these norms and values themselves do not directly result in influence, their existence and the perception of the EU as a normative actor on the world stage allows for these norms and values, often referred to as Europe's 'fundamental values' by the European Commission and Parliament, to be leveraged.[815]

An example of this normative exercise of power can been seen in the case of Ukraine. The European Neighbourhood Policy functions to allow the EU to extend normative influence into neighbouring states when faced with opposing influence from other regional actors, such as Russia. Following the collapse of the Soviet Union, the EU and Ukraine signed a Partnership and Cooperation Agreement, with featured objectives that include the consolidation of Ukraine's democracy and its transition to a functioning market economy.[816] Stemming primarily from the 2004 eastern enlargement, the EU has developed its European Neighbourhood Policy to include objectives for stabilising its relationships with and consolidating its values among its new bordering neighbours.[817]

In complying with a transition to European norms, particularly in the areas of democracy and human rights, third-party countries can benefit indirectly from a perceived normative stance on the world stage, which may impact investment and its participation and legitimacy in international organisations, and directly through transference diffusion, which Ian Manners outlines as the conditionality of normative

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[813] Francois Duchêne, "Europe's Role in World Peace," in *Europe Tomorrow: Sixteen Europeans Look Ahead*, ed. Richard J. Mayne (London: Fontana, 1972), 32-47.; Christopher Hill, "The Capability-Expectations Gap, or Conceptualizing Europe's International Role," *Journal of Common Market Studies* 31, no. 3 (1993): 309, 313-315, doi: 10.1111/j.1468-5965.1993.tb00466.x.; Manners, "Normative Power Europe," 238.

[814] Manners, "Normative Power Europe," 242.

[815] European Commission, "The EU in Brief," *European Union*, last modified 31 March 2020, https://europa.eu/european-union/about-eu/eu-in-brief_en.

[816] European Union and Ukraine, Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine, 19 February 1998, OJ L49/5.

[817] European Commission, Migration and Home Affairs, "European Neighbourhood Policy," *European Commission*, accessed 30 May 2020, https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/European-neighbourhood-policy_en.

compliance in return for financial reward.[818] In the case of the European Neighbourhood Policy, and specifically the Eastern Partnership, third-party countries like Ukraine have received funding in return for normative transformations which includes an alignment of domestic democratic values to those of the EU. Compliance by exterior states carries benefits both in relation to the EU itself and in regards to other states on the world stage who may view these normative transitions as normative gestures of legitimacy. In this regard, the normative power of the EU holds significant weight in altering the behaviour of other states in ways which eliminate the need for the use of force. Power is exercised by the Union in such a way that frames the global agenda of acceptance of values as a coercive model rather than coercion through military means.

Contrastingly, Market Power Europe views the European Union's Single Market as its primary source of influence. The EU's projection of its fundamental values, therefore, is said to be rooted not in altruistically normative arguments, but in the desires of domestic level interest mobilisation that push for such normative externalisation.[819] The Single Market, therefore, "operates as an arena in which interest contestation helps to determine the likelihood of the EU intentionally or unintentionally exercising its power in international affairs".[820] With this intimate relationship between economics and fundamental rights, such as within the areas of working standards, data protection, and labour rights, the Single Market holds a certain power potential for influencing the normative and value-based behaviours of other states, particularly the Union's trading partners.[821] As such, the economic power of the Union through trade reduces the necessity of escalating tensions to military force.

While NPE and MPE are often considered contrasting theories of influence in Europe, they cumulatively offer an attempt to explain the EU's behaviour and its motivations on the world stage. Historical experiences in continental war have led to the development of alternative approaches for influencing external actors which lack a military metric. With that said, instances of military force continue to exist through individual members of the Union. Member State participation in interventions across

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[818] Manners, "Normative Power Europe," 245.
[819] Damro, "Market Power Europe," 688-689.
[820] Ibid, 683.
[821] Ibid, 686.

Eastern Europe were held under multilateral participation and in keeping with the Union's fundamental tenet of upholding human rights, such as in Bosnia and Herzegovina and Kosovo. However, it is not the Union which participated in these campaigns. Rather, these events are examples of the national prerogatives of individual Member States which may be exercised outside of the remit of the Union through defence organisations like NATO.

The case of Iraq is an example of this type of non-integrated action. The United Kingdom, Spain, and Italy joined the United States in supporting a vision of intervention under a series of just causes. Concurrently, France and Germany stood against the use of force and articulated a similar position to the Holy See. Both France and Germany considered the lack of a Security Council mandate, the lack of popular public support, and the existence of alternative means of disarmament as identifying a lack of just cause. As no coherent security policy exists among the EU and as defence remains a national prerogative, there remains no supranational means of attaining unity among EU Member States around matters of external war and peace.

However, despite this European disunity, there remains a visible presumption against the use of force as derived from the European necessity of integration following the Second World War. Those states whom aligned with the US remained passionate about the desire for UNSC authorisation and multilateral action. It was British Prime Minister Tony Blair who ultimately persuaded the Bush Administration to work within the Security Council for authorisation via resolution 1441.[822] A second resolution was submitted at the behest of Britain and Spain, not the United States. However, this was eventually withdrawn once it was clear the votes were not in the draft's favour. Despite not attaining the desired authorisation, the attempts to attain such a resolution demonstrates an inherent aspiration to avoid military action where possible and to obtain multilateral cohesion when force becomes unavoidable. Therefore, in order to avoid future national governments from taking unilateral military action, even if it aligns with certain principles of the Union, further integration may be required in matters of defence.

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[822] Christoph Bluth, "The British Road to War: Blair, Bush and the Decision to Invade Iraq," *International Affairs* 80, no.4 (2004): 879, https://www.jstor.org/stable/3569476.

Concluding Remarks

This chapter has sought to explore the origins of victimhood which have led to the modern European position on war and peace. Section One discussed the fluctuating dynamic between causes of war in historical Europe. As Church temporal influence waned, confessional wars emerged as a means of reasserting power. These wars plunged the continent into violence, culminating in the Peace of Westphalia in 1648 and the expectation of toleration of religion between the lords of Europe. This did not mean religious toleration within a state: subjects were still subjected to the will of the king. However, violence was now to be limited to non-religious differences between states, surmised by *curius regio eius religio* as first pronounced at Augsburg in 1555.

The sovereignty that emerged from Westphalia brought forth wars of nationalism. The eighteenth and nineteenth centuries saw the emergence of logics such as national interest and an enthusiasm for territorial expansion. Aggressive prejudices dominated interstate moral discourse as war became a source of power. This may be seen in the expansionism of Napoleon Bonaparte and later with Adolf Hitler. These nationalist expressions of power culminated in two World Wars which changed the European perspective: moral discourse declared war to no longer be a tool of the state, while a presumption against the use of force emerged.

Section Two discussed the integrationist efforts of European states following the Second World War. Under the economic influence of the United States, integration grew: first as an economic project, then as a political endeavour. Narrow nationalism, which had once dominated discussions of interstate relations, became replaced by a shared European identity. This is reflected in the common European passports, which while identifying individual nationality, express a common European belonging. The modern European Union expresses a *unity through diversity* and has successfully removed war as a solution to conflicting ideas. As Karl Kaiser notes, "Europeans have done something that no one has ever done before: create a zone of peace where war is ruled out, absolutely out".[823]

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[823] Karl Kaiser, July 2002, quoted in Jonah Goldberg, "The European 'Miracle'," *The National Review*, 31 July 2002, https://www.nationalreview.com/2002/07/european-miracle-jonah-goldberg/.; Cf. Timothy Garton Ash, "Anti-Europeanism in America," *Hover Digest*, 30 April 2003, https://www.hoover.org/research/anti-europeanism-america.

The historical insights derived in this chapter showcase a reason behind the presumption against the use of force present in the opposition arguments from Europe during the Iraq invasion debate. The horrors of confessional and nationalist continental war combined with the modern weapons of war available during the Cold War, such as nuclear weapons technologies, aided in the derivation of this presumption and the pursuit of non-military means of conflict. Alternatives to war which have emerged through the use of NPE and MPE articulate the different mentalities on force in Europe compared to the United States.

The exhaustive last-ness of opposition arguments in the invasion debate express this position insofar as the alternative courses of action presented by France, Germany, and the Holy See sought non-military expressions of power to change Iraqi behaviours. Relying on inspections as a means to facilitate behavioural changes matches the existing European expressions of power that have slowly expanded across the continent through EU neighbour relations. This non-military coercion greatly differs from the US tactic of utilising military force as a tool of state interest.

Concerns of this interpretation hinge upon the actions of the United Kingdom and other states who joined the United States in their pursuit of Iraqi defiance of the Security Council. However, the presence of European exhaustive last-ness carries through the debate in the pressure the UK placed on the US to work within the Security Council and achieve a favourable resolution. The use of inspections in resolution 1441 showcases the non-military presumptions in the UK, while the abandonment of a second resolution and the participation in military operations can be explained through Permanent Member opposition to the second resolution. In this sense, the UK had reached their point for an exhausted last-ness as working through the Security Council was no longer viable with such severe opposition. The historical fact that the UK had not experienced German occupation in World War II, coupled with levels of nostalgic nationalism when recalling the War, permits an adoption of US permissibility of force once non-violent means have been exhausted.

A similar concern of this interpretation of European presumption against the use of force relates to the Holy See. The Holy See, while not a Member State of the European Union, shares a geographic and historical experience which has aided in the formation of a similar position on the modern use of force. Economic and normative expressions

of power are favoured over military means, from both a religious perspective as the head of the Catholic Church and as a state which lacks military power. Furthermore, the Holy See's opposition to the use of force without first exhausting last-ness is poignant in that it was expressed by a war-experienced pope in John Paul II. The overarching last-ness of Europe, expressed most prominently in the existence and practices of the European Union, is embraced by those outside the Union who share this post-war historical identity.

Conclusion to Part Two

Part Two has sought to answer the question: how have the inconsistencies present within just war thought converged with the historical development of the United States and Europe to form limitations on the contemporary use of the tradition? Following from Part One, where the inconsistent nature of the just war tradition was shown, Part Two has emphasised the nature of moral difference between transatlantic allies. The origins of this difference account for the limitations of the modern just war tradition.

The Iraq invasion debate presented a modern account of the transatlantic division of moral wisdom. The position of the Bush Administration, that the past behaviour and present duplicity of Iraq provided the American government with an appropriate metric to gauge prospective dangers, exhibits a reading of warfare as a tool of good governance. As Condoleezza Rice argued, "[t]he Iraqi regime's violations of every condition set forth by the UN Security Council for the 1991 cease-fire fully justifies—legally and morally—the enforcement of those conditions".[824] This is in reference to the November 1990 UNSC resolution 678 which explicitly authorised Member States cooperating with Kuwait to use "all necessary means" to expel Iraq from Kuwait and to enforce all "subsequent relevant resolutions" in order to "restore international peace and security in the area".[825] Therefore, in this context, the use of force remained a punitive weapon of justice for the state. As it was in the Gulf War, the Bush Administration sought to make it so again.

In addition, the Bush Administration presented a conviction reminiscent of one articulated by Jean Bethke Elshtain, who noted:

> if a state is *de jure* sovereign it has the right to make determinations in its own behalf. The United States is a sovereign entity. It follows that it is the final judge of its security needs. These may be evaluated badly or well but it just is not the case that the United States, or any other state, ceded sovereignty to join the United Nations[826]

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[824] Rice, "Dr. Condoleezza Rice Discusses President's National Security Strategy."

[825] UNSC Res 678, UNSCOR, UN Doc S/RES/678(1990), 29 November 1990, para. 1.

[826] Jean Bethke Elshtain, "Response to Tom Farer's 'Un-Just War against Terrorism and the Struggle to Appropriate Human Rights'," *Human Rights Quarterly* 30, no. 3 (2008): 735-736, doi: 10.1353/hrq.0.0025.

Therefore, despite the lack of authorisation by the United Nations, the determination by the United States to engage in warfare stands in line with its indivisible sovereignty, despite the protests from other members of the international community. As Elshtain notes above, each sovereign state possess "the right to make determinations in its own behalf".[827]

Yet oppositional voices to the invasion, particularly the Holy See, rejected the American conviction that previous Security Council resolutions and claims of individual sovereignty amounted to a just authority to make war. The Holy See maintained that the United Nations Security Council was *the* authority for international military action within the modern globalised world. It was claimed that actions taken in contradiction with the body were damaging to the UN's prestige and weakened the organisation as a platform for diplomatic resolution of conflicts.

The differentiating principle between these two positions remains clear. On one hand, the Bush Administration contended that the defiance exhibited by Iraq in relation to Security Council authority was the true weakening element of international law which must be rebuked in order to avoid any diminishment of the UN to the status of the League of Nations. On the other hand, the Holy See maintained that American unilateral action in this case would be the true damaging force to Security Council authority. Cian O'Driscoll notes, the American arguments were an attempt at "reaffirming the integrity of international law and enforcing compliance with it".[828] Yet this vision by the United States misses the full mark. Measuring the modern Security Council's weakness in relation to the League's failure to stop unilateral actions by Germany denotes the issue as unilateral action, not defiance. The League of Nations sought to limit international recourses to force, not outlaw force entirely, while the United Nations makes specific reference to certain legal options of force.[829] In the Iraq debate case, it was the unilateral action of the United States which the UN could not rebuke, rather than the defiant Iraqi regime. Sanctions and other diplomatic actions have shown measures of success at curbing illicit international behaviour among states. Thus, unilaterality, not defiance,

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[827] Ibid, 736.
[828] O'Driscoll, *Renegotiation of the Just War Tradition*, 56.
[829] *Covenant of the League of Nations*, including amendments in force 16 December 1935, Art. 10-17, available at: https://treaties.un.org/doc/source/covenant.pdf.; *Charter of the United Nations*, Art. 51.

may be considered the greater danger to peace as alternatives to force remain available to curtail non-compliance. As such, allowing force to be a tool of international enforcement would endanger, rather than enable, peace.

Further divisions remained relative to other causes for invasion. In American terms, the uncertainty of future security in light of the Iraqi possession of weapons of mass destruction, the Iraqi connections to terrorism, and the defiance of international norms all remained just causes for action. In contrast, the Holy See considered these causes to be insufficient for war. For the Holy See, imminence remains an indissoluble part of anticipatory defence within moral thought. The embracing of past actions and present duplicity cannot become a metric for action. Germany concurred with this assessment, contending that the invasion may work to increase the use of self-defence as a justification for intervening in the affairs of foreign states, something which would destabilise global security. Additionally, Germany questioned how Iraq related to the war on terror and feared that the broadening of military engagements beyond the stated goal of terror prevention may detract from any potential success. In this light, war for the United States exhibited the features of a tool of the state which might be deployed against a neighbour or a foreign adversary who failed to heed to the demands of the stronger.

The differing intentions of the two sides also played a role in the debate. The American position was supported by Tony Blair's denouncement of Iraqi human rights abuses and the necessity of securing Iraqi society. While an admirable goal, the Holy See questioned if this motivation was a pretext for action in light of the Bush Administration's ties to oil companies and Iraqi natural resources. Either intention may be viewed as pressuring the US toward immediate action despite alternative responses remaining available.

The inspections regime enacted by the Security Council was denounced as a failure by the United States due to Iraqi defiance. Yet French officials maintained that the inspections were purchasing results, claiming a consistency with declarations and regime cooperation. The differing views on inspections demonstrates another instance of the modern tradition's two strand nature. The United States envisioned war as a tool which could exercise their motivations, whether they be the defence of human rights or the securing of scarce resources, while French officials and others in opposition

maintained that force was a last resort to be used only when all other options were exhausted. The inspections regime had been active for fewer than four months. France believed more time was needed before any determination around the use of force could be decided.

A final point of contention remained the premise of peace. The United States believed that regional stability and global security were threatened by Saddam Hussein, while others contended that there remained a greater threat to stability. The Holy See's position that a clash of civilisations was a possible outcome of a misinterpretation of the American invasion led to the vocalisation of the war as unjust and illegal. The just war tradition maintains that the use of force must be accompanied by an aim of peace, yet the Holy See considered this impending military action to be disproportionate to the damage it may cause. The dangers of greater peril outweighed the achievable aims of action. Therefore, the presumption against the use of force could not be overcome. Yet the United States insisted that military action remained a necessity and could be used as a tool to rebuild a nation.

The differing points of view in the Iraq debate stem from an interpretation on the use of force and the definition of last-ness as described in Chapter Four. The United States envisioned war as a tool in a context where last resort has been met, while the Holy See and other opposing states insisted that the measure of last resort had yet to be reached thereby denying the use of force. The United States exhibited a reading of last resort in accordance with relative last-ness. The continued defiance by Iraq, the dangers of terrorists and WMD, and the historic uses of force by Saddam Hussein, all in the face of economic sanctions, created a context in which the use of force remained the best prudential option available. The Bush Administration advocated that the use of force was to be a last resort yet maintained that all other options had already failed for achieving the desired goal of international peace and security.

Conversely, the Holy See and other opposition states debated the invasion under a presumption against the use of force, in which this presumption was a benchmark to be overcome in order to actualise the use of force. Exhaustive last-ness underscored the projection of last resort employed by the European opposition. As the inspection regime enacted by the Security Council had yet to be exhausted, there existed no clear evidence that the US accusations could not be answered non-militarily. Furthermore, each

opposition state discussed in Chapter Seven presented conditions through which a use of force could be justified. France insisted that as no WMD had been discovered, there was no reason for a military intervention. Germany remained firm in their opposition as there was no clear evidence of Iraqi participation in the 11 September 2001 terrorist attacks. The Holy See maintained a clear opposition on a multitude of grounds, least not the firm declaration that the United States presented no evidence of the imminent danger posed by the Iraqi regime. Their overarching presumption against the use of force contained clear benchmarks whereby military means could be justified. However, as these benchmarks had yet to be achieved, the exhaustion of alternative options remained the primary mode through which their just war grammar was employed.

These respective interpretations of the usefulness of force and the definitions of last resort exemplify two distinct cases of moral wisdom derived from contrasting experiences of war and peace. Early Protestant millennialism in the United States and the transfer of purity from England to New England emerged as an influential force within US moral thought. The character of moral thinking on war in the US has historically been measured by the 'favoured status' of the nation and the viewing of historical events through retroactive continuity. Events such as the French and English expulsion from North America in the eighteenth century only worked to solidify the emerging American mythos. For the early American Puritans, social contract and biblical covenant were "one and the same".[830] This exceptionalism has endured beyond the Revolutionary period, with renewed sentiment following the Second World War. A contributing factor in the continued presence of millennialist thought remains the US victories in both World Wars and the end of the bipolar Cold War world.

The United States effectively escaped the atrocities experienced in Europe during the first half of the twentieth century. As Anatol Lieven notes:

> it also means that the United States and its rulers escaped perhaps the most searing lessons the world has ever known, in the need to keep social, class, economic, and national ambitions and passions within certain bounds. The greater radicalism of American capitalism therefore also stems in part form America having been spared the horrible consequences to which such capitalist excess can contribute; and this form of American capitalism feeds in turn the

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[830] Haller, *The Limits of Atlanticism*, 26.

greater radicalism of the American Right and the culture of American nationalism.[831]

As such, the American experience of victory enhanced, rather than diminished, nationalist sentiments derived from providential exceptionalism. Decades later, neoconservative mentalities would grasp these understandings of the American self in an alliance built upon exceptionalism itself.

The cohabitating nature of neoconservatism and millennialism within the Bush Administration can be surmised by Stefan Harper and Jonathan Clarke:

> A belief . . . that the human condition is defined as a choice between good and evil and that the true measure of political character is to be found in the willingness by the former (themselves) to confront the latter . . . An assertion that the fundamental determinant of the relationship between states rests on military power and the willingness to use it [and] . . . A primary focus on the Middle East and global Islam as the principal theatre for American overseas interests.[832]

This, as Hugh Urban notes, leads to a political strategy of "the neoconservative dream of [a] U.S.-led benevolent hegemony" through which the spread of democracy would be centrefold.[833] Democracy, therefore, was the modern vision of providential republicanism, while the American national character may be witnessed in "eloquent acts of sacrifice".[834]

Such a vision of moral correctness accounts for the Bush Administration's permissive attitude toward the use of force for perceived right reason and ultimately exemplifies the US perception that war may be utilised as a tool of the state in dealing with issues of disagreement. For example, dominant neoconservative theories contend there is a strong role for capitalism in enacting international change. However, capitalism remains insufficient on its own. Effective use of state power and military force is often required to hasten innovation.[835]

This contrasts the European vision of force. While the US presumes that military power can be a benevolent instrument of the state, Europe has come to abide by a

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[831] Lieven, *America Right or Wrong*, 27.
[832] Stefan Harper and Jonathan Clarke, *America Alone: The Neo-Conservatives and the Global Order* (Cambridge: Cambridge University Press, 2004), 11.
[833] Urban, "The Secrets of the Kingdom," 155.
[834] Bush, "President's Remarks at National Day of Prayer and Remembrance."
[835] Gray, *Black Mass*, 135.

presumption against the use of force among members of the continent. Europe's historical circumstances of confessional violence has resulted in the relegation of religion away from state power. Meanwhile, the rise of nationalism in the wake of the Westphalian emergence of sovereignty led to the use of force for state gains. This ultimately culminated in two horrific World Wars which necessitated a fundamental alteration of the European outlook of power and identity. As Ludger Kühnhardt notes, "only the complete failure of ideology-driven power politics opened the gates for a new and solid realization of . . . European unity".[836]

The post-war integrationist project in Europe expressed the new found presumption against the use of force among neighbouring states. Economic rather than military power became the central interlocutor of change, while diplomatic structures were developed in order to prevent the outbreak of future wars.[837] The modern European project has worked to make military action between states incomprehensible, especially when such actions go against their domestic national interests in terms of their respective, intertwined economies. Where previous attempts at curbing violence have failed to achieve the necessary effect, such as the nineteenth century failures to implement mandatory international arbitration, current integrationist practices have achieved the desired non-violent results.[838] Therefore, the contemporary European Union can be considered a success for having integrated a post-war presumption against the use of force, derived from a historical narrative of violence, into the core mission of its Member States.

While not a Member State of the European Union, the Holy See shares with it a common history of European violence. The rejection of the Iraq invasion by the Holy See reflected upon this shared European record when denying the Bush Administration their possession of justice according to the just war tradition. The Holy See did not consider unilateral action by the United States as a legitimate action in the modern global environment. Additionally, claims by the Bush Administration that war could be a tool of international good governance struck a chord with John Paul's understanding of power. As John Paul claimed:

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[836] Kühnhardt, *European Union – The Second Founding*, 381.
[837] Gray, *Black Mass*, 135.
[838] See Chapter Three.

> war cannot be decided upon, even when it is a matter of ensuring the common good, except as the very last option and in accordance with very strict conditions, without ignoring the consequences for the civilian population both during and after the military operations.[839]

This understanding of last resort was shared by French and German government officials, who insisted that activity which moved beyond inspections was premature and damaging in light of an exhaustive last-ness. Alternative sources of conflict resolution echoed historical European relationships with the use of force.

The inconsistencies presented in the Iraq debate lend further support to the characterisation of the just war tradition as a source of moral wisdom with severe limitations. The tradition could not provide a consistent moral wisdom on the Iraq case as two opposing moral patterns of thought existed within the Security Council. The United States perceived war as a tool of statecraft and believed that the last resort criteria had been fulfilled. Meanwhile, the European opposition states failed to see a reasonable cause for overriding their benchmark which designates force as conditionally moral. In this instance, the use of force did not meet the moral criteria for a just military engagement by European standards.

Additionally, when examining the debate in light of the historic transatlantic origins of moral wisdom, the tradition demonstrates its own limitations. Disharmony of moral wisdom exists relative to the use of force: favoured in the United States, while rejected in Europe. This challenges the usability of just war as a modern metric for the use of force in seeking peace as there does not exist a shared history of experience. The United States has yet to experience the true atrocity which violence can bring about, while the European historical record is plagued with examples.

The just war tradition cannot achieve a modern consistency so long as the United States and Europe stand diametrically opposed in their moral character. Examples exist of this repetitive divergence as derived from the disparity in origin and experience in cases that are outside debates on violence. In the United States, the American mythos continues to promote a unique exceptionalism which appears in various forms in each area of American life, least not the appearance of the US flag in supermarkets during times of heightened patriotism and the exhibition of US flags in

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[839] John Paul II, "Address of His Holiness Pope John Paul II to the Diplomatic Corps."

primary and secondary classrooms.[840] The pledge of allegiance taken each day by US students grounds the US national character in the origin of its exceptionalism.

Conversely, Europe has sought a common unity rather than a divided exceptionalism. Europe has trended toward a post-World War international cooperation. The European Union, for example, has sought to foster a broad European identity which might transcend some elements of individual nationalist energies. While in Europe the focus remains on the "strength of the law", in the United States there is a conviction which emphasises the "law of the stronger".[841] This difference stems directly from moral grounds, for as Peter Bender notes, Americans believe in the "unshakable conviction that their country has a mission in the world—what is good for America is also good for the world".[842]

As long as the United States envisions itself as exceptional to the historical record of violence, there can be no unity around the moral use of force. Since the just war tradition relies on the use of force to create a morally just international order, the tradition cannot be reliably used while this difference persists and remains limited in its ability to engage contemporary international issues. Therefore, a necessity exists to embrace supplementary moral wisdom which does not centre on the use of force to engage breaches of peace. This way, the inherent limitations of the modern just war tradition can be overcome through supplementary material which engages in means of conflict resolution which are not reliant on traditional uses of force during times when the practitioners of the just war tradition have reached an unreconcilable division of views. From this, Part Three will explore the use of just peacemaking as a supplementary source of moral wisdom to the just war tradition.

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[840] Lieven, *America Right or Wrong*, 16.

[841] Haller, *The Limits of Atlanticism*, 132, generally: 132-134.

[842] Peter Bender, "Das Amerikanische und das Römische Imperium: Ein Vergleich," *Merkur* 54 (2000): 896, quoted in Haller, *The Limits of Atlanticism*, 154.

Part Three: The Advice of Just Peacemaking

Just Peacemaking as a Supplementary Source of Moral Wisdom

Introduction to Part Three

As discussed in Part Two, the origins of the present moral disparity among the United States and European states has created a case whereby the modern just war tradition remains greatly limited in its capacity to consistently engage in critical conflict resolution. On one hand, millennialism and exceptionalism in the United States has provided a moral character whereby the use of force may be morally executed as a tool of the state. The overarching us-versus-them narrative has driven the US moral character to great lengths, such as during the Cold War where moral grammar justified the arms race against the Soviet Union. The use of force and modern weapons of war remains arguably, from the point of view of the United States, a reasonable tool of domestic security and for promoting international expansions of human rights and democracy.

On the other hand, centuries of confessional and nationalist violence have impressed upon European states the necessity for alternative approaches to conflict resolution. The post-war economic, and later political, integration of states into the present European Union has achieved a level of peace which had not previously been seen upon the continent. The presumption against the use of force among neighbours has stemmed directly from the centuries of historic violence. While this presumption is primarily tasked to keep peace among European states, the moral implications have led to moments of pause over the enaction of force abroad, as seen in the case of Iraq for oppositional European voices. Following from this understanding of these moral divisions, Part Three will seek to answer the question: what advice might just peacemaking offer in the face of just war limitations? This will be answered across four chapters.

Chapter Nine will explore the just peace paradigm as a supplementary moral wisdom to the just war tradition. Just peacemaking possesses alternative premises relative to how international actors should approach war and peace discourse. As noted previously in *Literature Considerations*, the exploration into just peace found within this study occurs with respect to the work of Glen Stassen and his defined ten practices from

Just Peacemaking.[843] This remains effective relative to the supplementary nature of Stassen's just peace in relation to the just war tradition. Therefore, Chapter Nine will explore the supplementary aspects of just peacemaking along three central characteristics: trust, justice, and the community. The chapter will also answer certain criticisms of the paradigm relating to the lack of necessary forceable coercion to affect lasting change and meet real-time crises.

Chapter Ten will discuss certain contemporary difficulties of implementing the supplementary advice of the just peace paradigm with respect to the dominant position of the just war tradition. This will be shown through the example of the 2011 Libyan Crisis. The response by the international community at the outbreak of violence adhered first to elements of the just peacemaking approach insofar as the proposed international action included a focus on the protection of human rights and justice within the bounds of the just peace practices. The Security Council authorised a limited no-fly zone for the protection of civilians, during which time the case was referred to the International Criminal Court and a diplomatic settlement was to be negotiated. However, as the just war tradition dominates the moral voice of the international community, just war principles soon outweighed the supplementary just peacemaking via a NATO-led bombing campaign. The implementation of just war visions of the unitary possession of justice ultimately overpowered any attempt at just peacemaking by the African Union and once more demonstrated the inconsistencies and limitations of the modern just war tradition.

