

Faithful Citizenship

Principles and Strategies to Serve the Common Good

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The Violent Bear It Away

Just War and U.S. Military Policy in the Eyes of Catholic Teaching

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Introduction

So many in these days have taken violent steps to gain the things of this world – war to achieve peace; coercion to achieve freedom; striving to gain what slips through the fingers. We might as well give up our great desires, at least our doing great things toward achieving them, right at the beginning. In a way it is like the paradox of the Gospel, of giving up one's life in order to save it (Day 1988: 280).

[1] So wrote Dorothy Day in September, 1957. September, again, has raised such questions for us: how in a world driven by terror and casual slaughters do we live the Gospel of Peace (Acts 10:36; Ephesians 6:15). Surely at the heart of Christian faith lies the God of peace, *shalom* (Romans 15:33) – the God desiring peace for all people far and near (Psalm 85; Isaiah 57:19). Yet walking “in the way of peace” (Luke 1:79) remains a hard grace.

[2] The great sixteenth century British physician, Thomas Linacre, it is said, first opened the New Testament only late in life. Chancing upon the “hard sayings” of Matthew’s Sermon on the Mount, e.g., “turning the other cheek” (5:39), he was horrified: “Either this is not the

Gospel,” he exclaimed, or “we are not Christians.” Linacre, his biographer tells us, “flung the book from him, and resumed his medical studies” (Chambers: 84).

[3] Even if apocryphal, the story bears a grain of truth. For then, as now, how readily the “things that make for peace” (Luke 19:42) slip through the fingers! In the wake of 9/11, our public theology is dulled, discomfited, taking refuge in what H. R. Niebuhr once called the “grace of doing nothing.” Our “ceremonies of innocence, after all, were quickly drowned in the rhetoric of rage and retribution. Indeed, our talk of just war leaves little room for Matthew’s “hard sayings,” much less a role for the disciple who invokes them. And yet the Gospel remains a stubborn inheritance. In these pages, I will argue that the Augustinian-Thomistic tradition of just war cannot be so readily be trimmed of Gospel paradox.

[4] In part one I question the methodological reduction of the just-war norms to a purely secular doctrine, independent of their origins in Christian tradition. For, as I argue in part two, what we “hand on” (*traditio*) in interpreting the “moral reality of war” (Walzer 1977: 36) is itself an interpretative *practice*: the *ad bellum* and *in bello* rules arise, not as a formal decision procedure, but as the “grammar” of telling our Christian story. Such a hermeneutic gambit permits us not only to discern “family resemblances” within and across differing narrative traditions, e.g., Christian or Muslim, but likewise to recognize systematic distortions, e.g., the revisionist account of “preventive war.” Finally, in part three, I consider how the *public* witness of Christian pacifists enriches our reading of the just war tradition.

Rival Readings of the Just War

[5] What shall we say of the just war? Is the very notion a *contradictio in adjecto* in late or post-modernity – war having finally become, in Clausewitz’s words, “theoretically limitless”? (77, and see 592-93; see also Walzer 1977: 23). Or as Michael Walzer urges, is war still a “rule-governed activity, a world of permissions and prohibitions – a moral world,” even “in the midst of hell”? (36) To be sure, an “overlapping consensus” of permissions and prohibitions is enshrined in international law, i.e., the Geneva Conventions and Protocols (Rawls: 133-72). But just how are we to make sense of such a consensus?

[6] Christians, after Constantine, drew on their Greco-Roman and biblical heritage, working multiple variations on the theme of the *justum bellum*. Codified in the *Corpus Juris Canonici*, Ambrose’s and Augustine’s early speculations were grounded in Thomistic natural law and later refined by the Spanish Scholastics. Still further variations emerge in the seventeenth century, with the doctrine’s progressive disenchantment. In the Prolegomena of his magisterial *De Jure Belli ac Pacis* (1625), Grotius writes that the “manifest and clear” precepts of natural law retain their validity “*etiamsi daremus non esse Deum* (even were God not to exist)” (par. 11). For Grotius, the impious premise “cannot be conceded”; yet for his successors, the speculative hypothesis soon became “a thesis.” For Pufendorf, Burlamaqui, and Vattel the self-evidence of natural law increasingly left God a supernumerary in Creation (d’Entréves: 55).

[7] Under the spell of modernity’s disenchantment, Grotius’ heirs regard the validity of the just-war norms as logically independent of the traditions that hand them on (including, a fortiori, “the broad tradition of just war in Western culture”) (Johnson: 219). Distinctive religious attitudes and beliefs inspire us to do what morally (rationally) we are required to do.