Chapter Eleven will explore the successful implementation of just peacemaking material in relation to Northern Ireland and the conclusion of the Troubles. In this case, the peacebuilding tactics employed included measures that acknowledged the responsibility of crimes committed, consociational power-sharing agreements to prevent the domination of any one social-political group, and the involvement of both political and paramilitary representatives in the peace process. State actors are shown to have engaged as honest brokers to aid in human-centric negotiations while working to improve the longevity of the settlement through no side having a requirement to surrender to a particular state authority. Economic incentives initiated by the European

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[843] Stassen, ed., *Just Peacemaking: Ten Practices for Abolishing War,* 2nd ed.

Union and Britain to Northern Ireland provided the necessary normative and market power coercion required by the peace process and enshrined in the Belfast/Good Friday Agreement. In this case, the just peacemaking material present in the lead-up to the peace accords accomplished what enactments of forceable justice could not complete.

Chapter Twelve will return to Iraq through an examination of just peacemaking relative to the invasion debate and the post-invasion recovery. The chapter will discuss how certain just peace material might have performed in answering the arguments proposed by the United States in light of the post-war realisation regarding the destructive consequences produced by forceful means. Chapter Twelve will first consider the promotion of humanitarian investigations at the Security Council debate as a means of coercion which could offset certain complaints related to the ineffectiveness of weapons inspections. Next, the chapter will discuss the implementation of de-Baathification and de-militarisation, as well as the American policies on drafting the Iraqi constitution, contrasting the just war approach taken with just peacemaking strategies. While these measures remain hypothetical enactments, with their actual success unknowable, the discursive quality of the chapter is important in outlining how just peacemaking might have provided, at the very least, a supplement to the just war model presented by the United States. This is particularly important in regard to certain changes in the approach taken by the Coalition Provisional Authority as the recovery period demonstrated a lack of definitive closure.

Chapter Nine
Just Peacemaking

Introduction

The 2003 invasion of Iraq provided a stimulant for further debate surrounding the continued practical application of the just war tradition. Emphasis has fluctuated between renovating the tradition and replacing it all together, given its limitations in mitigating unjust uses of military power. As the United States at the time of the Iraq debate demonstrated a greater permissibility surrounding the enaction of war globally, moral discourse must impress a necessity to revive an understanding that the application of force must remain a last resort. As articulated previously, the just peace paradigm seeks to provide supplementary moral wisdom to that of just war as a means of overcoming the contemporary limitations of the tradition.

The character of just peacemaking is found within the ten practices that govern its implementation. Unlike the just war tradition, where the criteria stand as a checklist for seeking the permissibility of force, these ten practices are a manner of engagement. The practices discussed in this chapter will be divided along three characteristics: trust, justice, and the community. This chapter will explore these characteristics and their practices, along with certain criticisms of just peace, across four sections.

First, this chapter will explore the character of trust. The practices that will be discussed include the support for nonviolent direct action, the taking of independent initiatives to reduce threats, the use of cooperative conflict resolution, and the acknowledgment of responsibility for conflict and injustice and the seeking of repentance and forgiveness. The exhibition of trust within the act of peacemaking itself differs greatly from the just war model of force.

Second, this chapter will explore the character of justice. The practices that will be discussed include the advancement of democracy, human rights, and interdependence and the fostering of just and sustainable economic development. A focus of this section will be on the necessity of equality under the law at all levels of governance and the requirement of restoration over retribution.

Third, this chapter will explore the character of community through which just peace is carried out. The practices that will be discussed include working with emerging cooperative forces in the international system, strengthening the United Nations and international efforts for cooperation and human rights, the reduction in offensive weapons and the weapons trade, and encouraging grassroots peacemaking groups and voluntary associations. This section will discuss the characteristics of community found in the national Irish police agency, An Garda Síochána (Gardaí), as an example of consent based just policing in a just peacemaking model.

Finally, Chapter Nine will discuss an answer to the question of whether or not just peacemaking possesses a certain lack of coercive means which may impede upon the paradigm's ability to produce definitive and lasting results. This section will look toward the characteristics of the paradigm to discern which metric of coercion, the carrot or the stick, is best suited for just peace. A conclusion is drawn insofar as the paradigm is more suited toward the economic carrot than the coercive stick, despite the intervention arguments of Michael Joseph Smith.

9.1: The Character of Trust

The first characteristic of just peacemaking centres around the essence of trust. Trust must be both built amongst adversaries and within the processes of just peacemaking themselves. The practices present within this characteristic include the support for nonviolent direct action, the taking of independent initiatives to reduce threats, the use of cooperative conflict resolution, and the acknowledgment of responsibility for conflict and injustice and the seeking of repentance and forgiveness.[844]

A study by Maria J. Stephan and Erica Chenoweth highlights that nonviolent means of resistance are 53 percent effective at achieving their goals, compared to a 26 percent success rate for violent means, challenging conventional wisdom.[845] Nonviolent campaigns are particularly successful at mobilising public support for their movement, delegitimising an adversary in both domestic and international circles, and removing or

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[844] Stassen, ed. *Just Peacemaking: Ten Practices for Abolishing War*, 2nd ed., 39-99.; Cf. Thistlethwaite and Stassen, *Abrahamic Alternatives to War:*, 7.

[845] Maria J. Stephan and Erica Chenoweth, "Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict," *International Security* 33, no. 1 (2008): 8, doi: 10.1162/isec.2008.33.1.7.

restricting an adversaries' source of power.[846] Violent responses to nonviolent campaigns often damage a state's international reputation, with the regime risking international sanctions in response to their domestic violence.[847] Nonviolent campaign methods often include: symbolic protests, economic boycotts, labour strikes, political and social non-cooperation, and nonviolent intervention.[848] These acts seek to be highly disruptive, with non-cooperation and defiance widespread against their adversary.

Independent initiatives generally begin as one-sided acts of trust, which, one hopes, will inspire adversaries to follow suit. All parties, from paramilitaries to governments, should engage in initiatives which seek the reduction in tensions which permeate violence. In 1963, US President Kennedy announced a temporary, unilateral halt to nuclear testing. This was later followed by a Soviet proposal which would form the basis of a partial nuclear test ban treaty between the United States and the Soviet Union.[849] Similar initiatives to curb violence can be found in the unilateral IRA ceasefire in 1994, of which loyalist paramilitaries would soon implement as well.[850] This temporary initiative would come to aid the establishment of future negotiations over a lasting peace agreement.

In the words of Jürgen Moltmann, cooperative conflict resolution seeks to transform enemy combatants into "quarrelling partners".[851] Common concerns are brought to the forefront in order to move beyond unavoidable differences and begin the process of resolution. This practice relies on transparency and requires participants to remain open to the concerns of *the other*.[852] The participation of "citizen-diplomats" may aid the resolution process by using their prestige to inspire innovative solutions to obstacles.[853] This may be visualised in Jimmy Carter's support for community mediation programs in the 1970s as an alternative to judicial systems for dispute settlements.[854]

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[846] Ibid, 10.

[847] Ibid, 9.

[848] Ibid, 9-10.

[849] Glen Stassen, "Take Independent Initiatives to Reduce Threat," in Stassen, ed., *Just Peacemaking*, 2nd ed., 61.

[850] Siobhán Fenton, *The Good Friday Agreement* (London: Biteback Publishing, 2018), 63-64.

[851] Jürgen Moltmann, *The Experiment Hope*, ed. and trans. M. Douglas Meeks (London: SCM Press, 1975), 175.

[852] David Steele, et al., "Use Cooperative Conflict Resolution," in Stassen, ed., *Just Peacemaking*, 2nd ed., 63.

[853] Ibid, 63.

[854] Ibid, 65-67.

Community "elders" may also provide aid in the form of guidance and encouragement to stakeholders to accept what may be "an otherwise unpalatable compromise".[855] Elders may take the form of any respected figure, such as regional imams, local pastors, or former military personnel.

In Northern Ireland, Redemptorist priest Alec Reid played an important role in the dialogue between Gerry Adams and John Hume.[856] Reid was a trusted, non-political figure within a religious tradition known for its custom of sanctuary.[857] He attended a meeting of four main Northern Irish political parties (Alliance Party, UUP, DUP, and SDLP) in Duisburg, West Germany in 1988 and was trusted to relay the wishes of unrepresented nationalists.[858] Reid was also recognised by UVF leader Gusty Spence as a point of contact with the IRA. Spence noted:

> Alec Reid was particularly close to the Provos, didn't agree with their tactics or whatever but was a very, very, close confidant of Adams. Whenever I was speaking to Alec, I knew I was speaking directly to Gerry Adams.[859]

Protestant ministers from the Methodist Church and the Church of Ireland also worked like Reid as trusted mediators for peace.[860]

The final practice in this category of peacemaking takes the form of repentance and forgiveness. Alan Geyer contends that "empathy, repentance, and forgiveness are possible and necessary practices in the work of peacemaking".[861] The act of repentance is acknowledged by Geyer to be difficult for states given the dominance of realism in foreign affairs.[862] Yet he offers post-war Germany as an example of a repentant nation. In December 1970, West German Chancellor Willy Brandt signed a treaty with Poland solidifying the German-Polish border. The signing coincided with Chancellor Brandt kneeling before a Warsaw memorial to the Second World War, in what Geyer calls "an

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[855] Ibid, 85.

[856] Margaret M. Scull, *The Catholic Church and the Northern Ireland Troubles*, 1968-1999 (Oxford: Oxford University Press, 2019), 173-174.

[857] Ibid, 174.

[858] Ibid, 177.

[859] Brian Rowan, *How the Peace Was Won* (Dublin: Gill & Macmillan, 2008), 94.; Scull, *The Catholic Church and the Northern Ireland Troubles*, 179.

[860] Scull, *The Catholic Church and the Northern Ireland Troubles*, 178.

[861] Alan Geyer, "Acknowledge Responsibility for Conflict and Injustice and Seek Repentance and Forgiveness," in Stassen, ed., *Just Peacemaking*, 2nd ed., 89.

[862] Ibid, 87-89.

act of atonement for German offenses against the Polish people".[863] While the act was of a personal nature for the Chancellor, his own anti-Nazi history added weight to the overall taking-of-responsibility by Germany of Nazi aggression.

German President Richard von Weizsäcker's (1984-1994) provided a similar contrition in his 1985 address to the Bundestag. He claimed:

> We cannot commemorate the 8th of May without making ourselves aware how much conquest of self the readiness for reconciliation demanded of our former enemies. Can we really identify with the relatives of those who were sacrificed in the Warsaw Ghetto or the massacre of Lidice? . . . Who could remain innocent after the burning of the synagogues, the looting, the stigmatizing with the Jewish star, the withdrawal of rights, the unceasing violations of human worth? . . . As human beings, we seek reconciliation. Precisely for this reason we must understand that there can be no reconciliation without memory.[864]

Both acts by Brandt and von Weizsäcker represent the political embrace of the practice of acknowledging responsibility and seeking repentance and forgiveness. The conviction behind their remorse, and its attachment to memory, signifies not an apology demanded by politics itself, but an expression of moral guilt which remains necessary for any progress beyond a conflict. The pronouncements showcase a certain awareness for the moral failings of a nation and an exercise of repentance beyond those political responsibilities ascribed by an end-of-war treaty. These reflections developed out of a movement of contrition which began within the German churches during the post-war occupation period and which represents certain aspirations of a just peace process.

The Evangelical Church of Germany (EKD) in October 1945 offered the "Stuttgart Declaration of Guilt" to representatives of the World Council of Churches.[865] The document acknowledged the EKD was in "a great solidarity of guilt" with the German people and expressed their anguish in the "great community of suffering" which has taken hold of Germany.[866] The EKD council claimed:

> With great anguish we state: through us has endless suffering been brought to many peoples and countries . . . we accuse ourselves for not witnessing more

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[863] Ibid, 90.

[864] Donald W. Shriver Jr., *An Ethic for Enemies: Forgiveness in Politics* (New York: Oxford University Press, 1995), 108, 110.

[865] Evangelical Church of Germany, "Stuttgart Declaration of Guilt," 19 October 1945, quoted in Matthew D. Hockenos, *Church Divided: German Protestants Confront the Nazi Past* (Indianapolis: Indiana University Press, 2004), 187.

[866] Ibid.

> courageously, for not praying more faithfully, for not believing more joyously, and for not loving more ardently.[867]

The document fails to mention the exact nature of the atrocities committed by the Nazis and fails to admit a criminal or political guilt for the German crime. However, the document is successful in its expression of moral guilt.

There is a difference among criminal and political guilt and the moral guilt expressed by the EKD council. Criminal guilt refers to "the consequence of being tried and found guilty in court of breaking the law", of which the EKD was not.[868] Alternatively, political guilt "concerns the acts of politicians and others . . . who promote, support, and allow government policy to succeed".[869] While Matthew Hockenos contends the EKD held some elements of political guilt relative to their "enthusiastic support" for Hitler in the early days of Nazism, the focus of this Declaration remained on moral guilt.[870] This moral condition of guilt went beyond criminality and political motivations, resting upon a failing which established a programme of systematic death and bound a nation to the sins of the past. As Karl Jaspers noted:

> A crime is atoned for; a political liability is limited by a peace treaty and thus brought to an end. As far as these two points are concerned, the idea is correct and meaningful. But moral and metaphysical guilt, which are understood only by the individual in his community, are by their very nature not atoned for. They do not cease. Whoever bears them enters upon a process lasting all his life.[871]

The German guilt derived from the Second World War required, according to Jaspers, a "purification" only possibly from a collective expression of culpability and repentance which would provide the basis for the "political liberty" necessary for a national rebirth.[872] This vision of acknowledgment and repentance reaches the core of this just peace practice and is found within the political statements by Brandt and von Weizsäcker. For a lasting German peace, the leaders carried the message that the past

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[867] Ibid.

[868] Charles Villa-Vicencio, "The Burden of Moral Guilt: Its Theological and Political Implications," *Journal of Church and State* 39, no. 2 (1997): 240, https://www.jstor.org/stable/23919861.

[869] Ibid.

[870] Hockenos, *Church Divided*, 76.

[871] Karl Jaspers, *The Question of German Guilt*, trans. E. B. Ashton (New York: Fordham University Press, 2000), 111.

[872] Ibid, 114, 115-117.

was to be acknowledged and contrition proclaimed on a moral level so that peace could more readily endure.

The practices in this section emphasise the characteristic of trust found within the just peace paradigm. The presence of trust within peacemaking differs greatly from the inherent distrust present within the just war tradition. The solutions to conflict embraced by just war encompass coercive elements once certain conditions have been met. The tradition lacks the character of trust present within just peacemaking insofar as the just war tradition is engaged *because of* scepticism which rules out points where trust can be recovered. For example, prudential factors ultimately overpower any modern perception of comparative justice which may inhibit certain responses. When questions of comparative justice arise, according to Michael Walzer and Brian Orend, they are dismissed as an *in bello* concern that goes beyond levels of *ad bellum* proportionality and instead relate to questions of *in bello* immunity and the proportional use of weapons of war.[873] As Brian Orend notes: "it seems silly to say a state is two-thirds of an aggressor".[874] As such, the just war tradition becomes a metric used as either a grammar for justifying the use of force or a benchmark for the permissibility of the use of force.

Contrastingly, the characteristic of trust is fundamental to just peacemaking and provides a metric whereby issues like comparative justice may be settled without violence. The practice of removing violent options of conflict resolution provides a basis for negotiated settlement and the use of economic and normative means of resolution of which the just war tradition often ignores. Nonviolence holds an abstract level of trust and a greater practicality, such as the limitation of reactive measures like revenge killings which may derail the settlement process. Commitments to and movements toward nonviolence similarly aid the peace process by opening channels to independent initiatives. These demonstrative acts, which lack any guarantee of reciprocation, represent a rawness within the just peacemaking processes which the just war tradition

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[873] Brian Orend, *The Morality of War*, 2nd ed. (Peterborough, Ontario: Broadview Press, 2013), 45-47.; Mark J. Allman and Tobias J. Winright, "Growing Edges of Just War Theory: Jus Ante Bellum, Jus Post Bellum, and Imperfect Justice," *Journal of the Society of Christian Ethics* 32, no. 2 (2012): 184, doi: 10.1353/sce.2012.0039.

[874] Orend, *The Morality of War*, 45.

lacks. Trust that is built, both toward adversaries and in the process generally, is a source of successful peacemaking.

Trusted mediators, such as George Mitchell in the Northern Ireland peace process, and elders of the community, like Archbishop Desmond Tutu in the Truth and Reconciliation Commission of South Africa (TRC), offer a focal individual or group who can approach a given conflict with a degree of separation or prestige which may increase their own trustworthiness and the trustworthiness of the process as a whole. The embracement of these leading individuals indicates a willingness to not only trust but equally engage in proceedings of justice which may differ from simple punitive processes. Often a participating elder is the difference between a public embracement of peacemaking and a refusal to participate.[875]

For example, in the case of South Africa, the framework for the Truth and Reconciliation Commission led by Archbishop Tutu, a quintessential elder by just peacemaking standards, was added to the Constitution of South Africa as a compromise between the perpetrators and victims of apartheid to prevent political and judicial acts of 'revenge'.[876] However, such revenge would not heal the nation when a consensus was present that "atrocious things were done on all sides" and therefore an element of comparative justice existed.[877] Pius Langa, a former Chief Justice of the South African Constitutional Court, once noted that the true purpose of the TRC was to provide "a record of not only what the past was, but also of the failings of human nature".[878] He believed that while remembering could be painful, it ultimately provided lessons from the past which could transition a nation successfully.[879]

The public hearings of the TRC provided a space whereby the abuses of apartheid, such as the maiming and murder of innocent South Africans by police, could

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[875] The roles of Desmond Tutu and Nelson Mandela have been considered "instrumental" in the success of the TRC and the adoption of a collective memory in South Africa. See: James L. Gibson, "The Contributions of Truth to Reconciliation: Lessons from South Africa," *The Journal of Conflict Resolution* 50, no. 3 (2006): 418, doi: 10.1177/0022002706287115.

[876] Jay A. Vora and Erika Vora, "The Effectiveness of South Africa's Truth and Reconciliation Commission: Perceptions of Xhosa, Afrikaner, and English South Africans," *Journal of Black Studies* 34, no. 3 (2004): 302, https://www.jstor.org/stable/3180939.

[877] Truth and Reconciliation Commission, *Truth and Reconciliation of South Africa Report*, vol. 1, 29 October 1998, 18, available at: https://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf.

[878] Justice Pius Langa, "South Africa's Truth and Reconciliation Commission," *The International Lawyer* 34, no. 1 (2000): 348, https://www.jstor.org/stable/40707527.

[879] Ibid.

be heard and repented.[880] At the same time, the TRC provided a space for victims to speak the truths of their abuse and to be *believed* where in the past they had been dismissed as liars by the courts.[881] Pius Langa has remarked that the TRC was a space to "flush out some of these truths, if not the whole truth, and to correct the accounts of those who had been disbelieved".[882] The hope was that this process would lead to the healing of old wounds and allow the nation to progress. As the TRC itself noted:

> While seeking to establish responsibility for many of the devastating wrongs suffered, the TRC sought the whole truth and, in so doing, to reconcile victims and perpetrators, and to help establish a just society. It was the firm belief of the TRC that unless a society exposed itself to the truth, it could harbor no possibility of reconciliation, reunification, and trust.[883]

While complaints and critiques exist about the TRC's effectiveness in bringing forth reconciliation, a study by Jay A. Vora and Erika Vora shows that a majority of surveyed South Africans found the TRC was effective in bringing about the truth.[884]

The TRC embarked on a quest utilising the just peacemaking practices associated with trust. Echoing the mindset of the EKD and the German politicians that followed, the TRC focused on the reconciliation of moral guilt and the moral failings of a nation toward those victims who had not been believed. Trust in the renewed South Africa was built upon a process led by nonviolent-bearing elders who enabled quarrelling partners of the past to unite in a rebirth of a nation.

9.2: The Character of Justice

The second characteristic of just peace to be explored concentrates on justice. The practices involved include the advancement of democracy, human rights, and interdependence and the fostering of just and sustainable economic development.[885] The emphasis on justice necessitates a narrative of equality under the law regardless of

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[880] Ibid, 348-349, 351.

[881] Ibid, 352.

[882] Ibid.

[883] Truth and Reconciliation Commission, *South Africa, Truth and Reconciliation Commission Report* (Vols. 1-5) (Johannesburg: S. Crawford, 1998), 2, quoted in Vora and Vora, "The Effectiveness of South Africa's Truth and Reconciliation Commission," 322.

[884] Vora and Vora, "The Effectiveness of South Africa's Truth and Reconciliation Commission," 308-309, 317.

[885] Stassen, *Just Peacemaking: Ten Practices for Abolishing War*, 2nd ed., 101-140.; Cf. Thistlewaite and Stassen, *Abrahamic Alternatives to War*, 7.

present political, social, and economic factors, both at the state and local levels. Just peace seeks to employ means of justice beyond simple punitive measures, an important point of separation from the just war tradition.

The practice behind the advancement of democracy may be underscored by the principles of democratic peace theory which contends that liberal democracies do not engage in warfare with one another out of shared values, potential costs to leadership in elections, economic ties, and a common sense of rule of law.[886] This is maintained domestically due to the increased audience costs experienced by leaders of democratic regimes, and internationally, due to the increasing military, social, political, and economic interdependence among nation states produced by globalisation.[887]

Institutionalist theories of politics contend that humans are willing to accept the *costs* of collective security measures over the *benefits* of strength-based deterrence, even if that may require a limitation on individual liberties for the good of the collective whole.[888] Liberal democracies rely on diplomatic cooperation as the preferred method to resolving conflict, placing a greater emphasis on international organisations, such as the United Nations and the European Union, as well as nongovernmental organisations.

A major advantage of this approach is the usefulness of information sharing among allies, which reveals preferences and allows for the coordination of actions among states. Theoretically, such information sharing mitigates the anxious elements of uncertainty found within the security dilemma of realist thought whilst also maintaining the safety and security of the collective group. Robert Keohane underscores the theoretical implications of institutional theory in his book *After Hegemony*, demonstrating how preference and information sharing can develop an environment where more efficient collective decisions are made. This is achieved through reducing information asymmetries, among other things.[889] This stands in stark contrast to realist theories of international governance where the revealing of preferences has been

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[886] James Lee Ray, "Does Democracy Cause Peace?" *Annual Review of Political Science* 1, no. 1 (1998): 27-46, doi: 10.1146/annurev.polisci.1.1.27.; James Fearon, "Domestic Political Audiences and the Escalation of International Disputes," *The American Political Science Review* 88, no. 3 (1994): 577-592, doi: 10.2307/2944796.
[887] Fearon, "Domestic Political Audiences and the Escalation of International Disputes," 585-586.
[888] Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984), 104
[889] Ibid, 93-94.

understood as a potential detriment, rather than benefit, to national security.[890] While liberal democracies engage in both realist and institutionalist tendencies, the European Union has functioned primarily through an institutionalist lens in preventing violence among its member states through interdependence-oriented policies. Similarly, interdependence among the West during the Cold War demonstrates how institutions like NATO can work toward common goals such as defence.

The character of justice also engages with the practice of fostering just and sustainable economic development. A major focus of economic development in just peace is the relationship between development and the poor, of both peoples and states. This development should address the needs of the poor through long-lasting relationships that lead to "holistic, environmentally sound, [and] balanced development".[891] International development should provide both people and states with "effective control and ownership" of their own progress, while acknowledging "human fallibility" such as ignorance, lack of complete control, and the desire for power and wealth.[892] Meanwhile, the structures of aid distribution should be embedded with mechanisms for the prevention of abusive self-interest.

Along this vein, Pope Francis has argued the presence of an ever increasing "globalization of indifference".[893] He has reiterated an argument of the Congregation for the Doctrine of the Faith that there is an "indissoluble connection . . . between an ethics respectful of persons and the common good, and the actual functionality of every economic financial system".[894] The current difficulties within the global economic system are "related to a mentality of egoism and exclusion that has effectively created

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[890] Fearon, "Domestic Political Audiences and the Escalation of International Disputes," 578.

[891] David Bronkema, et al., "Foster Just and Sustainable Economic Development," in Stassen, ed., *Just Peacemaking* 2nd ed., 129-130.; Cf. World Council of Churches, *Just Peace Companion*, 149.

[892] Bronkema, et al., "Foster Just and Sustainable Economic Development," 130, also: 129-135.; World Council of Churches, *Just Peace Companion*, 148-149.

[893] Francis, "Address of His Holiness Pope Francis to Participants in the Congress Organized by the Centesimus Annus—Pro Pontifice Foundation," *Liberia Editrice Vaticana*, 26 May 2018, http://w2.vatican.va/content/francesco/en/speeches/2018/may/documents/papa-francesco_20180526_centesimus-annus.html.

[894] Ibid.; Dicastery for Promoting Integral Human Development, "*Oeconomicae et pecuniariae quaestione*: Considerations for an Ethical Discernment Regarding Some Aspects of the Present Economic-Financial System," *Congregation for the Doctrine of the Faith*, 6 January 2018, http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20180106_o economicae-et-pecuniariae_en.html.

a culture of waste blind to the human dignity of the most vulnerable".[895] Francis presses an engagement with the "the fringes of humanity", where encounter becomes the antidote to indifference.[896] He condemns the moral destitution "which consists in slavery to vice and sin" caused as a result of "unjust social conditions, by unemployment, which takes away their dignity as breadwinners, and by lack of equal access to education and health care".[897] Francis calls for an avoidance of "Obstructionist attitudes . . . [which] can range from denial of the problem to indifference, nonchalant resignation or blind confidence in technical solutions".[898] The economy instead should be in the service of a common good society.[899]

Just peacemaking similarly calls for relationships among humans and between humans and the environment to encompass just practices insofar as the continued engagement between these groups must remain without negative consequences, such as the theft of property in the first case or the pollution of waterways in the second case.[900] In his encyclical letter *Laudato Si'*, Pope Francis professed the need for "a new dialogue about how we are shaping the future of our planet . . . a conversation which includes everyone".[901] On climate change, Francis calls on all humanity "to recognize the need for changes of lifestyle, production and consumption, in order to combat this warming or at least the human causes which produce or aggravate it".[902] For example, Pope Francis designates access to safe drinking water as part of the unequal distribution of wealth and resources in the world. Unsafe water remains a "serious problem" particularly for the poor as drinking water has become "a commodity subject to the laws of the market".[903] Francis argues that safe, drinkable water is a "basic and universal human right, since it is essential to human survival and, as such, is a condition for the

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[895] Francis, "Address of His Holiness Pope Francis to Participants in the Congress Organized by the Centesimus Annus—Pro Pontifice Foundation."

[896] Stan Chu Ilo, "Poverty and Economic Justice in Pope Francis," *International Bulletin of Mission Research* 43, no. 1 (2019): 45, doi: 10.1177/2396939318810698.; Francis, *Evangelii Gaudium: The Joy of the Gospel* (London: Catholic Truth Society, 2013), 28.

[897] Francis, "Lenten Message of Our Holy Father Francis 2014," Libreria Editrice Vaticana, 26 December 2013, http://w2.vatican.va/content/francesco/en/messages/lent/documents/papa-francesco_20131226_messaggio-quaresima2014.html.

[898] Francis, *Laudato Si': On Care for Our Common Home* (London: Catholic Truth Society, 2015), 13.

[899] Ilo, "Poverty and Economic Justice in Pope Francis," 48.

[900] Bronkema, et al., "Foster Just and Sustainable Economic Development," 131-132.

[901] Francis, *Laudato Si'*, 13.

[902] Ibid, 17.

[903] Ibid, 20.

exercise of other human rights".[904] He argues for an increase in funding for clean water and sanitary services among the poor and most vulnerable.

Just peacemaking similarly seeks a just and sustainable society more generally. In the aftermath of conflict, the renewal of local principles and the establishment of fundamental human rights marks a concern of the paradigm. Just peacemaking practices often rely on the means of justice which move beyond simple punitive principles and embrace a pragmatic approach which identifies solutions to concerns uncovered in other practices, such as those discussed in the previous section. Unlike just war, where the just actor is envisioned as acting within moral bounds to punitively respond to the unjust aggressor, just peacemaking promotes a multifaceted approach to justice, not least of all is restorative. For example, the South African Truth and Reconciliation Commission discussed in the previous section retains a restorative rather than retributive approach.[905]

While it may be possible to view the public acknowledgment of crimes as a form of punitive justice, due to the public nature of shame imposed upon the confessor, the approach taken by the TRC was restorative in nature.[906] The nature of justice present in South Africa invokes characteristics which appear out of reflections of South Africa's Christian traditions and the embracement of compassion and community elements found within.[907] A restorative approach may be seen in the biblical narrative of the woman caught in adultery. According to the law, she should be stoned. However, Jesus embraces a restorative approach and promotes a reflection among her accusers: "Let anyone among you who is without sin be the first to throw a stone at her".[908]

The TRC embraced this restorative process insofar as those who committed crimes were given the opportunity to repent publicly while at the same time allowing the victims opportunity to be heard and believed.[909] A chance was afforded to the perpetrators of apartheid to atone for their actions and rebuild South Africa alongside

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[904] Ibid.

[905] David Dyzenhaus, "Debating South Africa's Truth and Reconciliation Commission," *The University of Toronto Law Journal* 49, no. 3 (1999): 312, https://www.jstor.org/stable/826001.

[906] Ibid, 312-313.

[907] Truth and Reconciliation Commission, *Truth and Reconciliation of South Africa Report*, vol. 1, 127.; Vora and Vora, "The Effectiveness of South Africa's Truth and Reconciliation Commission," 306.

[908] John 8: 7.; John 8: 1-11.

[909] Dyzenhaus, "Debating South Africa's Truth and Reconciliation Commission," 313.

their victims. The truths uncovered by the TRC led a restorative process of rebirth and the growth of a collective memory. In essence, the TRC was "part of the bridge-building process designed to help lead the nation away from a deeply divided past to a future founded on the recognition of human rights and democracy".[910]

As part of the restorative process, the TRC held the capacity to grant amnesty to those persons who fully disclose relevant facts so long as the acts were "associated with a political objective".[911] This power was challenged in court by those seeking retributive justice, however, the authority was ultimately upheld by the South African Constitutional Court who argued:

> The result, at all levels, is a difficult, sensitive, perhaps even agonizing, balancing act between the need of justice to victims of past abuse and the need for reconciliation and rapid transition to a new future; between encouragement to wrongdoers to help in the discovery of the truth and the need for reparations for the victims of that truth; between a correction in the old and the creation of the new. It is an exercise of immense difficulty interacting in a vast network of political, emotional, ethical, and logistical considerations. It is an act calling for a judgement falling substantially within the domain of those entrusted with lawmaking in the era preceding and during the transition period. The results may well often be imperfect and the pursuit of the act might inherently support the message of Kant: 'out of the crooked timber of humanity no straight thing was ever made' . . . South Africa is not alone in being confronted with a historical situation which required amnesty for criminal acts to be accorded for the purposes of facilitating the transition to, and consolidation of, an overtaking democratic order . . . Although the mechanisms adopted to facilitate that process have differed from country to country and from time to time, the principle that amnesty should, in appropriate circumstance, be accorded to violators of human rights in order to facilitate the consolidation of new democracies . . .[912]

The use of amnesty as a tool of restorative justice demonstrates a different approach to that of retributive justice. The emphasis in South Africa was on reconciliation of the past rather than following desires to punish the guilty, the latter a feature present within the Nuremburg Trials following the Second World War. The admissions of moral guilt by the EKD and German political leadership in the years following the Trials showcases a failure

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[910] Truth and Reconciliation Commission, *Truth and Reconciliation of South Africa Report*, vol. 1, 48.

[911] Republic of South Africa, "Promotion of National Unity and Reconciliation Act 34," *Government Gazette* 361, no. 16579 (1995): 2, https://www.gov.za/sites/default/files/gcis_document/201409/act34of1995.pdf.

[912] AZAPO and others v President of the Republic of South Africa and others (1996) Case CCT 17/96, 21-22.

of retributive justice after the War to embrace elements of redress beyond simple punitive means.

Unlike the just war tradition, which embraces a punitive process against the unjust actor as a means of deterring future behaviour, just peacemaking works within a more pragmatic approach which may generate a wider-reaching justice. As the TRC noted in South Africa:

> Restorative justice demands that the accountability of perpetrators be extended to making a contribution to the restoration of the well-being of their victims . . . The fact that people are given their freedom without taking responsibility for some form of restitution remains a major problem with the amnesty process. Only if the emerging truth unleashes a social dynamic that includes redressing the suffering of victims will it meet the ideal of restorative justice.[913]

Put another way, the restorative approach taken by South Africa remained legitimate because it developed a collective moral memory for the country and moved to reconcile the horrors of the past with the emerging state.

The above example highlights the character of justice in just peacemaking insofar as the approach to justice remains outside of the use of force and within the bounds of normative economic and behavioural shifts. Just peacemaking embraces behavioural changes which support the transition to democracy and just economic development. These practices have been adopted by the European Union and the United Nations, who provide development aid to states that engage in normative shifts. As highlighted by the Holy See, social justice and human rights must remain central in the determination of accessibility. Similarly, just peacemaking embraces a pragmatic approach to justice which does not reject punitive measures outright, but instead engages with justice on an individual basis that conforms to the needs of the moment. The practices of just peacemaking that reflect the character of justice continue to reflect on the practices of trust and upon the particular community in which they engage.

9.3: The Character of Community

The final character of just peacemaking to be explored centres on the essence of community. This involves state and non-state actors, in the form of grassroots and

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[913] Truth and Reconciliation Commission, *Truth and Reconciliation of South Africa Report*, vol. 1, 131.

international groupings. The characteristic involves working with emerging cooperative forces in the international system, strengthening the United Nations and international efforts for cooperation and human rights, the reduction in offensive weapons and the weapons trade, and encouraging grassroots peacemaking groups and voluntary associations.[914]

Working with emerging cooperative forces requires global leadership. State resources may be spent on encouraging developing nations to participate in democratic exercises and the codification in law of human rights for the benefit of their citizenry. The United Nations may provide a platform for human rights activism, however, the post-Cold War tensions between the five Permanent Members of the Security Council can prevent the UN from strengthening global security. Caution must be taken around regional coalitions leading interventionary actions, particularly in light of NATO action in Libya. Emerging partnerships, such as the African Union, may provide guidance and leadership in areas of the world where the West possesses historic colonial involvement which may prevent their full participation in peacebuilding.[915]

The involvement of the United Nations in international missions in recent years have taken two general forms. On one hand, "classic" peacekeeping by the UN has involved

> the impartial imposition of the armed forces of uninvolved countries between warring or conflicting groups in order to preserve or protect whatever peace agreements or political settlements these groups have been able to achieve.[916]

These missions are enacted under Chapter VI of the UN Charter and are enacted "at the invitation of the states where they will be deployed".[917] The main goal of these missions is to prevent the continuation of armed conflict through the building of confidence in the peace process and subsequent agreements.[918] Due to the varying degrees of participation by involved parties, the size of these UN missions is relative to international will.

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[914] Stassen, *Just Peacemaking*, 2nd ed., 141-198.; Cf. Thistlewaite and Stassen, *Abrahamic Alternatives to War*, 7.

[915] For an example, see Chapter 10.

[916] Atack, *The Ethics of Peace and War*, 142.

[917] Marina Ottaway and Bethany Lacina, "International Interventions and Imperialism: Lessons from the 1990s," *SAIS Review* 23, no. 2 (2003): 76, doi: 10.1353/sais.2003.0051.

[918] Ibid, 76.; Atack, *The Ethics of Peace and War*, 142-143.

On the other hand, the United Nations has begun to participate in intervention style programmes, as witnessed in the UN participation in Afghanistan following September 11. In this case, Ian Atack points to a "light footprint" approach by the international community, where the Security Council mandated forces under NATO command prioritised Kabul over the rest of the country.[919] Meanwhile, Afghan forces and US airpower sought to secure the rest of the state without a major physical military presence.[920] A criticism of this intervention style pertains to the lack of a physical presence of administration, either by the UN or the international community involved, which would enable a stable hold over the functioning of the country as transitionary measures are developed. This light footprint approach develops greater levels of instability in a state and is a component of the lack of necessary 'nation building' following regime changes. This shift toward light intervention has been driven primarily by the United States, who has endeavoured to move away from classical peacebuilding and towards the use of force as a tool of statecraft. The limited involvement of the United Nations in Iraqi reconstruction is emblematic of US policy goals. A return to classical peacekeeping by the UN would strengthen the organisation relative to its intended purpose of peacebuilding.

Another practice of just peacemaking is the reduction of offensive weapons and their trade.[921] At present, the greatest obstacle to the reduction of weapons available in the world remains capitalist economics. The United States provides subsidies for weapons exports to other nations in order to increase their economic share in the weapons market.[922] Regional arms races see American allies supplied with military armaments to defend US interests abroad, while domestic lobbying through campaign finance laws and the awarding of military contracts to businesses creates a cyclical

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[919] Atack, *The Ethics of Peace and War*, 150-151.

[920] Fatima Ayub and Sari Kouvo, "Righting the Course? Humanitarian Intervention, the War on Terror and the Future of Afghanistan," *International Affairs* 84, no. 4 (2008): 649-650, https://www.jstor.org/stable/25144869.; Richard J. Ponzio, "Transforming Political Authority: UN Democratic Peacebuilding in Afghanistan," *Global Governance* 13, no. 2 (2007): 257-259, https://www.jstor.org/stable/27800657.; Simon Chesterman, "Tiptoeing Through Afghanistan: The Future of UN State-Building," *International Peace Institute* (2002): 4-6, https://www.jstor.org/stable/resrep09521.

[921] Barbara Green and Glen Stassen, "Reduce Offensive Weapons and Weapons Trade," in *Just Peacemaking*, new ed., 191-194.

[922] Ibid, 191.

occurrence of violent weapons trade.[923] A great number of nations and paramilitary groups seek to arm themselves for security under the mindset of political realism and the power of the strong. There remains a subtle irony insofar as fewer arms in circulation may actually decrease the chances of an outbreak of violence.[924] Just peacemaking seeks to reduce the number of weapons available, which sees peace agreements impressing upon all sides the necessity of decommissioning. Outside of warzones, government buy-back programs may aid in decreasing violence among locals. States may contribute to this effort by affecting cooperation that produces "practical alternatives" to violent means of security, such as the promotion of information sharing among multilateral groups.[925]

The practice of grassroots activism provides a local level mechanic to promote active participation among average citizens in the shaping of their communities. Actions that begin at the local level hold the potential to rise to national and international prominence depending upon the topic at hand. According to Duane K. Friesen, a citizens' movement may be "committed more to peacemaking processes than to defense of governmental or bureaucratic interest or to quick fixes".[926] Since those involved at the grassroots level are stakeholders themselves, the effects of injustice are felt directly by those involved, leading to a greater sense of shared interest in the outcome for all sides.

In local peacemaking actions, Friesen suggests that religious organisations, from Churches to NGOs,

> can serve a special role in nurturing a spirituality that sustains courage when just peacemaking is unpopular, hope when despair or cynicism is tempting, and a sense of grace and the possibility of forgiveness when just peacemaking fails.[927]

These groups may offer sanctuary even in the most repressive political systems and often possess a global network which may place what is a local, grassroots cause in a global light.[928] Furthermore, the emerging Roman Catholic emphasis on peacemaking

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[923] Ibid, 191-197.
[924] Ibid, 182-184.
[925] World Council of Churches, *Just Peace Companion*, 148.
[926] Duane K. Friesen, "Encourage Grassroots Peacemaking Groups and Voluntary Associations," in *Just Peacemaking*, new ed., 210.
[927] Ibid, 212.
[928] Ibid, 210-211.

may lend an added weight in globalising the local failures of justice, particularly around the need for social justice reforms in many states.[929]

The above practices showcase a range of features of the character of community. These practices work toward the development of national and international platforms where the just peace paradigm may exist as a whole. For example, Ireland operates a consent-driven policing model at the national level and a peace-keeping operation at the international level. The Irish national police force, An Garda Síochána, rely on consent enforcement of public order rather than a coercion, quasi-military model as seen in states like the US.[930] The Gardaí seek to embrace the community in which they operate, with officers receiving training in the Irish language and promoting community policing like neighbourhood watch programmes.[931] As part of their community presence, the Gardaí remain unarmed in their daily activities and provide a public presence through clothing and vehicles with high-vis detailing.[932]

Since 2014, the Gardaí are obliged to take human rights into account in their daily operation and policies.[933] As part of this obligation, the Gardaí have sought a restorative rather than punitive justice approach with young offenders.[934] As part of the human rights approach in the community, during the 2020 COVID-19 pandemic, the Gardaí operated a community assistance programme whereby officers would attend to the needs of the 'cocooning' elderly and vulnerable by delivering essential food and medicine, assisting in home repairs, and providing transportation to necessary hospital appointments.[935]

Of course, no police force exists without controversy. Issues of accountability and scandals have led to a questioning of the integrity of the Gardaí in recent years,

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[929] Pamela Brubaker, et al., "Introduction," in *Just Peacemaking*, new ed., 16.; Nonviolence and Just Peace Conference, "An Appeal to the Catholic Church to Re-commit to the Centrality of the Gospel of Nonviolence".; Francis, *Laudato Si'*.

[930] Aogán Mulcahy, "Trust, Accountability and the Police," *Studies: An Irish Quarterly Review* 95, no. 377 (2006): 33, https://www.jstor.org/stable/30095792.

[931] Mulcahy, "Trust, Accountability and the Police," 33.; Dermot Walsh, "An Irish Response," *Studies: An Irish Quarterly Review* 88, no. 350 (1999): 113, https://www.jstor.org/stable/30096097.

[932] Auke van Dijk, Frank Hoogewoning and Maurice Punch, *What Matters in Policing?: Change, Values and Leadership in Turbulent Times* (Bristol: Policy Press, 2015), 31.

[933] Irish Human Rights and Equality Commission Act 2014, No. 25 of 2014.

[934] Paul Gavin and Allyson MacVean, "Police Perceptions of Restorative Justice: Findings from a Small-Scale Study," *Conflict Resolution Quarterly* 36, no. 2 (2018): 118, doi: 10.1002/crq.21235.

[935] Paschal Sheehy, "Gardaí Establish Special COVID-19 Unit," *RTE*, 21 March 2020, https://www.rte.ie/news/munster/2020/0321/1124601-garda-covid-19-unit/.

particularly with the rise of organised drug crime in Dublin. However, the character of community prevails in the practices adopted in the daily operation of the Gardaí through the promotion of programmes which unify locals with the police force. The unarmed, community presence has amounted to a local confidence in the Gardaí despite national struggles.[936]

At the international level, the Irish Defence Forces (IDF) engage in an exportation of domestic values to multinational peacekeeping missions. Ireland has participated in UN-led and UN mandated peacekeeping missions since 1958.[937] As a neutral state, Ireland operates a "triple lock" requirement for the deployment of the IDF which amounts to a requirement for UN authorisation, Irish Government approval, and the backing of the Dáil (Irish Lower House of Parliament).[938] The Defence Forces seek to provide peace support, crisis management and humanitarian relief operations, with "strong support for the multilateral system of collective security represented by the UN".[939] When deployed abroad, the IDF seek to separate conflicting parties and carry out UN authorised activities, such as engaging in ceasefire negotiations and the distribution of aid. The Defence Forces participate in both lightly armed battalions and infantry groups as part of efforts to separate warring parties and as unarmed military observers in conflict zones.[940]

A core function of the IDF remains their involvement in international disarmament efforts, providing advice in negotiation processes, and their assistance in the distribution of international aid.[941] The Defence Forces similarly work with international and governmental organisations, such as Irish Aid, in assessing technical

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[936] An Garda Síochána, *Public Attitudes Survey: Q3 2019* (Dublin: Amárach Research, 2019), 4, available at: https://www.garda.ie/en/information-centre/quarterly-public-attitudes-surveys/public-service-attitude-bulletin-q3-2019.pdf.

[937] Timothy O'Brien, "The Evolution of Defence Forces Peacekeeping Operations," *Irish Studies in International Affairs* 30 (2019): 119, 124, doi:10.3318/ISIS.2019.30.9.

[938] Department of Defence, *White Paper on Defence* (Dublin: Government of Ireland, 2015), 26, available at: https://assets.gov.ie/21963/f1e7723dd1764a4281692f3f7cb96966.pdf.

[939] Ibid.

[940] O'Brien, "The Evolution of Defence Forces Peacekeeping Operations," 123.

[941] Jim Burke, "The Role of Irish Defence Forces in Conventional Disarmament," *Irish Studies in International Affairs* 25 (2014): 46, doi: 10.3318/ISIA.2014.25.10.

aspects of humanitarian projects.[942] Additionally, the IDF provide training to multinational, armed forces in peacekeeping.[943]

The examples above expresses elements of the character of community in just peacemaking. The specific local engagement of the Gardaí and their aptitude for policing by consent, as demonstrated by the COVID-19 pandemic, demonstrates an openness for community engagement and the presence of a space for grassroots assistance in local policing. The Defence Force's commitment to multinational participation through the United Nations and the presence of the Irish triple lock offers an example which can lead to a strengthening of the UN itself and a mandate for consensus rather than unilateral action by one state or a narrow group of states in extreme cases of limited interventions such as the prevention of genocide.

The Irish examples embody the practice of reducing weapons insofar as there is a distinct non-military behaviour. Unlike the heavily armed police forces in the United States, the Gardaí remain unarmed in their daily activities. At the international level, the Defence Forces utilise light protection weapons and a peacekeeping approach which diverges from the US style of suppression with "rapid dominance", more popularly known as 'shock and awe'.[944] The purpose of allocating peacekeeping forces abroad is to assist in the initiation of ceasefires and the distribution of aid in conjunction with NGOs rather than for the purpose of occupation and politically motivated regime change. The examples above are particularly important in that their stated missions remain in line with the protection of fundamental human rights.

9.4: Criticisms of Just Peacemaking

Having observed the elements of just peacemaking above, this section seeks to explore the existence of coercive means found within just peacemaking, the existence of which is debated by some scholars. In their reflections on just peacemaking, Mark Allman and Tobias Winright question the merits of just peace as nothing more than an outline of

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[942] Ibid, 50-51.
[943] O'Brien, "The Evolution of Defence Forces Peacekeeping Operations," 127.
[944] Joseph A. Camilleri, "Iraq, the Illusion of Security and the Limits to Power," in *The Legacy of Iraq: From the 2003 War to the 'Islamic* State', ed. Benjamin Isakhan (Edinburgh: Edinburgh University Press, 2015), 211-212.

last resort within the context of the just war tradition.[945] They note: "From a just war angle, just peacemaking serves as a *jus ante bellum* category, which hopefully minimizes the likelihood that wars erupt in the first place".[946] They contend that just peacemaking stems from the criterion of right intention and should, therefore, encompass part of a permanent *ante bellum* framework which seeks to avoid the necessity for using force.[947] Other authors also seek to establish a permanent *ante bellum* structure similar to just peace.[948] This criticism, however, fails to account for the active elements of just peace which can engage conflict already ongoing in a specific community. The last resort considerations of just peace are supplementary to the just war tradition, but so are the conflict resolution elements ignored by Allman and Winright.

Ignoring the beneficial elements of just peace in addressing ongoing conflict is shared by other scholars beyond Allman and Winright. Lisa Sowle Cahill criticises the paradigm for its lack of an "ethical justification of coercion".[949] Cahill contends that the "carrot of morality" requires the "stick of external pressure", which must be "backed up by an enforceable demand".[950] Martin L. Cook considers just peacemaking to be only a "supplement to the capabilities of military forces to intervene effectively" and a transitional aid in post-war nation-building.[951] While the use of just peace as a supplement to just war remains a strong position, insisting, as Cook does, that the paradigm must be restricted only to that of a supplement requires further exploration and remains contested. Both authors, however, do contend that Michael Joseph Smith's chapter in *Just Peacemaking* relating to humanitarian intervention offers a vision of coercion within the paradigm.[952]

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[945] Allman and Winright, "Growing Edges of Just War Theory," 176.

[946] Ibid, 176.

[947] Ibid, 176.

[948] Other *ante bellum* concepts include: faith-based initiatives in Maureen O'Connell, "Jus *Ante* Bellum: Faith-Based Diplomacy and Catholic Traditions on War and Peace," *Journal for Peace and Justice Studies* 21, no. 1 (2011): 3-30, doi: 10.5840/peacejustice201121116; the ethics of educating for warfare in Roger Wertheimer, ed., *Empowering Our Military Conscience: Transforming Just War Theory and Military Moral Education* (Burlington, VT: Ashgate Publishing Company, 2010), ix, and in Richard Schoonhoven, "The Ethics of Military Ethics Education," in *Routledge Handbook of Military Ethics*, ed. George Lucas (London: Routledge, 2015), 47-53, esp. 48-49; "pre-war coercion" in Patricia J. Steck, "A Rossian just war theory," (PhD diss., University of Nebraska-Lincoln, 2010), http://digitalcommons.unl.edu/dissertations/AAI3412890.

[949] Cahill, "Just Peacemaking," 196.

[950] Ibid, 202.

[951] Cook, "Just Peacemaking," 241.

[952] Cahill, "Just Peacemaking," 205.; Cook, "Just Peacemaking," 244.

As Glen Stassen argues, just peacemaking does not "predict that there will be no more wars . . . but [instead] it focuses on realistic empirical evidence" relating to practices which have been shown to prevent the necessity of warfare.[953] Michael Joseph Smith therefore sought to outline a way to strengthen the United Nations within the bounds of just peace to "identify, prevent, and, if necessary, intervene in conflicts within and between states that threaten basic human rights".[954] Smith acknowledges the imperfection and past failures of the United Nations, yet argues the body remains the most conducive agent of humanitarian response.[955] He contends that humanitarian responses require collective action to achieve effective results, while also highlighting the necessity to expand the United Nations' interventionary powers into three forms: unarmed or lightly armed peacekeepers deployed with the consent of conflicting parties; internationally sanctioned peace-enforcers to a conflict zone, without the consent of conflicting parties; and "genuine war-fighting forces" according to Article 43 of the UN Charter to combat "genocide, dangerous nuclear build-ups, state terrorism," among other incidents.[956] Smith concludes his contribution to *Just Peacemaking* by asserting that the minimum goal of the United Nations should be the creation of a "standing volunteer military force" to respond to breaches of the peace.[957]

This model of coercion represents a just war response to just war questions of coercion and power. The model presented above does not observe the just peacemaking practices outlined in this chapter. Rather, Smith's account of coercion exhibits a similar calibration of just war thought that has designed R2P and emboldens calls for a standing EU army. This vision relies on military power as a means of altering state behaviours in line with the US-led push for intervention and light footprint approaches to UN peacekeeping which have failed to achieve lasting peace since 2001.

A just peacemaking approach to coercion would harness three pillars: normative and market power approaches, human rights observations and referrals, and classical peacekeeping. The first pillar of coercion utilises normative and market power

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[953] Glen H. Stassen, "The Unity, Realism, and Obligations of Just Peacemaking Theory," *Journal of the Society of Christina Ethics* 23, no. 1 (2003): 171, http://www.jstor.org/stable/23561536.
[954] Michael Joseph Smith, "Strengthen the United Nations and International Efforts for Cooperation and Human Rights," in Stassen, *Just Peacemaking*, 2nd ed., 156.
[955] Ibid, 162.
[956] Ibid, 162-163.
[957] Ibid, 165.

approaches, as discussed previously in Chapter Eight, whereby reputation enhancement and economic incentives drive behavioural changes, such as judicial reforms, in third-party states. For example, the European Union has non-violently ushered political reforms among its former communist neighbours. By utilising the reputational and economic power of the EU, the bloc has pressed for the adoption of the EU's Copenhagen Criteria as the means of ascension and incentivising the process through "comprehensive financial and technical assistance".[958] A study of twenty-nine former communist countries in Europe by Karsten Staehr shows the positive relationship between democratic political reforms and European ascension aspiration.[959] The adoption of human rights, judicial reforms, and anti-corruption measures have been embraced by those countries seeking membership to the Union.[960] Milada Anna Vachudova has also argued the positive nature of the Union's normative and market approach in that the common goal of EU membership has driven the elites in multi-ethnic states, such as Macedonia and Bosnia-Herzegovina, towards a "common project that transcends ethnic divisions".[961] The overarching success of the EU approach has provided a peaceful expansion of democratic and human rights reforms in eleven post-communist states.

The success of the European Union demonstrates the power of non-violent means of influence which can impact the behaviours of third-party states. Similar success with the Iran Nuclear Deal has prevented a full military conflict with the United States around nuclear weapons production. This agreement utilised economic means of incentivising behavioural changes and reduced certain factors which might lead to nuclear proliferation. The agreement demonstrates how normative and economic approaches can influence changes outside the neighbourhood of the EU and can be used

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[958] Tanja A. Börzel, "Building Member States: How the EU Promotes Political Change in its New Members, Accession Candidates, and Eastern Neighbors," *Geopolitics, History, and International Relations* 8, no. 1 (2016): 78, 82, https://www.jstor.org/stable/10.2307/26806075.

[959] Karsten Staehr, "Democratic and Market-Economic Reforms in Postcommunist Countries: The Impact of Enlargement of the European Union," *Eastern European Economics* 49, no. 5 (2011): 5-28, doi: 10.2753/EEE0012-8775490501.

[960] Börzel, "Building Member States," 83.

[961] Milada Anna Vachudova, "Promoting Political Change and Economic Revitalization in the Western Balkans: The Role of the European Union," *Slovak Foreign Policy Affairs* 6, no. 2 (2005): 67, https://www.jsotr.org/stable/44952321.

by states like the US to affect certain policy goals. As such, normative and market powers offer a means of behavioural coercion.

The second pillar of coercion involves the investigation and prosecution system present within the international community. In terms of investigation, the United Nations Human Rights Council (HRC) has four main modes of operation: the Universal Periodic Review which assesses human rights situations in all UN Member States, an Advisory Committee to advise on human rights issues, participation with UN Special Procedures, such as the monitoring of human rights by special rapporteurs, and a Complaint Procedure to bring human rights violations to the attention of the HRC.[962] The Complaint Procedure allows individuals, groups, and NGOs to submit claims on behalf of human rights victims or on their own accord if they possess knowledge of violations.[963]

The information amalgamated by the HRC through its core functions aids the international justice processes by providing detailed evidence in support of a Security Council resolution relative to an active human rights violation or evidence in support of a referral for further investigation and prosecution by the International Criminal Court. The body of work produced by the HRC, including the Universal Periodic Review, has aided the ICC as a starting point for investigations conducted by the Prosecutor of the Court.[964] Referrals to the ICC are made in response to crimes against humanity, war crimes, genocide, and crimes of aggression.[965] These referrals originate as outlined by Articles 13-15 of the Rome Statute: referral by a State Party (Mali self-referral in 2012), a Security Council resolution (UNSC Res 1970 on Libya in 2011), or at the initiative of the ICC Prosecutor (*proprio motu*), who may start a preliminary investigation on a State

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[962] United Nations Human Rights Council, "History," *Office of the High Commissioner Human Rights*, accessed 27 May 2020, https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx.

[963] United Nations Human Rights Council, "Human Rights Council Complaint Procedure," *Office of the High Commissioner Human Rights*, accessed 27 May 2020, https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx.

[964] James Gallen, "Between Rhetoric and Reality: Ten Years of the United Nations Human Rights Council," *Irish Studies in International Affairs* 27 (2016): 130, doi: 10.3318/ISIA.2016.27.2.

[965] International Criminal Court, *Rome Statute of the International Criminal Court*, Amended ed. (The Hague: International Criminal Court, 2011), 3-8, available at: https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf.; American Bar Association, "How the ICC Works," *ABA-ICC Project*, accessed 27 May 2020, https://how-the-icc-works.aba-icc.org.

Party or a non-State Party who has consented to ICC jurisdiction.[966] Prosecution may follow by the ICC in instances where a referred crime has been committed. As such, the combination of HRC reporting and International Criminal Court prosecution have the capacity to act as a function of coercion within just peacemaking.

There remain certain concerns with this pillar of coercion in relation to the ability of the HRC and ICC to effectively function as required by just peacemaking. Some commentators have pointed to financial limitations of the HRC as inhibiting the organisation's ability to push proposed reforms relating to observed human rights inadequacies.[967] Questions concerning the politicisation of the HRC and the lack of urgency when investigating violations, particularly in terms of their debates, have also arisen.[968] Similarly, bloc voting and selectivity in debating evolving situations, such as the large focus on Israel, may also suggest political influences.[969]

Criticisms of the ICC often reference certain failures by the Security Council in the referral process. A Security Council referral requires the cooperation of the five Permanent Member States which often leads to contradictions and disagreements in the pursuit of "short term and narrow national interests in response to various political pressures, rather than [a] long term strategic vision in pursuit of the common good".[970] The five Permanent Member States have often sought to shield their own citizens from the Court using Article 16 of the Rome Statute. Article 16 allows for the deferment of an investigation or prosecution at the request of the Security Council.[971] The US has often lent on this article during the organisation of peacekeepers and ICC referrals as a means of allowing the process to go forth with exemptions for Americans from prosecution.[972] The United States leans on the American Service Members' Protection Act to achieve

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[966] International Criminal Court, *Rome Statute of the International Criminal Court*, 9-10.; American Bar Association, "How the ICC Works."

[967] Gallen, "Between Rhetoric and Reality," 130.

[968] Ibid, 129.

[969] Ibid, 136.

[970] David P. Forsythe, "The UN Security Council and Response to Atrocities: International Criminal Law and the P-5," *Human Rights Quarterly* 34, no. 3 (2012): 842, https://www.jstor.org/stable/23254648.

[971] International Criminal Court, *Rome Statute of the International Criminal Court*, 10.; "Article 16: Questions and Answers," *Human Rights Watch*, 15 August 2008, https://www.hrw.org/news/2008/08/15/article-16.