But such beliefs do not alter the logical force of the *ad bellum* or *in bello* criteria. Consensus, in Walzer's felicitous terms, is "thin" (Walzer 1994: 16-19), as in President Bush, Sr.'s assertion that the Gulf War was "not a Christian war, a Muslim war, or a Jewish war, but a just war."

[8] And yet it seems modernity's final disenchantment is of itself (Adorno: 361-408). Not only do we dishonor the norms of just-war in the breach; the rationalist foundations of the *justum bellum* cease to be perspicuous. Reason is more parsimonious than Grotius believed. Indeed, precisely with respect to such foundations, the putative consensus breaks down. James Childress, for instance, proposes a "prima facie duty of non-maleficence – the duty not to harm or kill others" (352); and the U.S. bishops argue in a similar vein in their "Peace Pastoral" (no. 80). Yet James Turner Johnson demurs: "the concept of a just war" begins not with a "presumption against war," but rather "a presumption against *injustice* focused on the need for responsible use of force in response to wrongdoing" (35).

The Hermeneutic Function of "Just War"

[9] We cannot, alas, keep "our metaphysics warm" by resolving the question, *more geometrico*. (Eliot: 33). Yet, I wish to argue, the question is not one of moral geometry at all, but rather of the stories we tell. Christian thinking about just war norms cannot be abstracted from the narratives that hand them on. Consider how the "grammar" of just-war norms is embedded in Christian tradition.

[10] War for Augustine, was a tragic necessity, the consequence – and remedy – of fallen nature. Indeed, the "love of enemies" admits "of no exceptions," yet the "kindly harshness" of charity does not "exclude wars of mercy waged by the good." Inspired by the "severity which compassion itself dictates," such "wars of mercy" presumed that those inflicting punishment had "first overcome hate in their hearts." Neither Ambrose nor Augustine permitted violent *self*-defense; for only defense of the innocent neighbor could satisfy the stringent claims of charity.¹ Thomas Aquinas recognizes the normative primacy accorded *caritas* in-forming justice, posing the *quaestio* in the *Summa Theologiae* II-II, Q. 40, "whether it is *always* sinful to wage war?" Harking back to their Thomistic heritage, the Renaissance Spanish schoolmen Francisco de Vitoria and Francisco Suárez fashioned the just-war tradition as we know it today in the law of nations or international law – law ordained, in Vitoria's words, to "the common good of all," including that of one's enemies.

[11] In the Augustinian-Thomistic tradition, we begin, not with simple premises or prima facie presumptions underlying "the concept of a just war," but rather with a complex web of belief, i.e., nested values, tales and tropes woven and re-woven in succeeding generations. Inspired by the biblical ideals of peace (*shalom*), righteousness (*tsedaqah*) and right judgment (*mishpat*), the *bonum commune* in modern Roman Catholic teaching integrates rules of nonmaleficence and justice. *Justice*, itself ordered to the public good, recognizes the basic security rights of citizen and non-citizen alike (their claim to *nonmaleficence*). For it is precisely

¹ Augustine. *Epist.* 189, and 209, 2; *De Civitate Dei*, XIX, 12-13, XXII, 6; *Quest. Heat.* VI, 10, SEL., XXVIII, 2, p. 428, IV, 44, CSEL, XXVIII, 2, p. 353; *De Libero Arbitrio*, V, 12, Migne, PL, XXXXII, 1227; *Contra Faustum*, XXIII, 76 and 79; *Epist.*, 138, ii, 14. Cited in Bainton (91-93).

the grave, systemic violation of such claims, e.g., in genocide or mass atrocity, that renders a just war or humanitarian intervention just.

[12] But just so, terrestrial peace (“*tranquilitas ordinis*”) presumes more than mere nonmaleficence. For the ideal of *shalom* signifies not merely the absence of overt violence, but the restoration of right relationship (*tsedaqah*), i.e., covenant fidelity marked by protection of the most vulnerable, e.g., the widow, orphan, and stranger (Donahue: 9-40). Thus in modern Catholic social teaching, duties correlative to basic human rights, including social, economic, and cultural rights, generate structural imperatives of provision and protection – the set of institutional arrangements constituting, for John XXIII, the universal common good.

[13] Other religious traditions, e.g., Jewish or Moslem, “do likewise” (Luke 10:37), embodying the just-war norms in their distinctive narratives and casuistry. Such a narrative rapprochement, I have proposed, permits us to speak of their family resemblance, which, as such, remains fluid and open-textured, “sometimes,” in Wittgenstein’s words, exhibiting, “overall similarities, sometimes similarities of detail” (nos. 66-67). Neither must we confine such family resemblance to the just-war norms of the *jus gentium*. For the network of “overlapping and crisscrossing” similarities obtains not only across, but within our traditions. No less than just war partisans, Christian pacifists remain within the family.