[972] Louise Arbour, "The Relationship Between the ICC and the UN Security Council," *Global Governance* 20, no. 2 (2014): 199-200, https://www.jstor.org/stable/24526277.

this end as the Act authorises the US to use military force to free members of their military from the ICC.[973]

China operates a similar process by abstaining from referral resolutions in order to appear non-obstructive. However, China often threatens the use of their Permanent Member veto to protect their interests.[974] The abstention allows for the advancement of human rights outside of China as a means of turning the spotlight away from Beijing's own human rights record. Russia on the other hand has continued to obstruct the referral process in relation to Syria due to economic interests in the state.[975] South Africa has claimed the referral processes has been obstructed in other instances of human rights violations relative to Permanent Member *favourites* like North Korea and Israel.[976]

Other limitations of the referral process include the exercising of indictments issued by the ICC. For example, in 2011, the African Union chose to ignore the indictment of Muammar Gaddafi, claiming the Libyan leader's arrest would stymie diplomatic attempts to end the Libyan conflict peacefully.[977] China has perpetuated similar dismissals of indictments when hosting the Sudanese President Omar Hassan al-Bashir during the Darfur indictments, claiming he was protected by diplomatic immunity during a 2011 state visit.[978] This demonstrates once again the Chinese willingness to allow referrals while failing to participate in the apprehension of indicted individuals.

While the second pillar of coercion possesses certain points of concern, the overall nature of its existence should be seen as a positive. Reforms are possible to de-politicise certain aspects of the HRC. Similarly, reforms should be made to the ICC in order to allow for an expanded referral system through the HRC. The Rome Statute may allow for the advancement of an HRC referral mechanism without impeding on the Security Council's supremacy in international law through the deferment method currently outlined in Article 16. This reform would place the onus on the Security Council to propose the deferral of an investigation or prosecution rather than rely on the Security Council to refer the matter in question. This could assist in reforming the

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[973] Ibid, 201.
[974] Forsythe, "The UN Security Council and Response to Atrocities," 853.
[975] Ibid, 853.
[976] Jill Kronenberg, "South Africa, The ICC, and the UN Human Rights Council," *Centre for Conflict Resolution* (2016): 3, https://www.jstor.org/stable/resrep05119.
[977] Forsythe, "The UN Security Council and Response to Atrocities," 852.
[978] Ibid, 851-852.

monopoly of power present among the Permanent Member States as to defer might cost more political capital than a referral later to be ignored.

The third pillar of coercion in just peacemaking surrounds the usage of classical peacekeeping forces in situations which are required to quell violence and uphold peace agreements. However, the just peace paradigm does not endorse the militarism as outlined above by Smith which includes a "standing volunteer military force" to respond to breaches of the peace.[979] Instead, the paradigm can propose the use of classical peacekeeping under the auspices of the United Nations in a manner reflective of Mozambique.

As noted previously, classical peacekeeping seeks to separate the aggressors in a conflict, assist in the implementation of peace agreements, and aid in the building of confidence in the agreements once implemented. According to Ian Atack, this involves elements of state-building, such as democratisation and economic development, encompass a multilateral dimension and the concern for international norms, such as human rights, and include demilitarisation efforts, such as decommissioning, the reform of security forces, or ideological disarmament via peace education.[980] Virginia Page Fortna has noted that the presence of peacekeepers alone holds the capacity to reduce the risk of a renewed conflict by between 55-62%.[981] Multidimensional peacekeeping has the ability to reduce renewed aggression by 94%.[982] Her study acknowledges there remains little difference between Chapter VI (consent-based) missions and Chapter VII (enforcement) missions, however, a Chapter VII mission does require a strong international mandate for success.[983]

The UN mission to Mozambique is an example of a successful peacekeeping operation. The mission was designed to assist in the implementation of the 1992 General Peace Agreement which ended a civil war with around one million deaths, five million refugees, and a direct effect on a third of the population.[984] The mission

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[979] Smith, "Strengthen the United Nations and International Efforts for Cooperation and Human Rights," 165.

[980] Atack, *The Ethics of Peace and War*, 145.

[981] Virginia Page Fortna, *Does Peacekeeping Work?: Shaping Belligerents' Choices after Civil War* (Princeton: Princeton University Press, 2008), 105.

[982] Ibid, 113.

[983] Ibid, 107, 109.

[984] Atack, *The Ethics of Peace and War*, 148.

possessed a small military presence, not enough to deter renewed aggression, but strong enough to prevent a security dilemma.[985] The success of the peace established from the Mozambique mission was due in part to the UN monitoring of the first post-war election which allowed for confidence in the result and the maintenance of a political rather than military avenue for disputes.[986]

This example highlights just peacemaking coercion insofar as the method of intervention remained outside of classical just war intervention. The UN mission held international approval under UNSC resolution 797 and was charged with implementing steps which followed just peacemaking practices.[987] The practice of advancing democracy was pursued through free elections and the formation of a multiparty democracy.[988] The demobilisation and reintegration of soldiers reflects the practices of reducing offensive weapons, while the release of political prisoners answers the practice of promoting human rights.[989] Meanwhile, economic reforms were built upon the adoption of a liberal market democracy, which is both a development practice of just peacemaking and an expression of the international community's market power since this was a condition of World Bank and IMF loans.[990]

The three pillars described above seek to articulate a metric of coercion in accordance with the just peacemaking practices. Pillar one has shown to aid in the fostering of just economic development through normative and market power influences, which at times have led to the taking of independent initiatives and nonviolent direct action once democratic ideals have taken hold in the community. The pillar has also shown to aid in the reduction of offensive weapons, as seen in the non-proliferation elements of the Iran Nuclear Deal.

Pillar two has demonstrated a great potential for the advancement of human rights through the observation and publication methods of the Human Rights Council

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[985] Jung In Jo, "The UN's Effectiveness in Post Civil War Peace Durability," *Journal of International and Area Studies* 13, no. 1 (2006): 27, note 8, https://www.jstor.org/stable/43107127.

[986] Atack, *The Ethics of Peace and War*, 148.

[987] UNSC Res 797, UNSCOR, UN Doc S/RES/797(1992), 16 December 1992, https://undocs.org/en/S/RES/797(1992).

[988] Government of Mozambique and the Resistência Nacional Moçambicana (RENAMO), General Peace Agreement for Mozambique, Rome, 8 October 1992, UN Doc S/24635, https://undocs.org/en/S/24635, 8-9, 14-18.

[989] Ibid, 8-9, 28-30, 46.

[990] Atack, *The Ethics of Peace and War*, 149-150.

and the investigative and prosecutorial power of the International Criminal Court. The use of both the HRC and the ICC in the protection of human rights offers a means of strengthening the role of the United Nations in the advancement of non-violent means of restoring justice. While some politicisation by members can result in questions by critics, the Security Council itself shares in this critique. The difference between the HRC and the UNSC remain that the latter has the potential, if not always exercisable, to implement military action on political whims, whereas the HRC cannot. It may be pertinent to one day reform certain aspects of the ICC indictment process, such as a redefinition of the limits of diplomatic immunity in states responsible for the oversight of international justice. This would include a requirement for Permanent Members of the Security Council to uphold indictments when they have been issued. However, this question remains outside the scope of this present work.

Pillar three not only demonstrates the capabilities of the United Nations and international cooperation in classical peacekeeping missions, but it also strengthens the administration of peace settlements and offers a confidence in the peace process which may be lacking between adversaries. The pillar allows for the administrative oversight of transitional governments and the opportunity to engage in the practice of reconciliation and restorative justice. Furthermore, this pillar, through the United Nations, grants emerging international actors the opportunity to engage in UN sanctioned development abroad, as was the case for Ireland in 1958.

Concluding Remarks

This chapter has sought to demonstrate the character of just peacemaking through the practices first outlined by Glen Stassen and others. Just peacemaking is meant to embody the three characteristics of trust, justice, and the community. The practices outlined above work within a unique frame of reference which can ultimately provide supplementary wisdom to that of just war during periods where the limitations highlighted in Part Two of this study are pronounced. This is especially so in light of the methods of coercion outlined in the chapter.

Section one highlighted the character of trust and the practices which align with the motivations of this character. The example of South Africa and the Truth and Reconciliation Commission identified a tested means of overcoming state supported

atrocities and the rebirth of a nation. While the TRC has been noted as a difficult process and has been open to criticism for its use of amnesty, its emergence of the truth has been acknowledged. The necessity for this pathway toward trust relates to the moral failure of nations who have endured atrocity. German moral guilt and the post-war apologies of the EKD, later followed by leading politicians, demonstrates the necessity of repentance in order to truly reconcile a state's past with its future.

Section two has shown the character of justice and the practices which have led to pragmatic approaches in the pursuit of this characteristic. Restorative justice has been offered as one means of overcoming atrocity. Unlike retributive justice, restorative means offer a pathway to reconciliation and the capacity for both perpetrator and victim to stand side-by-side in the renewal of a state. South African restorative justice through the TRC has shown this pathway to be possible.

Section three has demonstrated the character of community and the practices which have offered a sense of moral presence. Both examples of An Garda Síochána and the Irish Defence Forces have embodied elements of Ireland's culture and traditions which have located the community within peace and justice activities. The Gardaí continue to remain unarmed while carrying out official duties and engage with vulnerable members of the community during times of crises, such as COVID-19. Meanwhile, the deployment of the IDF abroad requires the meeting of a triple lock: United Nations, Irish Government, and Dáil authorisation. This remains in keeping with the Irish tradition of neutrality.

Section four has provided a measure of coercion found within just peacemaking. While criticisms have arisen in relation to the paradigm's lack of coercive military force, just peacemaking offers three distinct pathways toward ensuring behavioural changes in the international community. Normative and market power provide an economic model for pressuring compliance, while the investigative and prosecutorial functions of the Human Rights Council and the International Criminal Court provide a punitive model for dealing with atrocity. The classical peacekeeping model provided by the United Nations additionally allows for both a coercive means of separating adversaries and a means of confidence building in peace processes.

The just peace paradigm overall offers a variety of advice on the engagement of conflict and peacemaking which can aid the just war tradition in three important ways.

First, just peacemaking provides for effective peacebuilding before, during, and after a conflict and possess the means to alter the behaviour of states. The involvement of grassroots and voluntary associations offers a means of local level engagement that can influence state behaviour, both at the national and international level. Through the United Nations, peace agreements can be negotiated and certified as an international treaty which can place a positive weight in relation to the severity of preserving peace. Just peace practices can also be applied at each stage of a conflict and allow for a greater level of pragmatism in managing concerns of justice. Additionally, through normative and market power, the international community possesses the means of avoiding the outbreak of conflict through economic-driven reforms.

Second, the paradigm offers a means of engaging with expressions of national interest led interventions, of which the just war tradition has been shown at times to embrace in negative ways. As noted previously, the participation of the Irish Defence Forces in UN peacekeeping missions depends upon a triple lock system of authorisation. This prevents the breaching of Ireland's tradition of neutrality. There remains a need for a similar system at the international level. The Security Council has the power to authorise interventions in sovereign states under exceptional circumstances, generally held as a means to prevent or end violations of human rights. This power is only seriously limited by a Permanent Member veto. However, as a consequence of this veto, any Permanent Member could carry out an act of aggression and remain protected from UN interference due to the veto of said member. A version of this situation was demonstrated in the Iraq War of 2003. As such, there remains a need for reform in the international system. Such a reform could include a UN version of the triple lock.

Just peacemaking ordains the Human Rights Council and the International Criminal Court as important parts of the paradigm's coercive power. If a reform was conducted so that the HRC held a direct referral process to the ICC, a greater means of prosecutorial action may be possible. The political nature of the Security Council's decision-making could have a lesser impact on the overall execution of protecting human rights, while still retaining its authority and powers in the international system. A UN triple lock of the HRC, the ICC, and the UNSC could provide observance, investigation, and approval for prosecution, or at a minimum a lack of opposition to

prosecution via Article 16 of the Rome Statute. This concept should be further explored in an additional study.

Third, the just peace paradigm provides a necessary limitation on the use of physical coercion to cases of separating adversaries to implement a peace agreement. While the just war tradition offers limitations on the use of force through *in bello* criteria, these favour more toward the laws of war rather than classical peacekeeping. As Mozambique has shown, multinational interventions can be conducted under limited means whereby the end goal of democratisation and demilitarisation is not forced upon a state from outside, as was the attempt in Libya in 2011, but rather to uphold and bring confidence to an internationally recognised peace accord which accomplishes the very same desires. While Chapter VI missions possess approximately equal success in preventing reescalation as Chapter VII missions, those missions which are consent-based, like Mozambique, offer a just peace-oriented approach. The difference between the type of peacemaking mission can be affected by pillars one and two of just peacemaking's coercive capabilities.

The above positions articulate means by which just peacemaking could offer supplement to the moral wisdom of just war when the tradition reaches insurmountable disagreement on traditional force. The next two chapters will explore the just peace paradigm in contemporary events. Chapter Ten will examine the difficulty the paradigm faces within the international community through the example of the 2011 crisis in Libya. This event involved the practices of just peacemaking at the commencement of international debate, however, the implementation of international consensus was interrupted by just war thinking and national interest. Chapter Eleven will then showcase an example of a successful implementation of just peacemaking in the case of Northern Ireland and the Troubles.

Chapter Ten

International Obstacles to Just Peacemaking: Libya

Introduction

Keeping in mind the practices and character of just peacemaking discussed in the previous chapter, Chapter Ten will discuss the contemporary difficulties in administering just peacemaking at the international level through the example of the 2011 Libyan Crisis. Prior to the launch of NATO-led operations in Libya, the just peacemaking model was in full force through a referral process relating to human rights and a desire for a separation of adversaries in an effort to lead to a negotiated settlement. The originating factor in the response of the international community was the mandate to protect non-combatants from falling victim to state-sponsored violence.

The role of the international community was to promote dialogue among adversaries and encourage the peaceful end to military combat. However, the national interests of state actors became an impediment to the process culminating in military action reminiscent of the divisions found within just war from Part Two. This may be found in the outward preference of sides by NATO and the rejection of negotiations proposed by South African leader Jacob Zuma in the face of the just war grammar by the United States and its allies. This shift away from early just peacemaking guidance to just war grammar is unsurprising as the just war tradition has dominated moral thinking on war and peace throughout the modern era thereby increasing the difficulty for the introduction of supplementary material.

In discussing the modern prevalence of just war and the difficulties of overcoming breakdowns in unity surrounding intervention, often due to national interest, this chapter will be divided in three sections. First, a brief background to the 2011 Libyan conflict will be given. This will centre on a timeline of overarching events, such as the commencement of violence and the implementation of Security Council resolutions by a NATO-led coalition. Second, the chapter will discuss the response by the international community in relation to just peacemaking. This section will explore the manner in which the early actions were taken and how these represent just peace practices. Third, the chapter will outline how the national interests of individual states

impeded the process of peacebuilding in Libya. These actions, including the expressed preference for one side in the conflict, tainted the good will of certain members of the Security Council, such as Russia. This would ultimately have an impact in the failing of the Libyan state.

10.1: The Background

The 2011 conflict in Libya began as a result of a series of protests connected with the Arab Spring. The Arab Spring was a series of anti-government demonstrations across several Arab states, beginning in Tunisia in mid-December 2010. In some cases these protests resulted in regime change for the country. In Libya, demonstrations began in Benghazi on 15 February 2011. The response by Libyan leader Muammar Gaddafi was to utilise violent force to quell the demonstrations, including air power and mercenaries from other African states.[991] The tactic employed by Gaddafi has been described by Derek Chollet and Ben Fishman as a series of "arbitrary arrests, torture, and killings".[992]

The Arab League, the African Union, and the UN Human Rights Council all condemned the violence perpetrated against the civilian populations and called for an international response.[993] On 26 February, the United Nations Security Council unanimously approved resolution 1970, calling for an immediate end to the violence and referred Libya to the International Criminal Court. The resolution also imposed an arms embargo on Libya and sanctioned Gaddafi, his family, and various other high-ranking members of the regime.[994] A consequence of the international condemnation of the Gaddafi regime was the leadership of the oppositional forces, under the banner of the National Transitional Council (NTC), declared itself the sole legitimate

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[991] UNSC Res 1973, UNSCOR, UN Doc S/RES/1973(2011), 17 March 2011, 2, https://undocs.org/en/S/RES/1973(2011).; Patrick CR Terry, "The Libya Intervention (2011): Neither Lawful, Nor Successful," *The Comparative and International Law Journal of Southern Africa* 48, no. 2 (2015): 164, https://www.jstor.org/stable/24585876.

[992] Derek Chollet and Ben Fishman, "Who Lost Libya? Obama's Intervention in Retrospect," *Foreign Affairs* 94, 3 (2015): 154, https://www.jstor.org/stable/24483675.; Lance Kildron, "The Libyan Model and Strategy: Why it Won't Work in Syria," *Journal of Strategic Security* 5, no. 4 (2012): 37, doi: 10.5038/1944-0472.5.4.3.

[993] Terry, "The Libya Intervention (2011)," 164.

[994] Chollet and Fishman, "Who Lost Libya?," 154.; UNSC Res 1970, UNSCOR, UN Doc S/RES/1970(2011), 26 February 2011, 3-5, https://www.undocs.org/en/S/RES/1970(2011).

representative of Libya. This was later recognised by France on 10 March providing the NTC with a source of international recognition for future negotiations.[995]

After resolution 1970 failed to end the violence, the Arab League requested that the Security Council impose a no-fly zone in Libya citing:

> the crimes and violations being perpetrated by the Libyan authorities against the Libyan people, in particular the use of military aircrafts, mortars and heavy weaponry against the civilians.[996]

Five days later a second resolution (UNSC Res 1973) authorised military intervention in Libya, allowing

> Member States . . . to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya.[997]

This objective was to be achieved through the establishment of a no-fly zone.[998] The resolution passed by a vote of ten to zero, with five abstentions, with the responsibility for enforcing the resolution falling to a NATO-led coalition which included regional participation.

In the face of international disapproval, the Gaddafi regime argued that the rebellion forces were comprised of a mixture of "foreign agents" and the terror group al Qaeda. The regime used such rhetoric to argue that the United States and others should aid the government, not the rebels.[999] It was Gaddafi's refusal to cede power in the face of United States, United Nations, and African Union opposition that Chollet and Fishman contend was what escalated the situation into sanctioning NATO intervention.[1000]

From 19 March 2011, Operation Odyssey Dawn was implemented by the US military in order to prevent Libyan forces from "attacking civilians, forcing regime

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[995] Terry, "The Libya Intervention (2011)," 164.

[996] Arab League, Res. no. 7360, The Outcome of the Council of the League of Arab States Meeting at the Ministerial Level, 12 March 2011, available at:
http://responsibilitytoprotect.org/Arab%20League%20Ministerial%20level%20statement%2012%20march%202011%20-%20english(1).pdf.

[997] UNSC Res 1973, 3.

[998] Kildron, "The Libyan Model and Strategy," 37.; Alan J. Kuperman, "Obama's Libya Debacle: How a Well-Meaning Intervention Ended in Failure," *Foreign Affairs* 94, no. 2 (2015): 66, https://www.jstor.org/stable/24483483.; UNSC Res 1973, 2-4.

[999] Chollet and Fishman, "Who Lost Libya?," 154.

[1000] Ibid, 155.

military troops back to their home bases and ensuring unrestricted humanitarian support was available for the people of Libya".[1001] The US military operated a no-fly zone and suppressed strategic air defence systems across the country, before transitioning responsibility to a NATO-led endeavour under the code-name Operation Unified Protector on 31 March.[1002] From this transition, ninety percent of targets were struck by non-US aircrafts.[1003]

The NATO mission was critiqued heavily by both NATO members and non-members in their handling of the responsibility afforded to them by the Security Council. The early implementation of the UN mandate was in keeping with the authorised no-fly zone. However, NATO forces quickly mobilised air strikes upon the Libyan regime in support of the now-NATO-recognised rebel opposition.[1004] Russia, Germany, and Turkey each held issue with this broadened NATO strategy.[1005] The bombing campaign would continue through the summer of 2011 aiding in the NTC capture of the Libyan capital city Tripoli on 22 August.[1006] The finality of the conflict occurred when rebel forces captured and killed Gaddafi in October. NATO forces subsequently ended their involvement on 31 October while the NTC took control of the country.

10.2: A Just Peace Response to Libya

This section will demonstrate how the early strategy implemented in response to the crisis in Libya followed along a just peacemaking approach. The reaction by the international community fit within the paradigm's emphasis on human rights, international cooperation, and strengthening the role of the United Nations, while also encouraging a limitation on violent means through the establishment of a no-fly zone to separate opposing sides and an arms embargo to quell the violence.[1007] However, the eventual implementation of these measures by the United States and NATO forces led to a disruption of just peacemaking as the influence of national interest took hold. The

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[1001] Kildron, "The Libyan Model and Strategy," 37.
[1002] Ibid.; Barack Obama, "Remarks by the President in Address to the Nation on Libya," *The White House*, 28 February 2011, https://obamawhitehouse.archives.gov/photos-and-video/video/2011/03/28/president-obama-s-speech-libya#transcript.
[1003] Kildron, "The Libyan Model and Strategy," 39.
[1004] Terry, "The Libya Intervention (2011)," 164-166.
[1005] Ibid, 166-167.
[1006] Kildron, "The Libyan Model and Strategy," 37.
[1007] Thistlethwaite and Stassen, *Abrahamic Alternatives to War*, 7.

purpose of this section is to highlight the early success found in the just peace approach, before discussing the later eruption of just war grammar tainted by national interest in the next section.

The outbreak of conflict in Libya brought forth a series of humanitarian concerns through which the international community sought redress. Reports of Gaddafi's regime utilising foreign African mercenaries and the use of air-power to quell dissent figured heavily in the decision by regional actors to appeal to the United Nations for action. The Council of the League of Arab States, the Peace and Security Council of the African Union, and the Secretary General of the Organization of the Islamic Conference all expressed deep concerns about the violence perpetrated by the Libyan regime against the civilian population.[1008] Their concerns were echoed in a special report of the Human Rights Council on 25 February 2011 in which the HRC condemned "the recent gross and systematic human rights violations committed in Libya" and called upon the Libyan government to "meet its responsibility to protect its population".[1009]

In heeding their concerns, the Security Council passed resolution 1970 which globally sanctioned the Libyan state economically and militarily. The resolution cited the Council's grave concern for the situation, resulting in the condemnation of the violence on the civilian population. Resolution 1970 notes:

> Deploring the gross and systematic violation of human rights, including the repression of peaceful demonstrators, expressing deep concern at the deaths of civilians, and rejecting unequivocally the incitement to hostility and violence against the civilian population made form the highest level of the Libyan government.[1010]

The Security Council demanded that Libya "allow immediate access for international human rights monitors" and ultimately decided to refer the situation in Libya to the Prosecutor of the International Criminal Court.[1011] This was the first time a state had received a unanimous vote for referral to the ICC by the Security Council.

In response to the violence, the Security Council sought non-military measures including a travel ban and asset freeze for regime leadership and the provision of

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[1008] Terry, "The Libya Intervention (2011)," 164.; UNSC Res 1970, 1.
[1009] United Nations Human Rights Council, "Report of the Human Rights Council on its Fifteenth Special Session," UN Doc A/HRC/RES/S-15/1, 25 February 2011, 5, https://undocs.org/en/A/HRC/S-15/1.
[1010] UNSC Res 1970, 1.
[1011] Ibid, 2.

humanitarian assistance to civilians.[1012] Additionally the Council implemented an arms
embargo for the state:

> all Member States shall immediately take the necessary measures to prevent the
> direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or
> through their territories or by their nationals, or using their flag vessels or
> aircraft, of arms and related material of all types, including weapons and
> ammunition, military vehicles and equipment, paramilitary equipment, and
> spare parts for the aforementioned, and technical assistance, training, financial
> or other assistance, related to military activities or the provision, maintenance
> or use of any arms and related materiel, including the provision of armed
> mercenary personnel whether or not originating in their territories . . .[1013]

These practices aligned with the just peacemaking paradigm insofar as they sought a
"nonlethal means of coercion" in order to weaken the violent regime and prevent the
proliferation of weapons into the battlefield.[1014] The consideration of this method
contends that if external actors, in this case foreign states, adhered to these measures,
the internal Libyan conflict might starve itself out.

An important note on resolution 1970 was the reaffirmation of the United
Nation's "strong commitment to the sovereignty, independence, territorial integrity and
national unity" of Libya.[1015] This signifies the desire of the UN to achieve a peaceful
settlement to the conflict, rather than the destruction of one side. This also represents
the Security Council's commitment to neutrality and the honest brokership of the
international community to the conflict. Thus, any action taken by the UN was in
accordance with achieving peace and protecting human rights, and not the infringement
of sovereignty or the denial of self-determination.

After Gaddafi failed to heed to the call of the Security Council in ending the
violence directed toward non-combatants, the Council of the League of Arab States
called upon the Security Council for a second time. This call was for the implementation
of a no-fly-zone in Libya, citing

> the crimes and violations being perpetrated by the Libyan authorities against
> the Libyan people, in particular the use of military aircrafts, mortars and heavy
> weaponry against the civilians.[1016]

[1012] Ibid, 4-7, Annex I-II.
[1013] Ibid, 3.
[1014] World Council of Churches, *Just Peace Companion*, 105.
[1015] UNSC Res 1970, 2.
[1016] Arab League, Res. no. 1360.; Terry, "The Libya Intervention (2011)," 165.

The Security Council responded on 17 March 2011 with the passing of resolution 1973 by ten votes to zero, with five abstentions (Brazil, China, Germany, Russia, and South Africa).

Resolution 1973 deplored "the failure of the Libyan authorities to comply with resolution 1970 (2011)" and expressed "grave concern at the deteriorating situation, the escalation of violence, and the heavy civilian casualties".[1017] The Council condemned the use of "arbitrary detentions, enforced disappearances, torture and summary executions" as well as the violence and intimidation against "journalists and media professionals" by Gaddafi's regime.[1018] The Security Council reiterated that it was the "responsibility of the Libyan authorities to protect the Libyan population" and reaffirmed that "parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians".[1019] The Council claimed the violence perpetrated by Gaddafi "may amount to crimes against humanity".[1020]

Resolution 1973 was used by the Security Council to implement a no-fly zone for the protection of civilian populations bombarded by artillery. The resolution

> Authorizes Member States . . . acting nationally or through regional organizations or arrangements . . . to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory . . . [1021]

In addition, the resolution continued the arms embargo and authorised Member States to enact inspections on suspected military supply transports.[1022] Targeted asset freezing of leading regime figures also persisted, demonstrating an economic means of coercion.[1023]

The Security Council hoped that this combination of military and economic action would lead to a stalemate among the parties in the conflict and to a cease-fire and negotiated settlement. The Council demanded "the immediate establishment of a

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[1017] UNSC Res 1973, 1.
[1018] Ibid.
[1019] Ibid.
[1020] Ibid.
[1021] Ibid, 3.
[1022] Ibid, 4.
[1023] Ibid, 5.

cease-fire and a complete end to violence and all attacks against, and abuse of, civilians", while stressing "the need to intensify efforts to find a solution to the crisis which responds to the legitimate demands of the Libyan people".[1024] This centres on the just peace practice of conflict resolution. Ideally, the reduction of weapons and the realisation that neither side would win under resolution 1973 should have forced Gaddafi and the NTC to a negotiated settlement. The honest broker status of the international community in this case would then have ensured any agreement rendered was in accordance with Libyan self-determination.

Resolution 1973 remains a second example, alongside the response of resolution 1970, of the international community actively listening to emerging international forces, like the Council of the League of Arab States. The resolution demonstrates the recognition of powerful nations, like the United States and Russia, to address the concerns of emerging regional groups, while enabling their participation in any determined solution. As the resolution 1973 notes, the Security Council

> Recognizes the important role of the League of Arab States in matters relating to the maintenance of international peace and security in the region . . . request the Members States of the League of Arab States to cooperate with other Member States in the implementation of paragraph 4 [no-fly zone].[1025]

The resolution additionally requests that Member States notify their activities to "the Secretary-General and the Secretary-General of the League of Arab States".[1026] These statements emphasis the emerging role of the Arab League in regional conflict resolution in accordance with just peacemaking practices.

The overall mapping of the international response to this point has demonstrated a UN centricity missing from previous US military endeavours. The Libyan Crisis was referred to the UN by regional actors and the response was pursued via a UN mandate for action. As US President Barack Obama noted on 28 March 2011:

> We had a unique ability to stop that violence: an international mandate for action, a broad coalition prepared to join us, the support of Arab countries, and a plea for help from the Libyan people themselves. We also had the ability to stop [Gaddafi's] forces in their tracks without putting American troops on the ground.[1027]

[1024] Ibid, 2.
[1025] Ibid, 3.
[1026] Ibid, 4.
[1027] Obama, "Remarks by the President in Address to the Nation on Libya."

For Obama, the legitimacy of the American operation developed from regional requests and international authorisation, a change in policy tone for the United States.

President Obama was keen to act in order to promote a post-Bush style foreign policy, as outlined in his 2010 *National Security Strategy*. The policy reverses Bush-era unilateral, military action with international cooperative measures. As the 2010 NSS notes:

> the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.[1028]

This statement aligns American foreign policy with the just peace practices that are available to states. Powerful nations like the United States can work to promote justice through non-violent means, like diplomacy and economics, while also remaining willing to provide peacekeeping forces under international obligations.

Yet it is the last line in President Obama's March 2011 address on the Libyan Crisis which remains the most troubling: **"**We also had the ability to stop Qaddafi's forces in their tracks without putting American troops on the ground".[1029] In hindsight, this line by Obama foreshadowed the NATO response to the Libyan Crisis in ways that ultimately derailed the just peace response set forth in the Security Council resolutions.

10.3: Just War Impeding Just Peacemaking

This section will seek to discuss the failure by the international community in exercising just peace practices during the multinational response to the Libyan conflict as a result of national interests interfering in their expression of just war thought. Originally, the international response to the conflict reflected just peacemaking practices. The international community acknowledged the atrocities committed by the Libyan state, while the Security Council both referred Libya to the ICC and initiated manoeuvres to separate adversaries and calm the violence. These actions represent aspects of just peacemaking's vision of coercion as defined in Chapter Nine. However,

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[1028] Kildron, "The Libyan Model and Strategy," 36-37.; Barack Obama, *National Security Strategy* (Washington, DC: The White House, 2010), 48, available at: https://obamawhitehouse.archives.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.
[1029] Kildron, "The Libyan Model and Strategy," 36. Obama, "Remarks by the President in Address to the Nation on Libya."

once the NATO operations began, greater just war logic emerged. This section will highlight how the influx of national interests by NATO leadership outweighed their commitment to the Security Council mandates set forth in resolutions 1970 and 1973. As such, national interests ultimately undermined the presence of just peacemaking in UNSC policy through just war thinking which underscored the preferences of the powerful.

To begin, oppositional forces aligned under the NTC gained recognition from France on 10 March, bringing international legitimacy to the movement for the first time.[1030] This recognition was explicit in claiming the NTC to be Libya's only "legitimate representative", which worked to actively undermine NATO's presence as a neutral actor implementing the decisions of the United Nations.[1031] The active support eventually given by NATO forces through their bombing campaign of Gaddafi's forces additionally undermined the Security Council's demand for a ceasefire.[1032]

Both Security Council resolutions affirmed a "strong commitment to the sovereignty, independence, territorial integrity and national unity" of Libya.[1033] In recognising, and later supporting, NTC forces, NATO additionally undermined its own ability to act as a neutral broker in future negotiations. The implementation of a no-fly zone on behalf of the Security Council was to instigate the creation of safe spaces to protect non-combatants, at least in relation to potential aerial assaults. The no-fly zone itself does not damage any neutral broker potential. However, the alignment with and support of NTC forces through targeted bombing strikes actively damaged the credibility of NATO leadership to remain neutral and critical, as well as damaged any potential negotiation-will with the Libyan regime. Further damage to NATO's prestige emerged under the presence of calls for regime change.

In April 2011, US President Obama, British Prime Minister Cameron, and French President Sarkozy, all of whom acknowledged the legitimacy of the NTC, submitted an opinion article to the *New York Times*, and other media outlets, arguing the necessity

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[1030] Kildron, "The Libyan Model and Strategy," 39.

[1031] Alan Cowell and Steven Erlanger, "France Becomes First Country to Recognize Libyan Rebels," *The New York Times*, 20 March 2011, https://www.nytimes.com/2011/03/11/world/europe/11france.html.; BBC News, "Libya: France Recognises Rebels as Government," *BBC News*, 10 March 2011, https://www.bbc.com/news/world-africa-12699183.; Terry, "The Libya Intervention (2011)," 178.

[1032] Kildron, "The Libyan Model and Strategy," 39.

[1033] UNSC Res 1970, 2.; UNSC Res 1973, 2.

for regime change.[1034] The national leaders argued that Gaddafi could not remain in power, claiming it a betrayal of those suffering under human rights abuses and that Gaddafi's continuance in power would "condemn Libya to being not only a pariah state, but a failed state too".[1035] Their interpretation of NATO's mission demonstrated a political interest in ousting the Gaddafi regime. The leaders sought to utilise a limited air-campaign not only to end attacks on civilians, as the Security Council demanded, but to move beyond their mandate in achieving a cease-fire which instigated a political transition.[1036]

However, the actions advocated by the aforementioned leaders directly violated the UN Charter. Article 2(4) of the Charter states:

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.[1037]

Both Security Council resolutions affirmed the sovereignty and territorial integrity of Libya.[1038] The authorisation implemented under this affirmation was for the implementation of a no-fly zone for the protection of civilians and the separation of warring parties to implement a negotiated settlement, a move in accordance with the practices of just peace. Yet it was the political interest of NATO leaders which drove the escalation as, for example, President Obama envisioned that a no-fly zone alone would be insufficient to prevent the military massacre of civilians.[1039]

The interests of the NATO leadership regarding regime change, as noted by the above co-signed *New York Times* article, became deeply criticised by multiple NATO and non-NATO actors. The NATO air-campaign violated Libya's recognised territorial integrity, undermined Security Council authority and leadership, and escalated on-the-ground violence rather than stimulate a ceasefire as resolution 1973 demanded. As US

[1034] Barack Obama, et al., "Libya's Pathway to Peace," *The New York Times*, 14 April 2011, https://www.nytimes.com/2011/04/15/opinion/15iht-edlibya15.html.; Terry, "The Libya Intervention (2011)," 168.

[1035] Obama, et al., "Libya's Pathway to Peace."

[1036] Chollet and Fishman, "Who Lost Libya?" 155.; Kildron, "The Libyan Model and Strategy," 38.; Terry, "The Libya Intervention (2011)," 165-166.

[1037] *Charter of the United Nations*, Art. 2(4).

[1038] UNSC Res 1970, 2.; UNSC Res 1973, 2.

[1039] Alex de Waal, "African Roles in the Libyan Conflict of 2011," *International Affairs* 89, no. 2 (2013): 368, doi: 10.1111/1468-2346.12022.

Congressman Dennis Kucinich contends, NATO leadership "recklessly bombed civilians in the name of saving civilians."[1040]

The above desire for regime change reflects individual state interests within NATO. These interests led to the characterisation of the NTC as the only *legitimate* representative of Libya, thereby morally empowering the rebel forces as the just side in the conflict. In doing so, all manner of force provided by NATO in aid of the NTC, such as the bombing campaign on Gaddafi held targets, represented a defence of justice. This derives from the view found in just war thought, as noted previously by Brian Orend, that justice can only exist on one side in a conflict.[1041]

The relationship between the above national interests and the use of military power as a tool to achieve these ends was revealed within the initiation of just war mantra in reference to unitary justice. NATO leadership sought the removal of Gaddafi from power and extended their mission objectives along this path through calls that "Gaddafi must go".[1042] As Patrick Terry notes: "By supporting regime change, NATO states and others presumed to decide who should govern Libya in future".[1043] This undermined any potential for the future achievement of a peaceful settlement through the legitimacy of self-determination. The Security Council demanded the establishment of a cease-fire and an end to the violence.[1044] NATO was authorised to aid in this objective, while stressing the need to "find a solution to the crisis which responds to the legitimate demands of the Libyan people".[1045] NTC forces may have demanded Gaddafi's immediate departure as a condition for peace, but their refusal for peace talks stemmed directly from the support given to them by NATO leadership as the side holding justice.

Within the context of unitary justice above, French officials worked to arm rebel forces. This action undermined the Security Council's efforts toward non-proliferation in Libya. In response to the crisis, the Security Council passed resolution 1970 banning

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[1040] Dennis Kucinich, "Libya and Beyond: How Did We Get There and What Happens Next?," *Huffington Post*, last modified 24 October 2011, https://www.huffpost.com/entry/libya-and-beyond-how-did_b_934101.

[1041] Orend, *The Morality of War*, 2nd ed., 45.

[1042] Chris McGreal, et al., "Libyan Revolutionary Council Rejects African Union's Peace Initiative," *The Guardian*, 11 April 2011, https://www.theguardian.com/world/2011/apr/11/libyan-rebels-reject-peace-initiative.

[1043] Terry, "The Libya Intervention (2011)," 175.

[1044] UNSC Res 1973, 2.

[1045] Ibid.

the importation of weapons into Libya, with Resolution 1973 later reconfirming the ban.[1046] This was a blanket ban, intended to prevent the escalation of any violence on both sides, an alignment with the non-proliferation principles of just peacemaking. Yet this practice was discarded by French officials, who began a programme of arming the Libyan rebels in order to implement a change in the ruling regime. From a French perspective, this programme was supported by the NTC possession of unitary justice as recognised on 10 March, with President Nicolas Sarkozy naming the NTC as Libya's only "legitimate representative".[1047]

Patrick Terry contends that the arming of oppositional forces was in direct violation of Article 25 of the UN Charter as the Security Council placed an all-encompassing arms embargo on Libya.[1048] Terry notes:

> The fact that France and others decided to recognise the NTC as the legitimate government of Libya is irrelevant in this context as such a new government would nonetheless have been subject to the arms embargo imposed by the UN Security Council on the whole country.[1049]

The arms embargo enacted by the Security Council restricted weapons to the entirety of Libya and not solely to individual actors or groups in respect to justice. Former US Congressman Dennis Kucinich openly accused NATO at the time of "[u]surping the United Nation's traditional role . . . by look[ing] the other way as the arms embargo was openly violated by U.N. member nations."[1050] The action to arm NTC forces not only undermined the just peacemaking principle to strengthen the United Nations, on display in the planning phase of the international response, but similarly jeopardised the practice of reducing the weapons trade.

The failure of NATO leadership to uphold the arms embargo imposed by both Security Council resolutions ultimately introduced complications into wider non-proliferation initiatives. Cross-border proliferation of arms from Libya into the wider region began after the failure of the NTC to uphold the rule of law across the state

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[1046] ". . . notwithstanding paragraph 9 of resolution 1970 (2011)". See: UNSC Res 1973, 3.

[1047] Cowell and Erlanger, "France Becomes First Country to Recognize Libyan Rebels".; BBC News, "Libya: France Recognises Rebels as Government".; Terry, "The Libya Intervention (2011)," 178.

[1048] Article 25: "The Members of the United Nations agree to accept and carry out the decisions of the Security Council according to the present Charter." See: *Charter of the United Nation*, Art. 25.

[1049] Terry, "The Libya Intervention (2011)," 179.

[1050] Kucinich, "Libya and Beyond: How Did We Get There and What Happens Next?"

following their victory. Armed combatants and nonstate actors, such as Boko Haram, capitalised on Libyan instability and obtained access to weaponry which dispersed across an array of countries including Mali, Niger, Chad, and Syria.[1051] Although there are certain indications that the movement of armaments from Libya has diminished since 2013, due to a number of global anti-trafficking initiatives, Nicholas Marsh contends that this is more of a result of a return to violence within Libya which has lessened the numbers of illicit weapons exiting the country rather than the product of any international anti-trafficking success.[1052] And yet even with the reduction in the number of arms exiting the country, European authorities continue to seize impressive quantities of Libyan weaponry headed for the continent. For example, Greek authorities in December 2015 intercepted a shipment of 5000 firearms and half a million rounds of ammunitions, while Spanish authorities captured 11400 arms and more than a million rounds in October 2016.[1053]

The trafficking of arms from Libya, a direct consequence of the international community failing to aid the new government in stabilising the country, holds deeper implications than the proliferation of weapons. In 2003, Gaddafi voluntarily halted his WMD programmes and surrendered the Libyan arsenal of weapons to the United States.[1054] Additionally, Gaddafi's support in the fight against al Qaeda was considered instrumental by US African Command leader General William Ward, who stated that Libya was "a top partner in combating transnational terrorism".[1055] Less than ten years later, Gaddafi was killed during a US-supported intervention.[1056] The implications of this incident could be devastating for international cooperation on the non-proliferation of weapons. Gaddafi was a model of a dictatorial regime aiding the fight against weapons trafficking and terrorism. The quick turn-around by the West, moving from ally to enemy as a result of the Arab Spring, sends a message throughout the region that cooperating with western nations may not be advantageous. American and NATO credibility as honest brokers on this issue became damaged by the Libyan Crisis, and with it the

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[1051] Nicholas Marsh, "Brothers Came Back with Weapons: The Effects of Arms Proliferation from Libya," *PRISM* 6, no. 4 (2017): 81-84, 88-90, https://www.jstor.org/stable/26470483.
[1052] Ibid, 79.
[1053] Ibid, 93.
[1054] Kuperman, "Obama's Libya Debacle," 74.
[1055] Ibid, 72.
[1056] Ibid, 74.

possibility of future success in various international initiatives. For as long as western determination of just authority remains fickle, there remains a credible wariness among non-democratic regimes in engaging with western actors.

Various critiques emerged within the international community regarding the actions taken by NATO in the conflict. These voices emerged both from within the NATO membership and from outside it. Germany contended that the NATO mission moved beyond the mandate given by the Security Council to protect citizens by supporting the NTC. The Security Council did not authorise any Member State to support actions seeking regime change.[1057] The German Minister for Economic Cooperation and Development, Dirk Niebel, pondered the motivation for NATO intervention, noting it was "remarkable that those nations that are eagerly bombing in Libya are exactly the same ones who still get oil from there".[1058] Defence Minister Thomas de Maizière also questioned:

> Could the fact that we are suddenly intervening now have something to do with oil? We cannot get rid of all the dictators in the world with an international military mission.[1059]

The German public ultimately supported this line of questioning as a majority opposed the involvement of the German military in Libya.[1060] This German perspective reflects the just war questions of the Holy See relative to US oil interests in the Iraq invasion debate.

The Russian government also contended that NATO exceeding its role in providing a no-fly zone under the Security Council mandate.[1061] Russian President Vladimir Putin argued that NATO forces "frankly violated the UN Security Council resolution on Libya, when instead of imposing the so-called no-fly zone over it they started bombing it too".[1062] Foreign Minister Sergey Lavrov also remarked that Russia "would never allow the Security Council to authorize anything similar to what happened in Libya".[1063] Alan Kuperman claims that the overstepping by NATO in the Libyan

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[1057] Terry, "The Libya Intervention (2011)," 167.
[1058] Quoted in Edmund Ratka, "Germany and the Arab Spring—Foreign Policy between New Activism and Old Habits," *German Politics & Society* 30, no. 2 (2012): 62, doi: 10.3167/gps.2012.300204.
[1059] Quoted in Ratka, "Germany and the Arab Spring," 62.
[1060] Ratka, "Germany and the Arab Spring," 63.
[1061] Kuperman, "Obama's Libya Debacle," 75.
[1062] Quoted in Kuperman, "Obama's Libya Debacle," 75.
[1063] Quoted in Kuperman, "Obama's Libya Debacle," 75.

intervention "may have fostered violence in Syria".[1064] He claims that instead of spreading the relatively peaceful Arab Spring movement to Syria, Libyan violence increased Syria's militarisation and "impeded the prospect of UN intervention" due to Russian dissatisfaction.[1065]

The African Union also possessed discontent with the NATO enaction of resolution 1973. The Union sought to implement the negotiation aspect of the UNSC mandate and secure a peace settlement between the conflicting parties. The delegation, led by South African President Jacob Zuma, suggested an immediate ceasefire and the establishment of a reconciliation dialogue, a feature of just peacemaking.[1066] The proposals by the African Union reflected their preference for power-sharing agreements between incumbent and emerging leadership.[1067] Gaddafi was persuaded by the delegation to agree to mediation, however, the NTC rejected the initiative on the grounds that the talks did not require Gaddafi's immediate departure from power, a precondition set by the NTC for opening dialogue.[1068] NATO Secretary-General Rasmussen supported this rejection, claiming it was "too early for this".[1069] Later offerings made to hold elections by Gaddafi's son Saif al-Islam were also rejected by the NTC despite the insistence that the elections would be held under international monitoring. American officials described this proposal as "a little late".[1070] According to Alex de Waal, at no time did the United States or NATO present a plan for a negotiated settlement.[1071]

The rejection of peace talks by the NTC may be understood in the context of the NATO bombing campaign and unitary possession of justice. The extension of the NATO campaign from the implementation of the no-fly zone to active bombing, under the

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[1064] Kuperman, "Obama's Libya Debacle," 74.

[1065] Ibid.

[1066] Geir Ulfstein and Gege Føsund Christiansen, "The Legality of the NATO Bombing in Libya," *The International and Comparative Law Quarterly* 62, no. 1 (2013): 165, doi:10.1017/S0020589312000565.; Alan Geyer and Donald W. Schriver, "Acknowledge Responsibility for Conflict and Injustice and Seek Repentance and Forgiveness," in Stassen, *Just Peacemaking*, new ed., 98-113.

[1067] Eki Yemisi Omorogbe, "The African Union, Responsibility to Protect and the Libyan Crisis," *Netherlands International Law Review* 59, no. 2 (2012): 160, doi 10.1017/S0165070X12000150.

[1068] Ulfstein and Christiansen, "The Legality of the NATO Bombing in Libya," 165.

[1069] McGreal, et al., "Libyan Revolutionary Council Rejects African Union's Peace Initiative."

[1070] Nick Carey, "Rebels Dismiss Election Offer, NATO Pounds Tripoli," *Reuters*, 16 June 2011, https://www.reuters.com/article/us-libya/rebels-dismiss-election-offer-nato-pounds-tripoli-idUSTRE7270JP20110616.

[1071] Waal, "African Roles in the Libyan Conflict of 2011," 368.

reflection that the NTC was the just side, counteracted a stalemate which was growing from the entrance of the international community into the conflict.[1072] This undermined the just peacemaking practice implemented by resolution 1973 which sought a reduction in violence and the establishment of a negotiated settlement. Additionally, the act of rejection undermined the emergence of cooperative forces in the international community, another just peacemaking practice. This failure was discussed by Jacob Zuma in addressing the United Nations in 2012.

On 12 January 2012, President Zuma argued "it is the view of the AU that the 1973 Resolution of the UN Security Council was largely abused in some specific respects".[1073] The Union's complaint was that Britain, France, and the United States moved beyond their authorised mandate to protect citizens and actively sought regime change. Out of this controversy, Zuma pressed the necessity of regional bodies in dealing with conflict zones.

Zuma noted that the African Union was mindful that "the UN Charter gives the UN Security Council the primary mandate and the responsibility for the maintenance of international peace and security".[1074] However, the Union believed that the Charter "encourages cooperation with regional bodies such as the AU in carrying out the UN mandate in line with the spirit of subsidiarity".[1075] The Union's view was such that

> Regional bodies are closer to the situation, are familiar with the issues and often understand the dynamics of the conflict. Neighbouring countries also often bear the burden and consequences of conflict in their neighbourhood.[1076]

President Zuma promoted regional actors under the protest of NATO action in Libya.

> As everybody is aware, the AU developed a political roadmap that would have assisted in resolving the political conflict in that country. The AU's plan was completely ignored in favour of bombing by NATO forces.[1077]

[1072] Ulfstein and Christiansen, "The Legality of the NATO Bombing in Libya," 165.
[1073] Jacob Zuma, "Statement by President Jacob Zuma on the Occasion of the UN Security Council Summit Debate," *International Journal of African Renaissance Studies* 6, no. 2 (2012): 133, doi: 10.1080/18186874.2011.663200.
[1074] Ibid.
[1075] Ibid.
[1076] Ibid.
[1077] Ibid.

278

He noted a direct result of the failures in Libya was such that the country "has now grown to be a regional problem".[1078] Therefore, his solution was to use regional actors to promote regional security. This policy is a just peacemaking practice which was understood in the drafting of resolutions 1970 and 1973, yet failed to materialise under the presence of British, French, and United States' national interests.

The instances described above represent the manner by which just war thought undermined the advances made by just peacemaking practices in the early stages of the international response to Libya. The assignment of justice to the NTC allowed for the expansion of military engagement beyond the UN mandate and prevented the practices of just peace from taking root. While the Security Council initiated just peacemaking-based coercion tactics in response to the Libyan atrocities, the spectre of just war remained prevalent in the cooperation between national interest and the use of force.

As a result of international grievances, particularly those of Russia, over the handling of the mission by NATO, no further action was taken in Libya after October 2011. Soon after the NTC took power, the new authority failed in rebuilding civilian ministries and to provide clear rules for disarming revolutionary groups.[1079] Security forces were ineffectively integrated into the new system allowing former rebels to perpetrate "scores of reprisal killings, in addition to torturing, beating, and arbitrarily detaining thousands of suspected Qaddafi supporters".[1080] US ambassador J. Christopher Stevens was murdered as part of an attack on American diplomatic facilities in Benghazi.[1081] In addition, the lack of stability caused the emergence of fighting among local groups and grievances between ethnic minorities, with ethnic rivalries escalating in the region.[1082] The 2014 elections provoked further instability with the rise of an oppositional government, the General National Congress. These rebels took control of Tripoli and surrounding regions, while allowing the Islamic State (ISIS) to rise in the ensuing chaos.[1083] In September 2014, the Libyan central government announced the

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[1078] Ibid.

[1079] Chollet and Fishman, "Who Lost Libya?" 157.; Syed Huzaifah Bin Othman Alkaff, "Libya," *Counter Terrorist Trends and Analyses* 8, no. 1 (2016): 113, https://www.jstor.org/stable/26369577.

[1080] Kuperman, "Obama's Libya Debacle," 68.

[1081] Terry, "The Libya Intervention (2011)," 179.

[1082] Bin Othman Alkaff, "Libya," 112.

[1083] Ibid, 113.

loss of control over the capital.[1084] Instability spread across the region to places like Mali and Niger, with ISIS spreading beyond the region.[1085]

Concluding Remarks

This chapter has sought to provide an example of how just peacemaking faces certain difficulties when seeking to provide supplementary moral wisdom to that of the standard-bearer just war tradition within international law and relations between states. After an overview of the conflict, this chapter outlined the positive and negative aspects of the international response to Libya. In the beginning, regional and international requests for action were heeded by the Security Council resulting in two resolutions, 1970 and 1973. These resolutions promoted just peacemaking practices such as the reduction of weapons through an arms embargo, the introduction of a no-fly zone to protect non-combatants and separate adversaries, targeted economic sanctions on members of the Libyan regime, and the demand of a negotiated settlement which embraced the will of the Libyan people. This response provided a role for regional actors, such as the Arab League, through whom Member States were to provide details of their activity in discharging their duties to the Security Council.

However, the positive impacts of the resolutions soon transformed into negative outcomes through the implementation process conducted by NATO. NATO action in the campaign, such as the escalation of force through targeted bombing, emboldened rebel forces against Gaddafi. The recognition of the NTC as the sole legitimate representative of Libya amounted to a designation of the NTC as *the* just actor in line with Brian Orend's definition of a singular side possessing justice in a just war. Eventually, the emboldened forces refused the African Union's attempts to reach a negotiated settlement, backed by NATO insistence that the timing was not right. These actions ultimately violated the Security Council resolutions which sought an end to the violence within a context of Libyan sovereignty and angered other UN Member States. This would have implications in Russian support for further action in Libya, lending to the ultimate collapse of the victorious forces and the emergence of a second civil war, as well as affecting the later international response to the Syrian conflict.

[1084] Terry, "The Libya Intervention (2011)," 179-180.
[1085] Ibid, 180.; Kuperman, "Obama's Libya Debacle," 67.

The presence of just war grammar among NATO leadership in identifying the NTC as the just side, thereby supporting the expansion of airpower and the promotion of regime change, signified a continued reliance on just war by the international community despite divisions. Recalling the characteristics of just war from Part One, political desires are often supported by the just war tradition. In this instance, the political motivations of the United States and other NATO countries promoted the expansion of military force under just war logic rather than allowing for a negotiated settlement that may lean toward the power-sharing preferences of the African Union. A reason which might explain the ability of western political desires to shift away from just peacemaking practices and toward traditional just war logic is the lack of a community elder present in the Libyan conflict.

As noted in Chapter Nine, elders possess a uniqueness in the community as a trusted source who may promote a real engagement with just peacemaking practices. The efforts of the African Union to negotiate a peace agreement were continuously undermined by NATO's leadership. Recalling the manner by which the just war tradition would embrace power in Chapter One, the designation of justice on the side of the NTC legitimised the continued exercise of force in order to topple the unjust Gaddafi regime. Without a counterbalance to the NTC's perceived legitimacy, the African Union could not provide an adequate means of garnering support for their proposals of settlement. The framing of the lack of an elder as a reason for the dismissal of just peacemaking remains astute when compared with the presence of elders in the more successful instances to be described in Chapters Eleven and Twelve.

This chapter has sought to demonstrate how just peacemaking practices have appeared in a recent attempt at peacebuilding. The international response to Libya demonstrates a case whereby western actors initially responded to non-western violence by accepting proposals for just peacemaking practices, yet eventually dismissed this pathway for a singularly just war approach. In this case, the sole-reliance on just war wisdom by certain actors led to the legitimisation of one side over the other. This exemplifies the dangers that national interest can play when initiating coercive tactics in a conflict. The next chapter will highlight a successful utilisation of just peacemaking in the context of Northern Ireland and the settlement of the Troubles.

Chapter Eleven

A Success in Just Peacemaking: Northern Ireland

Introduction

Keeping in mind the failings discussed in the previous chapter, where national interest-driven just war thought exacerbated the violence in Libya and undermined any potential for a peace settlement, Chapter Eleven will discuss an example where just peacemaking practices proved successful in the context of Northern Ireland. The Belfast/Good Friday Agreement may be viewed under the design of just peacemaking as the multi-party talks, of which paramilitary representatives were present, developed from a democratic exercise of the people and the involvement of elders in a guiding and legitimising role. Furthermore, the implementation of the agreement was by a democratic exercise, both in Northern Ireland and the Republic.[1086] If the electorate did not accept the agreement then it would not be imposed upon them by the state. Therefore, the process of settlement centred around human agency within the practices of just peace.

In discussing this example of just peacemaking, Chapter Eleven will be divided in three sections. First, a background to the Troubles will be discussed. This will include historical information related to the ethnonationalist divisions of the two communities in Northern Ireland: Catholic/Nationalist and Protestant/Unionist. Additionally, references to important events which showcase the nature of the violence between these communities are presented.

Second, the negotiated settlement will be discussed. The main areas of the negotiated settlement will be highlighted with respect to the success of just peace practices. Special emphasis will be placed on the normative and economic stimulus placed on the region as a means of implementing behavioural cross-community changes. Furthermore, elders within the process are shown to have offered specific mechanisms which provided necessary aid in the establishment of peace. Third, the existence of just peacemaking coercion as implemented by the European Union and Great Britain is discussed.

[1086] The Northern Ireland Peace Agreement, Belfast, 10 April 1998, Validation, Implementation and Review, ¶1-3, available at: https://peacemaker.un.org/uk-ireland-good-friday98.

11.1: The Background

The conflict in Northern Ireland can be viewed as a consequential mixture of historical-religious and political-constitutional questions.[1087] The two main communities, Catholics and Protestants, stem from a historical incident known as the Plantation of Ulster. Those loyal to James I of England received an allowance to settle within Ulster, stripping ownership from the native Gaelic population and limiting their access to land, the vote, and employment.[1088] These settlements were Protestant in nature against a native Catholic people, emphasising certain elements of millennialist understandings of "true religion" and anti-popish sentiments.[1089] These sentiments led to historical divergencies across the whole island of Ireland, but particularly in the higher than average Protestant population of the North. When the nineteenth century gave way to a rise in Irish nationalism, deeper divisions took hold along British/Gaelic and Protestant/Catholic lines.[1090]

The Irish question first arose in 1921 with the implementation of the Anglo-Irish Treaty, which recognised the Irish Free State as extending over the whole of the island, while containing an option for the six counties designated as Northern Ireland to remain in the United Kingdom, what Ullrich Kockel claims amounts to a case of "power politics".[1091] Historian Liam de Paor suggests:

> Had the line of division been drawn by some celestial court of arbitration in which simple fairness prevailed, it might have been expected that either nine counties (the province of which the Ulster unionists had staked their claim) or about three would be separated from the rest of Ireland.[1092]

The effect of partition created a rule of two-thirds majority unionist over the one-third minority Catholic.[1093] Unionists in the North began a program of marginalisation of

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[1087] Nukhet Ahu Sandal, "Religious Actors as Epistemic Communities in Conflict Transformation: The Cases of South Africa and Northern Ireland," *Review of International Studies* 37, no. 3 (2011): 931, 943-944, doi: 10.1017/S026021510001592.; Fenton, *The Good Friday Agreement*, 19.

[1088] Fenton, *The Good Friday Agreement*, 16-19.

[1089] Ullrich Kockel, *Regions, Borders and European Integration: Ethnic Nationalism in Euskadi, Schleswig and Ulster* (Liverpool: Institute of Irish Studies, 1991), 12.

[1090] Ibid, 10.

[1091] Ibid, 7.; Fenton, *The Good Friday Agreement*, 20-21.

[1092] Liam de Paor, *Unfinished Business. Ireland Today and Tomorrow* (London: Hutchinson Radius, 1990), 63.

[1093] Lorenzo Bosi and Gianluca de Fazio, "Contextualizing the Troubles: Investigating Deeply Divided Societies through Social Movements Research," in *The Troubles in Northern Ireland and Theories of*

Catholics through gerrymandering, limitations on housing, and ratepayer voting clauses.[1094] The continuation of the police force as named the Royal Ulster Constabulary (RUC) furthered unionist incitement of oppression due to identifiers with the unionist term for Northern Ireland (Ulster) and the monarchy (royal).[1095]

These systematic issues were enhanced by the failure of the British central government to intervene. In fact, a policy of limited oversight enabled many of the systematic abuses that emerged following partition. The semi-autonomous nature of the province gave unionists control over internal security and the judicial system, without recourse for nationalists to appeal sectarian measures.[1096] The civil rights movement in Northern Ireland against these abuses ultimately became the lynchpin through which the Troubles emerged.

Nationalist demands for the end of ratepayer voting rules, the redrawing of electoral boundaries, the addition of transparent housing allocation, and the introduction of anti-discrimination laws were not heeded by the Northern Irish government.[1097] Events such as the People's Democracy march from Belfast to Derry, which was met by loyalist counter-protests and violence on the Burntollet Bridge on 4 January 1969, demonstrated the oppressive nature of Northern Irish majority rule.[1098] In this instance, the RUC has been accused of failing to intervene and allowing an attack by loyalists to be carried out uninterrupted.[1099]

The re-emergence of the IRA, once a republican force for independence in the South, escalated the violence through terror tactics, such as bombings. This led to an escalation on the unionist side through loyalist paramilitaries. When the British government assumed direct control of the North in 1972, the tactics which were employed failed to quell the violence. In fact, many of them only worked to enhance it.[1100]

Social Movements, eds. Lorenzo Bosi and Gianluca de Fazio (Amsterdam: Amsterdam University Press, 2017), 18.

[1094] Siobhán Fenton, *The Good Friday Agreement*, 22-23.

[1095] Ibid, 24.

[1096] Bosi and Fazio, "Contextualizing the Troubles," 18.

[1097] Fenton, *The Good Friday Agreement*, 26.

[1098] Ibid, 29-30.; Bosi and Fazio, "Contextualizing the Troubles," 13.

[1099] Fenton, *The Good Friday Agreement*, 30.

[1100] Ibid, 34-45.

Over the course of three decades, paramilitary violence bloodied the landscape of not only Northern Ireland, but Britain and the Republic as well. More than 3,600 people died during the Troubles, with more than 47,000 people injured.[1101] These numbers included at least 186 children, eighty percent of whom were Catholic. Ten percent of these children were murdered in their own homes.[1102] Structural and institutional collusion occurred between British agencies and unionist paramilitaries, with the British government acting as armed and active participant in the violence.[1103]

The violence of 1969 precipitated a response from the British central government through the introduction of the British Army into Northern Ireland. This was believed by some nationalists as having the potential for a "more even-handed" approach to security than conducted by the RUC. However, the Army instead launched a campaign of weapons searches targeting Catholic homes.[1104] A continuation of violence, such as the March 1971 murder of three Scottish soldiers by the IRA in a "honey trap" style event, led to the introduction of internment in August 1971.[1105] This policy heavily targeted nationalist paramilitaries. January 1972 saw the event known as "Bloody Sunday", in which a civil rights march in Derry City resulted in the death of thirteen after British soldiers opened fire on protestors.[1106] This, and other events, led to the eventual introduction of Home Rule in March 1972.

Some of the more horrific events of the Troubles emerged following the establishment of Home Rule. In July 1972, a loyalist gang killed a young Catholic man with disabilities in his home. That same month, the IRA detonated 20 bombs in Belfast City Centre over the course of about an hour. Nine were killed and around 130 injured. A week after the Belfast bombings, an IRA car bomb in Derry killed nine people.[1107]

[1101] Ian McBride, "The Truth About the Troubles," in *Remembering the Troubles: Contesting the Recent Past in Northern Ireland*, ed. Jim Smyth (Notre Dame: University of Notre Dame Press, 2017), 19.; Bosi and Fazio, "Contextualizing the Troubles," 11.

[1102] Joe Duffy and Freya McClements, "Children of the Troubles," *The Irish Times*, 5 October 2019, https://www.irishtimes.com/culture/books/children-of-the-troubles-they-took-a-child-off-the-road-put-a-hood-over-his-head-and-killed-him-1.4037704.

[1103] McBride, "The Truth About the Troubles," 20.

[1104] Fenton, *The Good Friday Agreement*, 32.

[1105] Ibid, 33-34.

[1106] Nevin T. Aiken, "The Bloody Sunday Inquiry: Transitional Justice and Postconflict Reconciliation in Northern Ireland," *Journal of Human Rights* 14 (2014): 102, doi: 10.1080/14754835.2014.987740.; Andrew Sanders, *Inside the IRA: Dissident Republicans and the War for Legitimacy* (Edinburgh: Edinburgh University Press, 2011), 103-105.

[1107] Fenton, *The Good Friday Agreement*, 36.

In March 1973, IRA bombs were detonated in London with one killed and around two hundred injured. This was the first time the IRA targeted England directly.[1108] In November of the following year, two pubs in Birmingham were bombed leaving twenty-one dead and around two-hundred injured. July 1976 saw the assassination by the IRA of the British Ambassador to the Republic of Ireland Christopher Ewart-Biggs shortly after assuming his post. Another major assassination by the IRA occurred in August 1979 with the murder of Queen Elizabeth's cousin, Lord Mountbatten, in County Sligo. On the same day, eighteen soldiers were slaughtered in Warrenpoint. Across the 1970s, loyalist murders conducted by members of the Ulster Volunteer Force (UVF) known as the "Shankill butchers" occurred. The assailants selected Catholics at night, tortured them, and slit their throats with butchers knives and cleavers.[1109]

A turning point for republican activities was the 1981 Hunger Strikes, which ultimately led to an active embracement of electoral politics. The strikes began on 1 March under a phased process to mount a compounding pressure. The strikers held five demands: to be allowed to wear their own clothes in place of uniforms as a means of distinguishing themselves from criminals; to be exempted from work; to be allowed free association with one another; extra parcels and visitors; and the restoration of losses incurred under previous protests.[1110] The first striker, twenty-six year old Bobby Sands, became part of a propaganda-coup by republicans when he went on to win a Westminster by-election during the course of the strike.[1111] Despite this public theatre, British Prime Minister Margaret Thatcher refused to concede: "If Mr Sands persisted in his wish to commit suicide, that was his choice".[1112] Thatcher's statement received public attention, allowing republican voices to articulate the strikes as a struggle of martyrs against the British State.[1113] Bobby Sands died on May 5th after 66 days of the hunger strike.[1114] Thatcher claimed, "Mr. Sands was a convicted criminal. He chose to

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[1108] Ibid, 38.; Tommy McKearney, *The Provisional IRA: From Insurrection to Parliament* (London: Pluto Press, 2011), 127.
[1109] Fenton, *The Good Friday Agreement*, 45-49.
[1110] Ibid, 50-51.
[1111] Ibid, 51.; Sanders, *Inside the IRA*, 132-133.
[1112] Quoted in Fenton, *The Good Friday Agreement*, 51.
[1113] Fenton, *The Good Friday Agreement*, 51.
[1114] Ibid.

take his own life. It was a choice his organisation did not allow to many of its victims.".[1115] The strike would continue for 271 days. Ten additional prisoners died.[1116]

The local impact of Sands' death would have lasting implications for the conflict. Republicanism in Northern Ireland shifted to embrace electoral politics, with Sinn Féin evolving from a relatively unorganised group to a political force.[1117] This embracement can be surmised by Danny Morrison, a former aide to Gerry Adams, during his address at the 1981 Sinn Féin party conference:

> Who here really believes we can win the war through the ballot box? But will anyone here object if, with a ballot box in one hand and the Armalite [rifle] in the other, we take power in Ireland?[1118]

Between 1982 and 1985 Sinn Féin went on to increase their electoral average to 12 percent and collecting around 40% of the nationalist vote.[1119]

Despite a shift toward political action, paramilitary activity would continue for the IRA. The 1984 bombing of the Conservative Party Conference at the Grand Hotel in Brighton saw five killed, including an MP.[1120] In April 1992, the IRA bombed the Financial district in London, leaving 3 dead and around 700 million pounds in damages.[1121] In October 1993, the IRA bombed an alleged loyalist meeting space at a chipper on Shankill Road which left 9 dead and saw an increase in loyalist retaliation killings as a result. The IRA placed a dummy mortar onto a runway at Heathrow Airport in March 1994, designed to display the potential violence which could occur rather than to kill. In June 1994, UVF paramilitaries slaughtered pub-goers watching Ireland play in the World Cup at Heights Bar in Loughinisland, County Down. Six were killed in the violence and IRA retaliation occurred.[1122]

[1115] United Kingdom, House of Commons, Debate, 5 May 1981, vol. 4, §17.
[1116] Fenton, *The Good Friday Agreement*, 52.
[1117] Ibid. Fenton, *The Good Friday Agreement*, 52.
[1118] "Provisional IRA: War, Ceasefire, Endgame? 1981 Hunger Strikes," *BBC News*, accessed 5 January 2020,
http://news.bbc.co.uk/hi/english/static/in_depth/northern_ireland/2001/provisional_ira/1981.stm.
[1119] Fenton, *The Good Friday Agreement*, 52-53.
[1120] Sanders, *Inside the IRA*, 137.; Fenton, *The Good Friday Agreement*, 53.
[1121] Fenton, *The Good Friday Agreement*, 58-59.
[1122] Ibid, 59-60, 63.

On 31 August 1994, the IRA implemented a one-sided ceasefire, to which loyalist paramilitaries would later follow suit in October.[1123] Occasional violence would occur through the mid-1990s in conjunction with negotiations over commencing peace talks. Delegates for the Northern Ireland Forum were elected on 30 May 1996 using a modified d'Hondt system. Peace talks resulted in the formation of the Belfast/Good Friday Agreement on 10 April 1998.[1124] A referendum on the implementation of the agreement occurred in Northern Ireland on 22 May 1998.[1125] A concurrent referendum in the Republic of Ireland was held on the same day to address agreed-upon constitutional arrangements, such as modifying the Republic's all-island constitutional claims.[1126] The successful referendum led to the 25 June 1998 Assembly election of a "shadow" government to implement the agreement in the North and form a new Northern Ireland Executive.[1127]

11.2: Northern Ireland Just Peacemaking

This section will discuss the agreement which ceased the violent conflict in Northern Ireland. As the agreement is known by different names, the *Belfast Agreement* and the *Good Friday Agreement*, generally dependent upon which side of the community divide one stands, this chapter will simply use the term 'the Agreement'. This section will highlight areas of the Agreement where the just peace paradigm is most relevant.

A core practice in just peacemaking, which aided the negotiated peace in Northern Ireland, involves cooperative conflict resolution which stems from the involvement of actors who "seek to understand the perspectives and needs of adversaries".[1128] This must be true for those directly involved in the conflict and for those who seek to mediate. The success of the Agreement in Northern Ireland hails from the uniqueness of its composition, from the negotiators to the adversaries, which led to

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[1123] Ibid, 63. Paul Bew, et al., *Northern Ireland 1921/2001: Political Forces and Social Class* (London: Serif, 2002), 219.
[1124] McBride, "The Truth About the Troubles," 25.; Fenton, *The Good Friday Agreement*, 73
[1125] Question: "Do you support the agreement reached in the multi-party talks on Northern Ireland and set out in Command Paper 3883?". The Northern Ireland Peace Agreement, Validation, Implementation and Review, ¶1-2.
[1126] The Northern Ireland Peace Agreement, Validation, Implementation and Review, ¶1-2.
[1127] Ibid, ¶3.
[1128] Steven Brion-Meisels, et al., "Use Cooperative Conflict Resolution," in Stassen, ed., *Just Peacemaking*, new ed., 72.

the achievement of understanding the needs of all shareholders involved. However, the historical dynamics present in the region required continuous pragmatism.

The adversarial nature of the multi-party talks required mediators and state-level partners who could remain as honest brokers in the process. In November 1990, the British government gave a declaration of their position which has been interpreted by some as pressing language of neutrality in the conflict. The declaration, given by Secretary of State for Northern Ireland Peter Brooke, contained the phrase:

> The British government has no selfish strategic or economic interest in Northern Ireland: our role is to help . . . Britain's purpose . . . is not to occupy, oppress or exploit, but to ensure democratic debate and free democratic choice.[1129]

This earlier statement by the British enhanced their claim to offer the honest brokerage required during negotiations. Yet this status remained undercut by a history of British heavy-handedness through the armed forces in the region and the general London oversight of Northern Ireland during the Troubles. This became ever more apparent in 1995 around the decommissioning of weapons as a prerequisite for negotiation.

In 1995, British Prime Minister John Major demanded the decommissioning of IRA weapons as a prerequisite for Sinn Féin's involvement in peace talks. Naturally the Republicans remained reluctant to decommission in fear of a possible bluff and the potential optic of surrender.[1130] The honest broker status of the United States was able to aid on this matter, as the British and Irish governments sought an international body to arbitrate. US politician George Mitchell chaired the group which determined that decommissioning should not be a requirement for negotiation.[1131] This ruling is an engagement of just peacemaking, for if parties must decommission their weaponry as a prerequisite for peace talks, peace would never occur. Levels of pragmatism are sometimes required in order to build trust and bring parties to negotiation. Honest brokers can create these circumstances.

Furthermore, the interjection by George Mitchell represents the practice of utilising elders in mediating a conflict. While not a typical elder, in the sense that Mitchell was not a member of either community of the conflict, his record with

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[1129] Peter Brooke, Speech, 9 November 1990, quoted in Fenton, *The Good Friday Agreement*, 57.
[1130] Fenton, *The Good Friday Agreement*, 65.
[1131] Fenton, *The Good Friday Agreement*, 66.

investigating the Iran Contra affair in the US Senate held weight among British state actors to such a degree that his pragmatism was accepted.[1132] Mitchell noted:

> Among the lessons I learned from [his senate] experience were the importance of having a plan and sticking to it while retaining the flexibility to make adjustments as circumstances change; the necessity of total commitment; the need for patience and perseverance to overcome the inevitable setback.[1133]

Retired Canadian General John de Chastelain, who along with Mitchell and former Finish Prime Minister Harri Holkeri offered a series of recommendations on the peace process in 1996, said of the so-called 'Mitchell Principles':

> We moved outside our remit and addressed the lack of trust between political parties by suggesting six principles of democracy and non-violence which the parties could be invited to adopt if they were to take part in the talks . . . These include avoiding the perception of surrender or defeat, proscribing the forensic testing of decommissioned arms for the purpose of prosecution, and insisting that the process of decommissioning should be complete, safe, mutual, and verifiable to the satisfaction of an independent Commission.[1134]

These positions were significant in the end result of the peace process, which came forth from the influence of Mitchell and the neutral broker position of the Clinton Administration more broadly.

Beyond the mediation aspect of negotiation, the organisation of the parties brought to the table is equally important. The composition of the multi-party talks was determined by an election, using the d'Hondt system, held on 30 May 1996 which created a forum comprised of members of each of the main political parties. Minor parties that fell within the top ten vote receivers gained two 'top-up' seats.[1135] This allowed particular parties close to paramilitary organisations to be represented at the forum. Furthermore, the Northern Ireland Women's Coalition (NIWC) attained two seats via the top-up allocation, allowing the cross-community party to engage in the forum.

[1132] Kevin Rafter, "George Mitchell and the Role of the Peace Talks Chairman," *The Irish Review (Cork)* no. 38 (2008): 16, https://www.jstor.org/stable/29736367.

[1133] George Mitchell, *Making Peace: The Inside Story of the Making of the Good Friday Agreement* (London: Heinemann, 1999), 8.

[1134] John de Chastelain, "The Northern Ireland Peace Process and the Impact of Decommissioning," *IBIS Working Papers in British-Irish Studies* 8 (2001): 3, https://www.ucd.ie/ibis/filestore/wp2001/08_chast.pdf.

[1135] Paul O'Doherty, "The d'Hondt and Hare/Niemeyer Methods and the Northern Ireland Election of 30 May 1996," *Political Studies* 46, no. 2 (1998): 329-330, doi: 10.1111/1467-9248.00143.

Their platform was to represent those disproportionately affected by violence.[1136] The inclusion of the NIWC increased not only the make-up of representation on the forum, but also added to the processes success.

According to Maria O'Reilly, empirical evidence from the past eight decades indicates "peacemaking efforts often succeed in the short-term only to fail in the quest for long-term peace".[1137] Yet when women participate in the negotiating process "an agreement is 35 percent more likely to last at least 15 years".[1138] O'Reilly also notes that:

> Negotiators involved in peace processes in Northern Ireland . . . report that, even when female participants initially met with hostility from their male counterparts, they ultimately developed a reputation for building trust, engaging all sides, and fostering dialogue in otherwise acrimonious settings.[1139]

Examples of hostility included interruptions, heckling, and Ian Paisley Jr. 'mooing'. Yet despite the efforts of some, the inclusion of women arguably contributed to much of the language surrounding victimhood and reconciliation, which was not voiced by the main negotiating parties.[1140]

A central principle of just peace requires the acknowledgment of "responsibility for conflict and injustice and [the seeking of] repentance and forgiveness".[1141] The Agreement began with a "Declaration of Support", which immediately located the context of the document within the violence of the Troubles as a "deep and profoundly regrettable legacy of suffering".[1142] As a result of the past, the Agreement affirmed the "total and absolute commitment to exclusively democratic and peaceful means of resolving differences of political issues" and the "opposition to any use or threat of force by others for political purposes".[1143]

The Agreement acknowledged the best way of honouring the dead and injured was for a commitment by the involved parties to achieve

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[1136] Fenton, *The Good Friday Agreement*, 67.
[1137] Maria O'Reilly, "Inclusive Security and Peaceful Societies: Exploring the Evidence," *PRISM* 6, no. 1 (2016): 21, https://www.jstor.org/stable/26470429. (20-33).
[1138] Ibid, 24.
[1139] Ibid.
[1140] Ibid, 26.
[1141] Geyer and Shriver, "Acknowledge Responsibility for Conflict and Injustice and Seek Repentance and Forgiveness," in Stassen, ed., *Just Peacemaking*, new ed., 98.
[1142] The Northern Ireland Peace Agreement, Declaration of Support, ¶2.
[1143] Ibid, ¶4.

a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.[1144]

The essence of the document is not to reprimand, but to heal division across communities. This is explicit in the assertions that the victims of violence must receive the provision of services required for healing, such as funding for community-based support programmes.[1145] The Agreement notes:

An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education and mixed housing.[1146]

The programme of reconciliation required by the Agreement seeks not just to prevent violence among communities but to also reach a point of cross-community forgiveness. This became visible through the introduction of mechanisms by which prisoners from paramilitary organisations abiding by the Agreement's ceasefire may receive an "accelerated programme" for release and the provision of support for the re-entry of these prisoners into society, including re-training and further education.[1147]

As a means of facilitating peace, the document treated various historic and systemic abuses with certain care. For example, the RUC in Northern Ireland, known for its discriminatory and aggressive behaviour in relation to Catholic communities, was recommended for reconstitution. The Agreement proposed an independent commission to be gathered that would recommend ways in which the police force may be improved.[1148] Like the forum which created the Agreement, the independent commission would be "broadly representative" with expert and international representation.[1149]

Beyond changes to the police, additional measures were put forward, such as the re-evaluation of security arrangements to what is defined as normal levels. This includes a reduction in Armed Forces deployed in the North, as well as their role.[1150]

[1144] Ibid, ¶2.
[1145] The Northern Ireland Peace Agreement, Rights, Safeguards and Equality of Opportunity, ¶11-12.
[1146] Ibid, ¶13.
[1147] The Northern Ireland Peace Agreement, Prisoners, ¶1-2, 5.
[1148] The Northern Ireland Peace Agreement, Policing and Justice, ¶3.
[1149] Ibid, ¶3.
[1150] The Northern Ireland Peace Agreement, Security, ¶2.

Against the backdrop of security changes, the Agreement also called for the guarantee of human rights. These included the right of "free political thought", right of "freedom and expression of religion", right to "freedom from sectarian harassment", and "the right of women to full and equal political participation", among others.[1151] These rights were intended to move the communities beyond the sectarian discrimination and violence which plagued the North during the Troubles. The establishment of a "Northern Ireland Human Rights Commission" for the promotion and oversight of human rights in the region was seen as a positive expression in the Agreement. Yet for human rights to prevail fully, the justice system required systematic changes including police reform, as noted above.[1152] Within this effort to enhance equality, the Agreement called for a reduction in unemployment and the elimination of "the differential in unemployment rates between the two communities".[1153] When taken together, these measures work to provide stability at the local level.

At the governmental level, the negotiations sought to establish within the Agreement a remodelled system of the Assembly and Executive with inbuilt security measures for the protection of minority groups. The Assembly was created with a total size of 108 members, elected by proportional representation.[1154] This remains an abnormally large membership for the size of the region, yet it holds the capacity of electing a more inclusive and diverse representation of the overall population. Furthermore, the large nature of the Assembly minimises the likelihood of a singular community dominance. Similarly, before Brexit, Northern Ireland held a disproportionate number of EU Parliament seats (3) as a means of continuing this inclusivity, particularly for those from nationalist backgrounds.[1155] Additionally, inbuilt mechanisms related to the governance of the Assembly's legislative powers include the implementation of the European Convention on Human Rights (ECHR) together with a

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[1151] The Northern Ireland Peace Agreement, Rights, Safeguards and Equality of Opportunity, ¶1.
[1152] Ibid, ¶5.
[1153] The Northern Ireland Peace Agreement, Economic, Social and Cultural Issues, ¶2.
[1154] The Northern Ireland Peace Agreement, Strand One, ¶2.
[1155] Jonathan Stevenson, "Peace in Northern Ireland: Why Now?" *Foreign Policy* no. 112 (1998): 47, https://www.jstor.org/stable/1149034.

Human Rights Commission.[1156] Any legislation found to be in breach of the ECHR by the courts is rendered "null and void".[1157]

In the Assembly, the Agreement introduced two distinct processes for voting. Either a "parallel consent" (simple majority) or "weighted majority" of 60% that includes 40% of each community represented by nationalist and unionist designations.[1158] This mechanism is used for the election of the Chair of the Assembly, First Minister and Deputy First Minister, standing orders, and budget allocations. The Agreement also outlines:

> In other cases such decisions could be triggered by a petition of concern brought by a significant minority of Assembly members (30/108).[1159]

This mechanism prevents any majority from passing legislation in breach of the minority community's consent. Registration for cross-community votes are on the basis of declarations by MLAs as nationalist, unionist, or other.[1160]

In terms of the Northern Ireland Executive, additional safeguards on power have been implemented by the Agreement. The First Minister and Deputy First Minister are jointly elected by a cross-community vote within the Assembly.[1161] The positions are as equals, different in name only, and are assigned based on the d'Hondt system of the make-up of the Assembly.[1162] Ministers of the Executive are also divided among the parties via the d'Hondt system.[1163] Impeachment of these offices are only possible on a cross-community basis.[1164]

A significant concession in the process around identity was the "Pledge of Office" rather than an oath of loyalty to the state or monarch.[1165] This provides nationalists

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[1156] The Northern Ireland Peace Agreement, Strand One, ¶5b.

[1157] Ibid, ¶26a.

[1158] Ibid, ¶5d.

[1159] Ibid, ¶5e.

[1160] Ibid, ¶6.

[1161] Ibid, ¶15.; Brendan O'Leary, "The Nature of the Agreement," in *The Northern Ireland Conflict: Consociational Engagements*, eds. John McGarry and Brendan O'Leary (Oxford: Oxford University Press, 2004), 263-265.

[1162] Since 2009, Sinn Fein has used the terms Joint First Minister and Co-First Minister when speaking of the Deputy First Minister position to highlight the equality of the positions under cross-community provisions. See: Karl Kössler, "Beyond Majoritarian Autonomy? Legislative and Executive Power-Sharing in European Regions," in *Law Territory and Conflict Resolution: Law as a Problem and Law as a Solution*, eds. Matteo Nicolini, et al. (Boston: Brill Nijhoff, 2016), 58, note 74.

[1163] The Northern Ireland Peace Agreement, Strand One, ¶16.; Strand One, ¶5a.

[1164] Ibid, ¶25.

[1165] Ibid, ¶23.

elected to government to take their position without a conflict of identity, which corresponds to the recognition of Irish birth:

> recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.[1166]

The Pledge allows each community to preserve their respective identity by a lack of "compulsory integration", yet it also enables the cultivation of a localised identity for Northern Ireland which moves beyond the community divide and historical sectarianism related to the union in the North.[1167] The Pledge of Office includes the statement: "commitment to non-violence and exclusively peaceful and democratic means".[1168]

Exclusively peaceful and democratic means conceive of a Northern Ireland without armed paramilitaries. After George Mitchell rejected John Major's calls for republican decommissioning to be a prerequisite for talks, the burden of decommissioning fell to the negotiated Agreement. A mandate was placed within the Agreement for all parties

> to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement.[1169]

This aspect of the Agreement was ultimately monitored by The Independent International Commission on Decommissioning, led by Canadian General John de Chastelain, as a neutral adjudicator between the paramilitary organisations regarding weaponry.[1170] De Chastelain's work ensured the eventual decommissioning of paramilitary weapons, despite certain hiccups along the way.

[1166] United Kingdom and Republic of Ireland, Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland, Dublin, 8 March 1999, Art. 1, https://www.dfa.ie/media/dfa/alldfawebsitemedia/treatyseries/uploads/documents/treaties/docs/200027.pdf.
[1167] O'Leary, "The Nature of the Agreement," 270-271.
[1168] The Northern Ireland Peace Agreement, Strand One, Annex A, a.
[1169] The Northern Ireland Peace Agreement, Decommissioning, ¶3.
[1170] Ibid, ¶3-4.

The implementation of the decommissioning aspect of the Agreement may also be viewed as a point of good faith between the negotiating parties. Paramilitaries could accept agreements to disarm without fearing them as a ruse, a move by the British and Irish Governments to deescalate the conflict without upholding the aforementioned reconciliation and security measures. Decommissioning without certain guarantees could also open one side to vulnerability at the hands of the other. The drafters of the Agreement exercised great pragmatism in understanding that perceptions of justice by all sides requires certain flexibility and trust. The negotiation-period ceasefire was an exhibition of trust by the conflicting parties as a means of beginning negotiations. The implementation of state responsibilities under the Agreement by the British and Irish Governments was a similar demonstration of trust that the decommissioning expected of paramilitaries would take place. Both instances represent an integral feature of just peacemaking in achieving a successful outcome. Furthermore, the independence of the decommissioning enabled both sides to end the conflict as equals, negating the victor/victim ethos of surrender and further minimising the chance of a reconstitution of violence by a self-perceived victim.

11.3: Just Peacemaking Coercion in Northern Ireland

The peace process in Northern Ireland achieved a significant victory in the achievement of the Agreement. While the peace process continues even today, particularly in the face of the 2017-2020 collapse of the power-sharing Executive and the broad implications of Brexit, the 1998 Agreement laid the ground work for progress in the region. Part of the continued peace process remains the use of just peacemaking visions of coercion as a means of enabling positive changes.

Normative power of just peacemaking has curated a movement away from the use of violent force in terrorism and toward a political means of overcoming disagreement through the Agreement. The inclusion of human rights in the Agreement, such as "free political thought" and the "freedom and expression of religion", are explicit normative means of influencing behaviour.[1171] Similarly, the adoption of the European

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[1171] The Northern Ireland Peace Agreement, Rights, Safeguards and Equality of Opportunity, ¶1.

Convention on Human Rights, which cannot be infringed upon, identifies a basic level of guaranteed protections which seek to provide redress for the violations of the past.

The development of a common European citizenship beginning with the 1992 Maastricht Treaty provided a platform for the peace process, insofar as the freedom of movement undermined certain separationist arguments of nationalists.[1172] With a common citizenship, nationalists could, if they wished, work and live in the Republic. Similarly, the inclusion of self-determination provisions in the Agreement for Northern Irish citizens as British, Irish, or both aided in strengthening the protection of the nationalist identity and the movement away from certain violent behaviours. Likewise, the implementation of the 1987 EEC regulations on customs declarations and subsequent creation of the Single Market erased obstacles to cross-border trade and enabled a solidification of identity via economic activity on the island.[1173] How these elements will develop following Brexit remains to be seen.

These normative adoptions were additionally backed by efforts of market power distributed by both the European Union and Britain. From 1991-1999, the EU pledged the equivalent to $500 million for cross-border initiatives through the INTERREG and PEACE I programmes.[1174] North-South economic investment was envisioned as possessing possible 'spill over' effects to other areas of cross-border development beyond economics.[1175] Similarly, the British Chancellor of the Exchequer, Gordon Brown, announced a £315 million programme for economic development during the week leading to the North-South concurrent referendums on the Agreement.[1176] Brown did not tie the economic incentive to the passage of the Agreement, however, he noted the

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[1172] European Communities, *Treaty on European Union*, 17.

[1173] Katy Howard and Mary C. Murphy, "The EU's Influence on the Peace Process and Agreement in Northern Ireland in Light of Brexit," in *Beyond the Good Friday Agreement: In the Midst of Brexit*, ed. Etain Tannam (London: Routledge, 2019), 57.

[1174] Stevenson, "Peace in Northern Ireland," 44.; Elizabeth Meehan, "'Britain's Irish Question: Britain's European Question?' British-Irish Relations in the Context of European Union and the Belfast Agreement," *Review of International Studies* 26, no. 1 (2000): 92, https://www.jstor.org/stable/20097657.; European Parliament, "Northern Ireland PEACE Programme," *European Parliament*, last modified February 2020, https://www.europarl.europa.eu/ftu/pdf/en/FTU_3.1.9.pdf.

[1175] Meehan, "Britain's Irish Question: Britain's European Question?" 93.

[1176] Bill McSweeny, "Identity, Interest and the Good Friday Agreement," *Irish Studies in International Affairs* 9 (1999): 99, https://www.jstor.org/stable/30001878.

investment was deliberately envisioned as a continuance of the peace process: "Having created a framework for peace, we can now create a framework for prosperity".[1177]

The above instances of normative and market power by the British and the European Union showcase the manner by which just peacemaking can offer coercion when dealing with a conflict. The use of these tactics in this case was not designed to initiate a peace settlement *per se*, but rather to enhance the peace process as a whole. The functionality of certain Agreement measures, and the normative benefits attached to them, were enabled by EU and British economic investment in initiatives which motivated cross-community participation. The implementation of special provisions for Northern Ireland following Brexit showcase the way in which Northern Irish peace remains a normative and market effort within EU-British relations.

Concluding Remarks

This chapter has sought to explore a successful example of the just peace paradigm in the context of Northern Ireland. The chapter began by outlining the historic nature of the Troubles, with reference to systematic conflicts dating to the era of James I of England. The emergence of Northern Ireland and its artificial Catholic minority, described in such terms due to the questionable nature of the border creation, led to the further curtailing of social and political rights. The outbreak of the Troubles along ethnonationalist divisions and the violence which ensued for three decades details a conflict which damaged the fabric of Northern Irish society. The eventual emergence of the Agreement, reached among state and paramilitary representatives, was only possible due to the human-centric nature of the negotiation. The success of establishing the Agreement was in large part due to the emphasis on reconciliation, the mandate of cross-community governance, and the democratic nature of the delegate selection and implementation of the settlement.

The success found in this example, particularly in light of the failure described in the previous chapter, demonstrates two major implications for the future of just peacemaking: a recognition of the damage of national interests and the necessity for elders in the peace process. In terms of national interest, the visible shift in Britain's own

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[1177] Ibid, 99.

interests across the Troubles aided in the eventual negotiation of a peace settlement. British neutrality transformed from a negative, hands-off style approach during the mid-century to a militaristic presence from 1972, yet came to settle as a positive, neutral-broker by the 1990s as indicated by then-Secretary of State for Northern Ireland Peter Brooke. This shifting position came to rest in such a way that the human-centric negotiations could prevail without state interests interfering in the process.

This contrasts dramatically from the Libyan case described in the previous chapter. In the beginning, the just peacemaking practices were visible in the international response to the Libyan Crisis. International referrals to the International Criminal Court, the establishment of two resolutions enacting economic sanctions on leading members of the regime, statements of self-determination, the desire for a negotiated settlement, and the creation of safe spaces via no-fly zones indicate a hands-on approach by state actors. In the beginning, there were genuine indications that the United States and other nations would act as honest brokers in the conflict. However, the NATO campaign which formed to implement the Security Council resolutions quickly undermined the legitimacy of the international effort, as NATO forces began bombing Gaddafi's army in a clear indication of siding with the rebellion. The dismissal by NATO leadership of any potential negotiation to be acquired by the African Union, undermined the possibility of a peaceful settlement between Gaddafi and the NTC. The consequence of the failure to broker negotiations became clear when the NTC took power, NATO concluded their mission, and the new Libyan government failed to create order. The rise of ISIS and the increase of weapons proliferation add to the deficiency of the international response. The French, US, and UK interest in executing a regime change, coupled with the issued proclamations of narrow legitimacy, ultimately led to the destabilisation of the international response.

The presence of elders within a peace process can aid in overcoming the drive of national interest discussed above. Although not a community elder, George Mitchell enabled the existence of peace talks which led to the 1998 Agreement. His rebuke of John Major's demand for the decommissioning of nationalist weapons as a prerequisite of peace talks, which encapsulates a conferral of unitary justice in favour of unionists despite the existence of armed loyalist paramilitaries who were not called upon to demilitarise for talks, allowed for the inclusion of IRA representation in the political

negotiations and added a representative legitimacy to the future dialogue. Had Mitchell failed to reject this assertion, Sinn Féin would have been excluded from the peace process and the IRA would not have accepted a political means of conflict dispute. Similarly, elders played an important role within individual communities of the conflict, such as Alec Reid in the dialogue between Gerry Adams and John Hume.[1178]

Libya, on the other hand, did not possess an elder to aid in combatting the advancement of national interest by the US and NATO. The African Union sought to play a mediating role between Gaddafi and the NTC, however, these talks never materialised as Jacob Zuma and the AU remained incapable of breaching the monopoly of justice bestowed by the United States and France. To be a successful elder, an individual or group must possess the ear of the people. In Libya, unlike Northern Ireland, this remained unrealised.

This chapter has sought to demonstrate an example of the successful implementation of just peacemaking practices. The success of peacebuilding in Northern Ireland remains astutely tied to cross-community engagement and the institution of human rights previously denied to one side. The elders present in the peace process underwent an enormous effort to reach a settlement in the Belfast/Good Friday Agreement. While the Agreement did not end the peace process, as progress remains ongoing, the negotiated settlement utilised just peacemaking practices as a means of ceasing the conflict and codified these successful measures into law. This case marks a distinct contrast to the failed implementation of just peace practices within the 2011 Libyan Crisis. In this light, the next chapter will seek to show a pre- and post-war hypothetical analysis of the Iraq case if conducted under a just peacemaking framework which incorporates the practices and coercive tactics of the paradigm.

[1178] Scull, *The Catholic Church and the Northern Ireland Troubles*, 173-174.

Chapter Twelve

Iraq Revisited

Introduction

As the previous chapters have shown, just peacemaking practices have offered an aid in the resolution of conflict in the modern era. The case of Libya showcases the difficulties faced by just peace in surmounting the dominating presence of just war. The international response to Libya began by exercising the practices of just peacemaking, but was overcome with just war logic which promoted the national interests of NATO leadership. Contrastingly, Northern Ireland offers an example of a successful implementation of just peace practices and coercion, having been aided by pragmatic elders in rejecting just war grammar of unitary possession of justice which had plagued previous attempts at peace.

In contrast to efforts of just peacemaking, the Iraq debate of 2002-2003 and the subsequent invasion showcase the failures of the just war tradition as the sole basis for international moral wisdom on the use of force. As shown in Part Two, the arguments presented within the Iraq debate highlight a duality within modern just war which may prevent the mitigation of violence, particularly in such cases when one side envisions war as a tool of justice and the other seeks an exhausted last-ness before the use of force. In this light, Chapter Twelve seeks to discuss supplementary approaches which could have been taken within the Iraq context under the just peacemaking paradigm. This discussion occurs across two sections.

Section one will argue that a human rights investigation may have been beneficial in the Security Council debate. The Bush Administration and its allies contended that human rights abuses by the Iraqi regime were a part of their desire to intervene in the country. These accusations were not utilised by oppositional voices, who instead focused their attention on refuting the allegations of weapons of mass destruction.

Section two will discuss the failures of the Administration in post-war reconstruction. This will involve the de-Baathification and de-militarisation processes and the desire to install an interim government by the Coalition Provisional Authority.

The view of this study is that, due to the failures of the opposition to prevent the Iraq invasion via their use of just war grammar, there remained a necessity to implement just peacemaking practices in the aftermath of violence. However, the CPA failed to implement these procedures until after their *ius post bellum* policies failed. Section Two will discuss the failures of the aforementioned policies and the transition to just peacemaking practices.

The discussions which follow cannot guarantee that the just peace approaches proposed would have certainly prevented acts of violence, nor can these discussions guarantee that the approaches would have been successful in hindsight. Rather, this chapter will discuss just peacemaking practices and coercion that were overlooked, underused, or inadequately implemented before and after the invasion.

12.1: Pre-Conflict Just Peacemaking in Iraq

This section seeks to discuss the failure of the international community to respond to the United States' perceptions on war with an alternative proposal that might have combated the US moral discourse. The international community did not heed the Bush Administration's sincerity in its desire to militarily act against Saddam Hussein, nor did it understand the historical mythos underscoring US mentalities on the use of force. This section will suggest a just peacemaking pathway that could have been implemented at the international level.

Prior to the Iraq invasion, the Bush Administration openly expressed their desire to implement a military solution to the perceived problem of Saddam Hussein. Both President Bush and Vice President Cheney demonstrated their desire of regime change, including the vocalisation by Bush that regime change was government policy.[1179] Bush's articulation to the United Nations in September 2002 exposed the dangers of Iraq as perceived by the Administration, while November 2002 discussions with NATO leaders about the engagement of the bloc in an exercise of force demonstrated the Administration's sincerity in mobilising support for a military solution. Additionally, a clear representation of the American moral perspective on the use of force can be found within the declaration of Iraq as one of three members of the 'axis of evil'. These

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[1179] Louis Fisher, "Deciding on War against Iraq: Institutional Failures," *Political Science Quarterly* 118, no. 3 (2003): 392-393, https://www.jstor.org/stable/30035781.

statements represent a fraction of the available examples which identified the Administration's desire to militarily act against Saddam Hussein's regime.

Hindsight to these indicators is of course 20-20. However, the millennialist origins of the American mythos presents a context for the contemporary sense of self in the United States. Understanding this historical ancestry may have enlightened the international community to the internalisation of war in the US which remains on one hand, a providential intervention in human affairs, while on the other hand, a tool of the state. Under the leadership of President Bush, who possesses strong Evangelical beliefs, and the neoconservatives, a persuasion which aligns to dimensions of apocalyptic perceptions in a context of American exceptionalism, there exists a strong contextual basis to assume a certain measure of importance relative to the Administration's expressed millennialist dichotomies and overarching focus on democracy promotion in the Middle East grounded in the American ideal.

The failure by the European opposition to understand the US perspective *in American shoes* not only accentuates the transatlantic divide in this area, but also is indicative of the invasive result following the Iraq debate. As noted in Part Two, European states generally perceive the use of force from within a context of victimhood as derived from the historical narratives of confessional and nationalist wars on the continent. These victim narratives have led to the development of a legal-based, economically-driven, integrationist practice for avoiding war, highlighting a strong presumption against the use of force when alternatives to violence are possible. On Iraq, the European opposition remained committed to an international alignment with European sensibilities on violence. Had the opposition understood the contextual influences within the Bush Administration, such as the American mythos and historical self-exceptionalism, the focus of these European states may not have been on refuting US justifications for war outright. Arguments insisting that the invasion of Iraq was "unjust" and "illegal" did not dissuade the Bush Administration from invading.[1180]

Additionally, when confronted by the Administration's accusations that the inspections regime was failing in the face of Iraqi refusals to cooperate, the threat of vetoing further resolutions on the matter by France, Russia, and China might be

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[1180] Feuerherd, "Papal Envoy, President Dialogue and Disagree".; Laghi, "Statement of Cardinal Pio Laghi, Special Envoy of John Paul II to President George Bush."

considered confrontational.[1181] These members should have provided alternatives which answered US concerns, rather than outright refusals. Opting only to deny justifications favouring war, rather than present further alternatives which might deny the Bush Administration a moral standing, worked only to incite the United States to unilateral action.

As Glen Stassen notes: "To just argue No to a war, without providing a clear alternative, is a sure way to lose the national debate."[1182] This argument on the national debate can be extended to the international community. By arguing that the war was not justified based on US interpretations of just war grammar, oppositional forces failed to provide an alternative course of action. The inspections regime enacted by the Security Council in resolution 1441 was a positive, non-violent alternative for dealing with the accusation of WMD.[1183] However, it did not rebuke the moral discourse in the United States on a whole. The Bush Administration was able to continue to argue a moral imperative to protect US citizens and allies as a just cause for invasion. This was only empowered by accusations that the inspections were not succeeding.

While the inspections regime worked to answer the accusations of weapons possession and their inherent dangers as expressed by the United States, resolution 1441 failed to answer the other alleged crimes of Iraq. The US moral discourse surrounded further millennialist visions of warfare: the spreading of democracy and freedom which mirrored early republicanism in America and the necessity to end Iraq's systemic human rights abuses before they spread abroad. These arguments were not answered by the Security Council. Therefore, the Bush Administration continued to pressure in favour of military action. While the case of WMD in Iraq was the most vocal justification expressed by the US, the accompanying emphasis on the past actions and the future potential for danger worked to keep the Administration's moral arguments afloat.

Had the Security Council pressed the necessity of human rights inspections, supported by just peacemaking practices, the enaction of violence may have taken a

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[1181] Michael J. Glennon, "Why the Security Council Failed," *Foreign Affairs* 82, no. 3 (2003): 23, https://www.jstor.org/stable/20033576.

[1182] Glen H. Stassen, "'Yes' to Just Peacemaking: Not Just 'No' to War," *Church & Society* 96, no. 2 (2005): 65.

[1183] UNSC Res 1441, 3-5.

different course. Just peacemaking practices contend that an important aspect of justice is the advancement of human rights.[1184] Twice since the Iraq invasion have the Security Council referred cases of alleged human rights abuses to the International Criminal Court: the situation in Darfur in 2005 and the Libyan government in 2011.[1185] While the 2002 *National Security Strategy* made clear that the Bush Administration objected to the involvement of the International Criminal Court in American affairs, alternative investigative bodies could have been drafted.[1186] An *ad hoc* investigation could have been implemented by the Security Council in Iraq to explore allegations of human rights abuses by the United States. Recent history has demonstrated the US support for *ad hoc* tribunals and special courts for the investigation and prosecution of human rights abuses.[1187] The Security Council could have answered the Administration's calls for regime change through an international investigation if such an investigation arrived at the conclusion that the alleged atrocities had occurred. This would have required the US to delay any military response while the investigation and weapons inspections were ongoing. And, if the US declared the investigation to be failing, as was the case in regard to the weapons inspections, the Security Council would then possess the moral high-ground and could undercut the Administration's domestic and international moral authority. This might have worked to sway certain coalition partners, such as the United Kingdom, against the US war-making pursuits.

The Bush Administration, as well as allies in Britain, contended the existence of circumstances in which the Iraqi regime had committed human rights crimes against its own population. President Bush noted:

> Tens of thousands of political opponents and ordinary citizens have been subjected to arbitrary arrest and imprisonment, summary execution, and torture by beating and burning, electric shock, starvation, mutilation, and rape. Wives are torture in front of their husbands, children in the presence of their parents— and all of these horrors concealed from the world by the apparatus of a totalitarian state.[1188]

[1184] Bruce Russett, "Advance Democracy, Human Rights, and Interdependence," in Stassen, ed., *Just Peacemaking*, 116-131.

[1185] UNSC Res 1593, UNSCOR, UN Doc S/Res/1593(2005), 5 June 2005, https://undocs.org/en/S/RES/1593(2005).; UNSC Res 1970 (2011).

[1186] Bush, *National Security Strategy of the United States of America*, 31.

[1187] UNSC Res 827, UNSCOR, UN Doc S/Res/827(1993), 25 May 1993, https://undocs.org/en/S/RES/827(1993).; UNSC Res 995, UNSCOR, UN Doc S/Res/995(1994), 8 November 1994, https://undocs.org/en/S/res/955(1994).

[1188] Bush, "President's Remarks at the United Nations General Assembly."

These claims were later concurred with by British Prime Minister Tony Blair, who accused Iraq of torturing, imprisoning, and executing tens of thousands "every year" in a speech before the House of Commons.[1189] President Bush asserted that Iraq had used "dangerous weapons" on "whole villages—leaving thousands . . . dead, blind, or disfigured".[1190] He argued that the United States would remove Saddam Hussein and asserted to Iraqis that it would be "the day of your liberation".[1191]

According to Human Rights Watch (HRW), Saddam Hussein's government had committed a "genocidal campaign" using chemical weapons against Iraqi Kurds in 1988 which resulted in the death of over 100,000 Iraqis.[1192] HRW also alleges that since 1979 between "250,000-290,000" Iraqis from Kurdish and Shi'a backgrounds have disappeared as part of a systematic campaign.[1193] In December 2002, HRW called for the establishment of an impartial and independent tribunal to investigate and adjudicate accusations of human rights abuses and crimes against humanity perpetrated by the regime.[1194] Given the reporting by Human Rights Watch, there existed at the time a strong presumption necessary for opening a humanitarian investigation.

The World Council of Churches contends that the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) places "an obligation on the member states to prevent and to punish genocidal actions as a crime under international law".[1195] Accusations by Human Rights Watch and the United States may have held a greater legal weight in the overarching debate than accusations of unknowable future dangers from a rogue state. While the actual acts committed by the Iraqi regime may not have constituted genocide *per se*, the weight of accusations of crimes against humanity, as asserted by HRW, may have successfully ignited an investigation if pressed by Member

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[1189] United Kingdom, House of Commons. Debate, 25 February 2003, vol 400 §§125-126.

[1190] Bush, "President Delivers 'State of the Union'."

[1191] Ibid.

[1192] Human Rights Watch, "Justice for Iraq: A Human Rights Watch Policy Paper," *Human Rights Watch*, December 2002, https://www.hrw.org/legacy/backgrounder/mena/iraq1217bg.htm.

[1193] Ibid.

[1194] Ibid.

[1195] World Council of Churches, *Just Peace Companion*, 98.; UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, A/RES/260, available at: https://www.ohchr.org/en/professionalinterest/pages/crimeofgenocide.aspx.

States. Thus, the Administration's own humanitarian assertions might have been used by Member States of the Council to delay US military action.

Of course, there is no way to know if the above addition of a human rights investigation would have avoided the outbreak of war. There is the possibility that the United States would have denied the implementation of human rights investigations. However, this would have undercut their own stated moral compass. There is also the possibility that having discovered human rights abuses, the United States would have immediately invaded unilaterally to affect regime change. However, had an investigation been conducted and war crimes unearthed, the Security Council could have taken a leading role in the management of the international response, rather than failing to prevent a US-led invasion which was ill-designed and ill-executed.[1196] If anything, the extensive humanitarian planning conducted by the Office of Reconstruction and Humanitarian Affairs within the US Defence Department, of which the degree of necessity turned out to be less than expected, demonstrates at minimum a basis for the Security Council to have pressed for a humanitarian approach.[1197]

The above represents a hypothetical scenario of just peacemaking. The inclusion of human rights investigations can be considered a just peace coercion response as outlined in Chapter Nine for the judicial protection and advancement of human rights.[1198] As the Security Council deliberations amount to "an expression of the state-based understanding of international order", an international investigation represents the necessary coercion with which the US mentalities of punitive justice required.[1199] The United States had maintained that the more-than decade defiance by Iraq justly necessitated a military response as economic sanctions failed to alter the regime's behaviour.[1200] In a way, this American argument denounces the just peacemaking pillar of normative and market coercion. However, as outlined in Chapter Nine, just peacemaking offers additional tactics of coercion which introduce the use of

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[1196] For commentary on the US approach, see: James Dobbins, "Who Lost Iraq? Lessons from the Debacle," *Foreign Affairs* 86, no. 5 (2007): 61-74, https://www.jstor.org/stable/20032434.; Cf. Stephen Benedict Dyson, "What Really Happened in Planning for Postwar Iraq?," *Political Science Quarterly* 128, no. 3 (2013): 455-488, doi: 10.1002/polq.12073.

[1197] Andrew Rathmell, "Planning Post-Conflict Reconstruction in Iraq: What Can We Learn?," *International Affairs* 81, no. 5 (2005): 1021-2023, https://www.jstor.org/stable/3569073.

[1198] Russet, "Advance Democracy, Human Rights, and Interdependence," 116-131.

[1199] World Council of Churches, *Just Peace Companion*, 106.

[1200] See Chapter Five.

investigative and prosecutorial powers. These methods have a historical record within the Security Council. The failure of the opposition to include this proposal in rebuttal to the US just war grammar signals a continued failure to recognise the limitations of just war logic on the international stage.

12.2: Post-Conflict Just Peacemaking in Iraq

This section will discuss the US-led Coalition Provisional Authority's failures in implementing a successful post-war reconstruction in Iraq and the manner through which just peacemaking practices may have assisted following the conflict. Since the just war grammar utilised by the Holy See, France and Germany failed to dissuade the use of force by the United States, who in turn utilised its own interpretation of just war thought to advocate in favour of the invasion, there remains a claim that a just war *post bellum* reconstruction is untenable. However, the CPA ultimately enacted a *post bellum* reconstruction, albeit one inspired by the American millennialist visions of a victor over the evils of tyranny, through their processes of de-Baathification, de-militarisation, and the instillation of an interim Iraqi authority.

Brian Orend contends that like war, the just war tradition should have a beginning, a middle, and an end.[1201] The historical failure of the Treaty of Versailles, with substantial concessions in territory and reparations, remains a critical example of how an unjust settlement to a conflict may lay the foundation for future actors, such as Adolf Hitler, to capitalise on and attain power.[1202] In the case of Iraq, the *post bellum* considerations expressed in the CPA exhibited an interpretation of victor responsibility for the Iraqi state. In the course of a nation's reconstruction, *post bellum* considers the possible necessity for demilitarisation and political rehabilitation as a feature to be imposed by the rebuilding force.[1203] The US-led CPA actuated this proposal by initiating their de-militarisation and de-Baathification projects.

The CPA instituted processes of discriminate rehabilitation of the civil service on 16 May 2003, under CPA Order Number 1, "De-Ba'athification of Iraqi Society". The

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[1201] Brian Orend, "*Just Post Bellum*: The Perspective of a Just-War Theorist," *Leiden Journal of International Law* 20, no. 3 (2007): 575, doi: 10.1017/S0922156507004268.

[1202] Orend, "*Just Post Bellum*," 576.; Rebecca Johnson, "*Jus Post Bellum* and Counterinsurgency," *Journal of Military Ethics* 7, no. 3 (2008): 217, doi: 10.1080/15027570802277813.

[1203] Orend, "*Just Post Bellum*," 581.

effect was to exclude Baathist party membership from the top four levels of civil service employment and the top three levels of national government ministries.[1204] The processes were modelled after the de-Nazification of Germany following the Second World War.[1205] The policy was designed to purge negative traces of the old regime, while keeping "middle-ranking civil servants" in place for continuity.[1206] The CPA expectation for de-Baathification was for the policy to be limited to around one percent of Iraqis nationally. However, the processes were later expanded beyond discriminate 'high-office' positions to include all public services, the press, and the media following a transfer of the policy to Iraqi oversight.[1207] This disproportionately affected Sunni Iraqis, who remained tied to the former regime in the eyes of occupying forces.[1208]

De-Baathification also extended to the Iraqi military. *Post bellum* thought dictates the need for punishment to be applied only to those who led the offending regime and oversaw the administration of humanitarian crimes. These individuals should receive a fair and public trial for their crimes, for Orend contends any failure to punish perpetrators "degrades and disrespects the worth, status, and suffering of the victim".[1209] The movement by the US-led CPA to dismantle the Iraqi armed forces in some way adheres to this principle by disassembling a former conduit of the Baathist regime. However, the de-militarisation of the army failed to discriminate between the punishment of leadership and the average Iraqi soldier. Some 400,000 soldiers lost their jobs in one CPA decision.[1210]

The issue underscoring the US policies above remained the influence of underlying moral discourse. The US emphasised itself as a liberator—a harbinger of democracy and freedom which would flourish across the Middle East. President Bush would contextualise the US victory over Iraq relative to the defeat of Nazi Germany in

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[1204] James Dobbins, et al., *Occupying Iraq: A History of the Coalition Provisional Authority* (Santa Monica, CA: RAND Corporation, 2009), 112.

[1205] Ibid, 113.

[1206] Orend, "*Just Post Bellum*," 584.

[1207] Dobbins, et al., *Occupying Iraq*, 116-118.

[1208] Ahmed S. Hashim, *Iraq's Sunni Insurgency* (London: Routledge, 2009), 14-15.

[1209] Orend, "*Just Post Bellum*," 580.

[1210] Orend, "*Just Post Bellum*," 584.; Larry Diamond, "What Went Wrong in Iraq," *Foreign Affairs* 83, no. 5 (2004): 43-44, https://www.jstor.org/stable/20034066.; Coalition Provisional Authority, "Coalition Provisional Authority Order Number 2, May 23, 2003," quoted in *The Iraq Papers*, eds. John Ehrenberg, et al. (Oxford: Oxford University Press, 2010), 186-188.

the Second World War.[1211] The Bush Administration believed that it would be welcomed with open arms.[1212] However, the policies implemented by the US-led CPA demonstrated how these millennialist sentiments converged in reconstruction.

The De-Baathification policy enacted by the CPA was modelled in part on the Allied response to Nazi Germany.[1213] The effort was to remove the stains of evil from the German state following their defeat. In the German case, two patterns unfolded: a re-education by education and a re-education by propaganda. For example, the French occupation zone of Germany focused on cultural re-education, particularly in removing any elements of fanaticism among younger generations.[1214] French officials examined already established German teachers via a "denazification commission" and worked to reinstate those who were deemed suitable under the assertion that:

> It is undeniable that all Germany was nazified and that the fact that a German belonged or did not belong to the Party does not indicate automatically whether he should be condemned or whitewashed.[1215]

This is an assumption that the CPA did not apply to the Iraqi military in 2003.

Existing among the framers of the French re-education project was a central belief that working through German teachers, rather than French officials, to apply education reforms would be their method of success.[1216] French education officials oversaw the administration of education, but relied on the German teaching corps to reach the students through a programme of communal culture, whereby French and other European art and literature would work to expand education beyond the autonomous nature of Nazism.[1217] The French re-education programme was envisioned

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[1211] George W. Bush, "President Bush Announces Major Combat Operations in Iraq Have Ended," *The White House*, 1 May 2003, https://georgewbush-whitehouse.archives.gov/news/releases/2003/05/20030501-15.html.

[1212] Ibid.; Eric Stover, et al., "Bremer's Gordian Knot: Transitional Justice and the US Occupation of Iraq," *Human Rights Quarterly* 27, no. 3 (2005): 831, https://www.jstor.org/stable/20069812.

[1213] Dobbins, et al., *Occupying Iraq*, 113.

[1214] Percy W. Bidwell, "Emphasis on Culture in the French Zone," *Foreign Affairs* 27, no. 1 (1984): 78, https://www.jstor.org/stable/20030164.; Depictions of fanaticism among younger generations in the Hitler Youth have been visualised in the recent film *JoJo Rabbit*, where the title character possesses an imaginary friend in the form of Hitler. Throughout the film, the blind loyalty toward Nazism displayed in children, many of whom had only ever lived under Nazi Germany, could be seen in graphic detail, especially in the suicide bombing by children. Though a satirical film, the overarching narrative of youthful fanaticism in Germany was eloquently shown. See: *JoJo Rabbit*, directed by Taika Waititi (8 September 2019, Los Angeles: Fox Searchlight Pictures, 2019), film.

[1215] Bidwell, "Emphasis on Culture in the French Zone," 79.

[1216] Ibid, 80.

[1217] Ibid, 81.

as a twenty- to thirty-year project, rather than a quick fix.[1218] This remains in contrast to American visions of re-education.

The United States envisioned a programme of re-education in Germany which relied on rebuilding political parties and utilising radio and press propaganda to amass swifter results since these channels encompassed a wider audience.[1219] The American re-education programme for the German youth sought to reintroduce traditional parental roles into the core of the family. Under Nazi rule, these roles had been usurped by organisations like the Hitler Youth.[1220] Here, children were taught to trust the state, rather than their own parents. American authorities, however, sought to fill the club mentalities once occupied by the Hitler Youth and other organisations for children with community and church-based groups.[1221] The processes held by the United States following the Second World War sought a rapid nullification of Nazism, rather than a broadening of understanding as sought in the French zone.

In modelling de-Baathification on de-Nazification, the CPA compared two similar, albeit very different entities. The Nazi party inhabited the dangers of western nationalist sentiments, producing violence across the continent which included the horrors of the Holocaust. The Baathists, while engaging in alleged human rights abuses, never reached the level of human suffering that the Nazis produced. Carrying out similar policies like rapid demilitarisation emphasised a millennialist interpretation of triumph over evil, rather than a discriminate use of victor's rights to affect positive change in society. The necessity of purging the Baathists connects to millennialist preoccupations with the punishment of evil, whereby the American assertions that Saddam Hussein was evil itself extends across the civil and military landscape through general association via the political party he previously dominated. A project focusing on re-education could have prevented a broad 'purging of evil' discourse which might have enabled the fostering of a more inclusive reconciliation effort between a formerly oppressive minority and the Iraqi majority.

[1218] Ibid, 84-85.

[1219] Ibid, 85.

[1220] Karl-Heinz Fuessl and Gregory Paul Wegner, "Education under Radical Change: Education Policy and the Youth Program of the United States in Postwar Germany," *History of Education Quarterly* 36, no. 1 (1996): 5-6, https://www.jstor.org/stable/369298.

[1221] Ibid, 17-18.

Additionally, in modelling the CPA response to the Baathist party on the American practices against Nazi Germany, the United States failed to appreciate the long-term outlook as per the French. Instead, the CPA approach was to seek quick fixes, rather than those which would require a long-term commitment. The removal of some 400,000 members of the Iraqi military spoke to this 'quick fix' model: simply remove an infected limb, rather than treat the disease. The process was non-discriminatory and was led by the American assumption that Iraq could be rebuilt absent of a long-term reconstruction policy. Therefore, the removal of Baathist soldiers, rather than their re-education and re-integration back into the armed forces, was the most rapid solution.

An issue with the above policies remains the lack of necessary discrimination. The CPA purged old regime officials while intending to keep "middle-ranking civil servants" in place for continuity purposes, which followed *post bellum* practice.[1222] However, the nature of the Iraqi bureaucracy was such that to maintain a mid-ranking position required affiliation with the Baathist party. By barring Baathists from the top levels of the civil service, the country was incapable of maintaining necessary stability. Furthermore, discrimination, according to *post bellum* practice, rules out "sweeping socioeconomic sanctions as part of postwar punishment", of which occurred directly on Baathist members through the above policy.[1223] A 2003 survey of the Iraqi population conducted by the International Center for Transitional Justice and the Human Rights Center (University of California, Berkeley) found that while respondents believed those responsible for past crimes should be punished, it would be unfair to penalise on party membership alone. Respondents believed a distinction should be drawn between party affiliation and active support for Saddam Hussein.[1224]

The rapid de-militarisation of Iraq also increased direct socioeconomic sanctions on both the soldiers and the surrounding populace. Soldiers were discharged without warning and without the collection of their military-grade weaponry which

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[1222] Orend, "*Just Post Bellum*," 584.

[1223] Ibid, 580, 583.

[1224] Stover, et al., "Bremer's Gordian Knot," 846-847.; International Center for Transitional Justice & Human Rights Center, University of California, Berkeley, *Iraqi Voices: Attitudes Toward Transitional Justice and Social Reconstruction*, 1 May 2004, available at: https://www.ictj.org/publication/iraqi-voices-attitudes-toward-transitional-justice-and-social-reconstruction.

accompanied them home following the US-led invasion.[1225] Those soldiers who became disaffected with the occupation of the country joined insurgency efforts against the coalition presence utilising their skills from soldiering and their weaponry.[1226] The CPA failed to counter the increased insurgency and left new recruits to handle the mounting violence without adequate training.[1227] According to Dov S. Zakheim, the combination of the above policies ultimately led to "a breakdown of governance that fostered civil unrest".[1228]

Under US leadership, the above processes resulted in an increase in unemployment for a significant segment of the population and an increase in the overall levels of insurgency faced by coalition forces. The policies implemented by the United States were discriminant in their scope, affecting only Baathist membership—a move favoured by the formerly oppressed Shia and Kurdish populations—yet were indiscriminate in distinguishing between authority and non-authority figures.[1229] While this tactic is a part of a *post bellum* rehabilitation of a transitioning state, there existed a failure to account for the disaffected non-elites who would be affected in greater numbers. US millennialism surrounding just war thinking allowed for this vision of de-Baathification to occur as the US-led coalition understood rehabilitation as a removal of evil, rather than as a societal transformation project. Through their millennialist exceptionalism, the Bush Administration believed they would be viewed by Iraqis as liberators, not occupiers.[1230]

Had the CPA endeavoured for just peacemaking, a re-education and reconciliation approach may have been more fruitful. Baathist party members in the civil service could have been subjected to mandatory re-education programmes to address fears of discrimination against oppressed communities, while oppressed communities could have been administered into training programmes for an accelerated entry into the civil service. Truth commissions could have unearthed those responsible for the

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[1225] Sultan Barakat, "Post-Saddam Iraq: Deconstructing a Regime, Reconstructing a Nation," *Third World Quarterly* 26, no. 4-5, (2005): 579, https://www.jstor.org/stable/3993709.

[1226] Rathmell, "Planning Post-Conflict Reconstruction in Iraq," 1024.

[1227] Diamond, "What Went Wrong in Iraq," 38.

[1228] Dov S. Zakheim, "From Victory to Failure: The Army Study of the Iraq War, 2003-2006," *Naval War College Review* 72, no. 4 (2019): 166-167, https://www.jstor.org/stable/26775525.

[1229] Dobbins, et al., *Occupying Iraq*, 112.

[1230] Stover, et al. "Bremer's Gordian Knot," 831.

perpetuation of oppressive policies and systematic violence, while also pinpointing top ranking civil and military officials who engaged in humanitarian crimes for just and fair trials. This would have fulfilled the concerns of punishment presented by Orend while moving beyond mere punitive measures in identifying the broad moral guilt within the regime itself.[1231] Mid-level and lower ranking soldiers could have undergone education in community awareness and been given a role in security networks across the country, while voluntary up-skill programmes could have been used to transition soldiers toward understaffed fields in society as a means of shrinking the size of the military without a full-scale demilitarisation. These programmes would offer a manner of restorative justice similar to the intention of the South African Truth and Reconciliation Commission, whereby the perpetrators and the victims could rebuild the nation together.

Beyond the effects of de-Baathification and de-militarisation policies, the CPA failed to engage Iraqis in the creation of democratic governance. *Post bellum* thought dictates that the victor in a conflict remains in the best position to rebuild any defeated enemy.[1232] Brian Orend contends that there remains no need to include international bodies like the United Nations as a benchmark for legitimacy within reconstruction, as the right of the victor remains in a post-war situation.[1233] Responsibilities rest solely with the victor, not the international community.

Under this position, the US sought to establish democratic governance structures in a country which had been ruled centrally from Baghdad for decades under Saddam Hussein.[1234] At the local level, the task of implementing new councils was given to the coalition military deployments across the county. These were developed on an *ad hoc* basis through selection criteria ranging from among those attending advertised meetings to direct selection by military authorities.[1235] From this practice, the appointed figures failed to gain the trust of local groups since they appeared to be aligned with the coalition authorities by simple proximity. There existed a deep suspicion among Iraqis of US motives which was not aided by a perceived lack of political

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[1231] Orend, "*Just Post Bellum*," 580.
[1232] Ibid, 588.
[1233] Ibid, 589.
[1234] Dobbins, et al., *Occupying Iraq*, 107.
[1235] Ibid, 109.

legitimacy and visible Iraqi participation.[1236] Anyone assuming even a moderate position was made out as suspicious.

At the national level, the US wanted to establish a new, democratic constitution. Unlike the American experience in coordinating the establishment of government structures in Northern Ireland in the 1990s, Iraq did not possess any electoral infrastructure to select delegates for the drafting of a constitution. The solution to this dilemma was to implement indirect elections through a tiered caucus system to build a transitional parliament.[1237] However, this was deeply opposed by Ayatollah Ali Sistani, a revered and influential Shiite religious leader in Iraq, who wanted to implement direct elections.[1238] The caucus system was viewed as potentially allowing more power to be given toward groups present than individuals.

Sistani delivered a series of edicts denouncing the CPA plan. In June 2003, Sistani pronounced:

> The occupation authorities are not entitled to name the members of the assembly charged with drafting the constitution . . . There is no guarantee that such a convention will draft a constitution which upholds the Iraqi people's interests and expresses tehri national identity.[1239]

While in December 2003, he declared:

> We want what the people want, and we reject what they reject. We want national assembly elections and presidential elections for a specific term . . . The constitution must not be written by the occupier but by Iraqis.[1240]

For the United States, the unfortunate reality of this situation was their own inability to mediate a dispute between themselves and Sistani.

In 2004, at the suggestion of National Security Advisor Condoleezza Rice and her deputy Robert Blackwill, the United Nations was brought in to mediate the dispute over the manner of elections. Lakhdar Brahimi, an Algerian diplomat with prior experience in constitution-building in Afghanistan, established a middle-path. He negotiated the creation of an unelected transitional parliament with the levels of inclusion desired by

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[1236] Diamond, "What Went Wrong in Iraq," 44.

[1237] Ibid, 47.

[1238] Ibid, 44.

[1239] Ali al-Sistani, "Fatwa Signed by Sistani, June 2003," quoted in Ehrenberg, et al., eds., *The Iraq Papers*, 321.

[1240] Ali al-Sistani, "Sistani's Remarks to Visiting Arab League Delegation as Reported by the Iraqi *al-Zaman* Newspaper, December 2003," quoted in Ehrenberg, et al., eds., *The Iraq Papers*, 321.

both sides. The agreement became established through UNSC resolution 1546 on 8 June.[1241]

The importance of the establishment of this new parliament, for the purpose of this study, is the light it sheds on the necessity of just peacemaking practices. The United States followed along the line of *post bellum* thought, whereby the victor of a conflict is charged with the responsibility to rebuild. This line of thought nestled comfortably with the US millennialist exceptionalism whereby the establishment of democracy and freedom in the Middle East was paramount to their providential mission. Disallowing the participation of the United Nations, as the Bush Administration insisted, did not run counter to *post bellum* thinking. In fact, Brian Orend contends that the exclusion of international organisations is within the victor's remit.[1242]

The centrality of the victor within *post bellum* thought precipitates the influence of millennialism within the American-led reconstruction. The later introduction of a hearts-and-minds diplomacy by US policy makers from 2007 suggests that an earlier adoption of just peacemaking practices, such as reconciliation, education, and local engagement, might have decreased levels of disaffection and insurgency among the Iraqi population.

How the Bush Administration sought to implement democratic reforms in Iraq, and the ultimate shift in policy, demonstrates another failure of the victor centricity of *post bellum* thought. The United States attempted to implement an indirect selection process for the creation of a transitional parliament for the adoption of a constitution framed in the American image. The interjections by Ayatollah Sistani further undermined the status of the American authorities in the country, which had already been destabilised by the CPA usage of Iraqi exiles as local advisors and the US insistence that "self-appointed leaders" among the general population could not be allowed.[1243] The United States relied on Iraqi exiles such as Ahmed Chalabi in highly visible roles as a means of providing an elder to the people. However, Sistani's February 2004 *fatwa* demanding the establishment of a Security Council resolution to ensure "free and fair elections" distinctly demonstrated the power of an elder to sway not only those who

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[1241] Diamond, "What Went Wrong in Iraq," 48-50.
[1242] Orend, "*Just Post Bellum*," 589.
[1243] Dyson, "What Really Happened in Planning for Postwar Iraq?," 482.

believed in his wisdom, but also those among international leadership.[1244] As a true elder, Sistani's voice held greater effect over the population than those deemed too friendly with the occupying forces.

To break the impasse among the United States and Ayatollah Sistani, a shift toward just peacemaking occurred. The United Nations was introduced as a mediator between the US and Sistani which provided a pathway to a transitional government structure for the establishment of a legitimate constitution. The fact that the Ayatollah was consulted as an elder of the people lent a local source of legitimacy, while the final agreement authorised by the UN Security Council added an independent, international weight. The very essence of this outcome runs counter to *post bellum* discourse which places the centrality of a decision in the hands of the victor. Furthermore, this change in course by the United States justifies the participation of just peacemaking practices in international peacebuilding.

Concluding Remarks

This chapter sought to explore supplementary approaches in the Iraq context under the just peace paradigm. The chapter explored the failings of pre-war discussions in the Security Council, where humanitarian logic might have held greater success among the anti-war voices, and the post-war occurrences under the US-led *post bellum* policies. The chapter did not claim just peacemaking practices would have changed the tide of history, as this cannot be argued in hindsight. Rather, the chapter highlighted the disadvantages of the actual policies taken and suggested that just peacemaking practices may have been a beneficial supplement in the decision-making process.

Section one discussed the advancement of a human rights based argument in the Security Council debate. Humanitarian debates have held great weight in pre- and post-Iraq debates. Since the conclusion of the Cold War, various actions have been taken for the expressed purpose of preventing human suffering. The difference between the invasion of Iraq and these other interventions is that Iraq did not have a visible, ongoing atrocity which required immediate, international action. The suggestion of a

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[1244] Ehrenberg, et al., eds., *The Iraq Papers*, 321.; Sharon Otterman, "Iraq: Grand Ayatollah Ali al-Sistani," *Council on Foreign Relations*, 27 January 2005, https://www.cfr.org/backgrounder/iraq-grand-ayatollah-ali-al-sistani.

humanitarian investigation, rather than solely weapons inspections, as a means to delay or prevent the invasion holds weight given the significant post-war humanitarian preparation which the Bush Administration had undertaken. As outlined in Chapter Nine, just peacemaking offers a series of non-military coercions to answer humanitarian situations. Just peacemaking coercion could have enabled an investigation and prosecution of the Iraqi regime which might have led to an alternative outcome to the use of force. Had an investigation into human suffering been furthered by oppositional voices, the arguments made by President Bush and Prime Minister Blair to enact a military campaign might have been morally undermined.

Section two discussed the failures of the United States in the post-war reconstruction of Iraq. The policies of de-Baathification and de-militarisation sit within the remit of *post bellum* thought. Yet these policies failed to prevent widespread human suffering by both those directly affected by loss of employment and those who became caught in the crossfires of increased insurgency. American millennialism and exceptionalism, which have offered a cause for the permissibility of force in the United States around matters of justice, supported the two processes under the view of defeating evil. This can be understood through the parallels drawn between the defeat of Nazi Germany and Saddam Hussein.

Similarly, the failure of the United States to provide a space for the United Nations and Iraqi elders like Ayatollah Sistani demonstrated the inadequacies of the US administered *post bellum* measures. Given that the participation of the United Nations was eventually required in order to mediate between the US and Sistani underscores that the victor is not always the best source of leadership in post-war reconstruction. Just peacemaking places the burden upon the international community instead of solely on the victor. The inclusion of the Ayatollah himself as a voice of support for the formation of a transitional government, the creation of the constitution, and the holding of elections demonstrates the significance of elders as a means to enhance support for transitional policies. Whereas *post bellum* thought *assumes* that an occupying force will develop a relationship with the local population, just peacemaking *requires* a local relationship as a central aspect of post-conflict reconciliation efforts as such efforts are

often pursued through trusted elders in the community.[1245] Additionally, the requirement of the Security Council to pass resolution 1546 as a signal of a legitimate agreement underscores the necessity of strengthening the involvement of the United Nations in order to provide confidence in transitional arrangements.

The discussion above correlates with the lessons learned from just peacemaking in the cases of Northern Ireland and Libya. In Northern Ireland, the success of the peace process in delivering a negotiated agreement can find some direct accountability in the presence of George Mitchell and the Clinton Administration as elders. When concerns of national interest erupted, such as John Major's insistence that nationalist paramilitaries must decommission as a prerequisite for talks, the elders struck down such thoughts. Elders can also be a source of clear guidance, with the 'Mitchel Principles' providing an element of pragmatism and a clear focus of expectation for the peace process. Conversely, a lack of an elder in Libya enabled external interests in the conflict to change the course of the peace process, in which the desire for regime change led to a conferral of legitimacy to the NTC by the US and NATO. The lack of an elder in Libya allowed for just war concepts of a unitary possession of justice to take hold. Jacob Zuma and the African Union could not deliver the NTC to the negotiating table as their preference for power-sharing arrangements and incumbency unsettled rebel leaders.

In Iraq, the presence of an elder in Sistani delivered an opposition to US just war visions of post-war reconstruction. The US remained incapable of forging their vision of how Iraq should develop as internal resistance to transitional arrangements were led by the Iraqi elder. Sistani sought a process of democratic selection similar to processes employed in Northern Ireland. Yet the lack of election infrastructure in Iraq made this impossible from certain perspectives. The mobilisation of UN mediation ultimately settled this dispute.

The eventual inclusion of the United Nations showcases a significant example of the power of just peacemaking coercion. The third pillar of coercion in just peacemaking, as described in Chapter Nine, requires the presence of UN peacekeeping in the peace process of transitional authorities. This could include classical peacekeeping arrangements, such as a UN administrative presence or the use of humanitarian forces,

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[1245] Johnson, "*Jus Post Bellum* and Counterinsurgency," 218-220.; David Steele, et al., "Use Cooperative Conflict Resolution," in Stassen, ed., *Just Peacemaking*, 2nd ed., 85.

or confidence building measures like a Security Council resolution acknowledging special arrangements. In Iraq, UN peacekeeping took the latter form with UNSC resolution 1546 legitimising the transitional arrangements for state government.

Conclusion to Part Three

Part Three has sought to answer the question: what advice might just peacemaking offer in the face of just war limitations? In doing so, Part Three has employed four chapters which engage in the practical realities of just peacemaking practices in order to highlight how the paradigm holds certain supplementary potential for resolving conflict when contemporary limitations within the just war tradition impede international action.

As discussed in Part One, the moral wisdom of the just war tradition remains in cooperation with three influential characters: politics, economics, and power. The result of this historic and modern collaboration has led to inconsistencies within the just war tradition in terms of its distribution of moral wisdom. Just war offers a permissibility toward the use of force which is limited only by the interpretation of criteria historically shown to be malleable. The last limitation on force in the modern tradition has shown itself to be the criterion of last resort. However, this too is subject to interpretation which is dependent upon historical factors of moral development as shown in Part Two.

For just peacemaking to provide useable supplementary material to that of the just war tradition, the paradigm must actively *speak truth to power*. The practices of just peace, as discussed in Chapter Nine, are developed within three broad characteristics—trust, justice, and the community—through which an active engagement with non-violent practices is maintained. The politics of power, unjust economics practices, and humanitarian violations are rejected in favour of strengthening cooperative conflict resolution practices, social justice, and human rights. The just peace practices allow for a defined moral wisdom that seeks to protect the vulnerable rather than justify the actions of the powerful. This emphasis contrasts the model of force found within just war demonstrated in Part One.

In terms of the broad usability of the paradigms, the just war tradition remains a reactive paradigm to breaches of the peace which may take form through acts of aggression between states or as humanitarian responses to intrastate violence. Each category of just war—*ad bellum*, *in bello*, and the more recent *post bellum*—respond either to events current or imminent, provide the procedure for the uses of force ongoing, or dictate the responsibility of the victor after the event itself. The moral

wisdom of just war remains confined to the reactive nature of the paradigm and therefore cannot advise political decision-making to events where the use of force has been rejected.

Similar to the just war tradition, just peacemaking provides moral wisdom in light of events already occurring, albeit advice that does not rely on the distribution of force. However, just peacemaking can offer moral wisdom through its ten practices that supports decision-making outside of just war's defined jurisdiction of aggressive breaches of the peace. Therefore, just peacemaking practices can offer moral wisdom both before the outbreak of violence and after, while also providing a metric of action that moves beyond the modern debate of last resort. Furthermore, the potentially wide applicability of the practices transcends a singular western lens, an often cited criticism of the just war tradition, and could provide common points of interest between various faith traditions and demographic backgrounds.[1246] However, this cross-cultural and inter-religious application is hampered by the western, Judeo-Christian centricity of the paradigm and relies on establishing dialogue to find inclusivity in language.

Perhaps most central to just peacemaking remains the advantage it has over just war in relation to the general limitation on the use of force. Unlike just war, which utilises force for coercion, just peacemaking harnesses non-military means of power as represented by three pillars in Chapter Nine. The three pillars of coercion were offered as normative and market power approaches, human rights observations and referrals, and classical peacekeeping. These represent non-military coercion through economic and normative incentives, judicial coercion for violators of international norms, and a limited physical coercion that separates warring parties, oversees the implementation of agreements, and provides confidence in peace processes through security and legitimacy arrangements. In just peace, the possession of justice does not offer an entitlement to use force.

The movement away from the use of force as the central mode of coercion signifies a point of contact where just peace can supplement the wisdom of just war, particularly in light of the limitations just war faces as demonstrated in Part Two. The origins of modern just war division stem from the different foundational experiences of

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[1246] For a multi-faith perspective on Just Peace, see Thistlethwaite, ed., *Interfaith Just Peacemaking*.

moral wisdom, broadly American or European. The differences expressed in Part Two explain the disunity of thinking around the use of force as shown previously in the Iraq context. Just peacemaking does not overcome this division of moral wisdom. Rather, the paradigm can provide alternative means of brokering peace which refrain from an overreliance on the use of force for progress. Utilising the just peacemaking practices described in Chapter Nine can allow for a formal international response to conflict in circumstances where decision-makers fail to reconcile just war differences in developing a traditional use of force.

Conclusion

The purpose of this study was to examine the inconsistencies and limitations of the just war tradition as a contemporary means of moral wisdom among international western actors. Across three parts, this study identified inconsistencies within the historical and modern just war tradition, limitations of the tradition relative to contemporary, transatlantic historical development, and the supplementary advice that is available within just peacemaking. The Iraq invasion debate of 2002-2003 provided a context for the identification of the broad moral disparity among the United States and Europe stemming from their respective historical foundations and experiences. In this light, two conclusions can be drawn.

The first conclusion remains that the just war tradition is inconsistent and possesses certain limitations. Having emerged from theological considerations on the use of corrective coercion, the just war tradition has become engaged in debates surrounding the just use of force for political and economic reasoning. The development of just war thought across the centuries has created a wealth of knowledge under a systematised tradition of categories and criteria. However, the maturation process has not produced a unified theory of war and peace discourse, to the extent that two strands of the tradition have emerged since the Second World War that have amounted to a divided discourse. This division can be portrayed as the view that war is a tool of the state and requires a relative position on last resort versus a presumption against the use of force that requires an exhaustive view on last resort. In the contemporary period, this divided perspective has only deepened under the weight of transatlantic moral discourse, as witnessed in the Iraq War debate.

The Iraq War debate offered an account of the divided maturity of the just war tradition in action. The United States took on a pro-invasion stance, argued from a position that war is a tool of the state and that last resort remains relative to the context. The US account of force stems directly from the American experience of historical millennialism in which early America was of divine providence. This foundational outlook evolved into a modern conception of American exceptionalism. This exceptionalism has positioned force as a positive tool of justice under the premise that

the United States is the global defender of freedom and democracy and the victorious accounts of US valour in two World Wars and the Cold War.

Alternatively, the Holy See, alongside arguments from France and Germany, maintained a presumption against the use of force until which time non-military means had been exhausted and a last resort distinction had been reached. Their positions represent a European experience with confessional and nationalist violence which led to the economic and political integration under the European Union as a means to curtail unnecessary violence. Ultimately, the unique moral outlooks underpinning the bifurcation of the United States and Europe on the use of force relative to their separate experiences of force have limited the prospect for unity of opinion under the just war tradition. While the two sides may come together under great acts of terror, a common approach between the United States and Europe will never be consistent given the moral outlooks underpinning their interpretations of just war.

The second conclusion which may be drawn is, given the inconsistencies and limitations of just war, a supplementary moral wisdom is required within the international community. This study has proposed the utilisation of just peacemaking as a means to resolve conflicts during periods where the underlying divisions above persist. The ten practices offered by Glen Stassen and the conception of what comprises just peace coercion represent meaningful material which could deliver successful resolutions to conflict when just war has been rendered limited by interpretive division. The successful use of just peacemaking practices in Northern Ireland to build the Belfast/Good Friday Agreement, the mediation by the United Nations between the United States and Ayatollah Sistani on elections and drafting the Iraqi constitution, and the request by international actors for an International Criminal Court investigation into the Gaddafi regime in Libya showcase the presence of just peacemaking practices within the international community. To harness just peacemaking as a supplement to just war would instil confidence that international divisions among state actors will not lend itself to unwarranted, and immoral, uses of force.

Of course, as in any study, there remains certain limitations that must be addressed at its end. One limitation centres on the actual potential of just peacemaking to be adopted by the international community as a supplement to the just war tradition. As highlighted previously by James Turner Johnson, just war remains the international

norm for moral wisdom. While just peacemaking practices have been witnessed internationally, these engagements remain *a la carte* and are subject to individual actors for inclusion. The successful implementation of just peacemaking practices described in Part Three similarly hinged upon the influence of elders.

In Northern Ireland, local elders like Alec Reid provided a point of mediation in inter-nationalist dialogue and an expression of paramilitary desires in instances of exclusion. The international leadership of George Mitchell provided a trusted elder for the British Government and prevented the national interests of John Major from impeding negotiations and implementing a singular possession of justice. Similarly in Iraq, the influence of Ayatollah Sistani prevented the United States from implementing a unitary vision of victor's justice. Sistani's position as an elder enabled the United Nations to act as a mediator and provided confidence among Iraqis in the settlement of the transitional government affair.

Conversely, the failure of the international community to implement the just peace practices coordinated during the early response to the Libyan Crisis signifies the difficulties faced by the paradigm without its promotion by an elder. The African Union could not provide guidance toward a diplomatic solution as the NTC rejected their preference for power-sharing agreements and incumbency. Meanwhile, the lack of an elder allowed the United States and its allies in NATO to broaden the international response to include military strikes and to bestow unitary justice to the rebel leadership under just war grammar.

Similarly, situations in which elders are against the prospect of intervention entirely lend to internal resistance and an exacerbation of the conflict. External actors, particularly those who do not share the same ethnic, religious, and cultural norms as those inside the dispute, may find themselves in conflict with any elders who may stand as the bearers of the conflict activity. This is a reality among peacebuilding in local-level settings.

A second limitation arises out of the applicability of this study in contexts which do not share the same western, Judeo-Christian context as the actors observed. Similarly, some universalist language, such as human rights, fail to permeate into contexts that are non-western. However, the positions taken in this study emerge from the same western, Judeo-Christian context as the actors observed within the work. This

study lends a reflective tone to a targeted western audience which would inhabit one of the two transatlantic positions on the just war tradition. Therefore, the conclusions found within this study operate as a commencing point for further scholarship which may identify common points within language and develop a shared grammar to be used in conversation with non-western, non-Judeo-Christian communities.

Overall, this study has endeavoured to examine the inconsistencies and limitations of the just war tradition as a contemporary means of moral wisdom among international western actors. In identifying the historical development of moral thought, both within just war and among nation-states, limitations to the successful usage of the just war tradition emerge in circumstances of interpretive disunity, as shown in the case of the Iraq War debate. To overcome these limitations, just peacemaking offers supplementary wisdom that may be used to engage conflict zones when just war thought has failed.

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330

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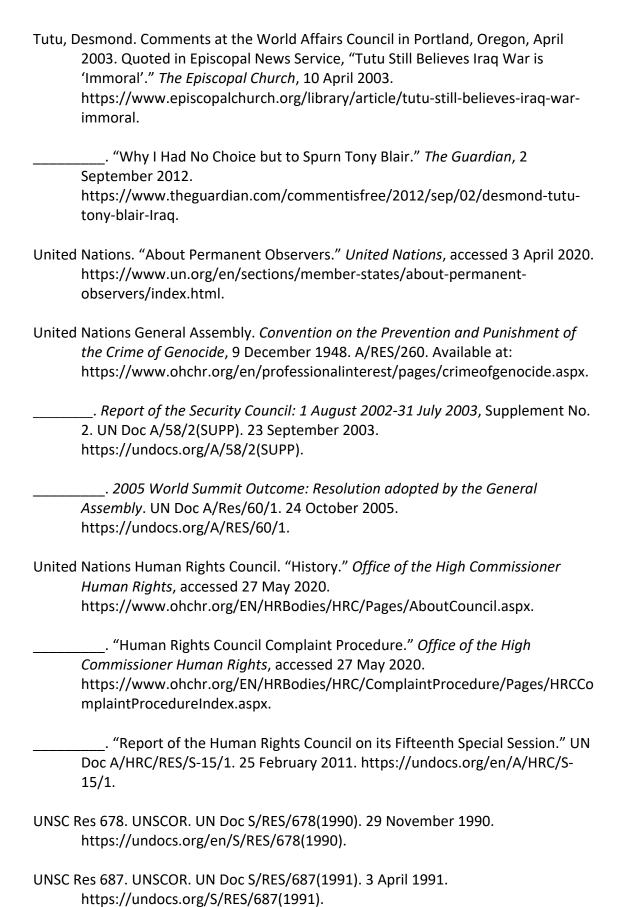Rumsfeld, Donald. "DoD News Briefing—Secretary Rumsfeld and Gen. Myers." *Department of Defense*, 22 October 2001. https://archive.defense.gov/Transcripts/Transcript.aspx?TranscriptID=2151.

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