[14] In the words of the US bishops,

Catholic social teaching sees these two distinct moral responses as having a complementary relationship, in the sense that both seek to serve the common good. They differ in their perception of how the common good is to be defended most effectively; both responses testify to the Christian conviction that peace must be pursued and rights defended within moral restraints and in the context of defining other basic human values (par. 74).

[15] Differences regarding the import of eschatology, the nature of modern warfare, and the permissibility of lethal violence are woven into a *common* web of belief. The ideals of *shalom* and *tsedaqah/mishpat*, *pace* Johnson, are not opposed, but rather configure *both* strains of the Christian tradition. Our differences, significant as they may be, make sense only within an antecedent pragmatic consensus. Informed by Thomistic *caritas* and the regulative ideal of the *bonum commune*, such a consensus figures no less in recent elaboration of *post bellum* norms, “just peacemaking,” and restorative justice (Stassen).

[16] Family resemblance is not, then, rigidly determined; yet neither is it infinitely malleable. “Similarities crop up,” but also “disappear,” when the religiously inspired ideal of the *bonum commune* is eclipsed in early modernity (Wittgenstein: par. 67). In Hobbes’s militant rhetoric, for instance, the “state of nature” – no longer naturally pacific – is aptly “called war, as is of every man against every man.” And in that inglorious “tract of time” we call history, “wherein the will to contend by Battell is sufficiently known,” we have but *one* right, that of “self-defense” – the very right Ambrose and Augustine denied.” In a nominalist vein, Hobbes opposes liberty as the “Right of Nature” (*jus naturale*) “to use [one’s] own power, as he will himsele, for the preservation of his own nature,” to the “Law of Nature (*lex naturalis*)” which “determineth, and bindeth” (185-90). For stripped of Grotius’ natural

sociability, it is only “the foresight of their own preservation” that leads “men who naturally love liberty, and dominion over others” to submit to “that restraint upon themselves, (in which we see them live in commonwealths)” (223).

[17] Violent self-preservation, no longer a “stain upon our love for neighbor” in Ambrose's words, is our natural right, writ large upon the “artificial person” of the state. Neither does Leviathan sacrifice this right, even if it is tempered by the rule of international law. For Hobbesian realism legislates for self-preservation in the form of laws of nature, the force of which depends upon general compliance. In a state of partial compliance, governed by weak international law, reason will abide by the laws of nature, e.g., of the *justum bellum*, if, and to the degree, they promote self-preservation. There are, in this sense, theoretical limits to Hobbesian realism, underwritten by realism itself (Walzer 1977: 76). And so, the “violent bear it away” (Matthew 11:12, less by abjuring the norms of just war per se, than by incorporating them within the realist narrative.

[18] Mr. Bush's defense of preventive war in Iraq, for instance, seems beholden more to Machiavelli's “armed prophets” than to Augustine's “kindly harshness.” For with the eclipse of Christian narrative's “ontology of peace,” proportionality, and, by implication, reasonable hope of success and last resort, are ordered, not to the “common good,” including the good of enemy civilians, as a final end, but rather to the limited aims of strategic self-interest (Elshtain: 400). American exceptionalism, e.g., the conviction that “we must maintain a military without peer,” and not the universal *bonum commune*, legitimates preventive war in U.S. strategic doctrine (National Security Strategy).

[19] Curiously, one implication of our reflections, obscured in the methodological reduction of just war to theory, is the incommensurability of the aims comprising our *casus belli*. For the realist inflection of preventive war invoked against weapons of mass destruction and terrorism presumes a Hobbesian world of grave and ubiquitous violence, i.e., a world in which “sufficient threat” obtains *ab ovo* (Walzer 1977: 28). Yet the Hobbesian logic of “*jus omnium in omnia*” belies the very humanitarian (other-regarding) aims that remain our sole *casus belli* in Iraq” (Whitmore). “Like Clausewitz's description of war as the continuation of policy by other means,” writes Walzer, such arguments “radically underestimate the importance of the shift from diplomacy to force. They don't recognize the problem that killing and being killed poses,” a recognition, says Walzer, that “depends upon a ‘certain way of valuing human life’” (39).

[20] And curiously and curiously, as Alice might say, that for Hobbes, only an absolute sovereign, “can free [citizens] from...fearfulness and break the cycle of threats and ‘anticipations’ (that is, pre-emptive violence)” (Walzer 1994: 71). Seeking such hegemony in the militarization of space, we apply the Hobbesian logic of “*jus omnium in omnia*” to nature itself, thereby reifying the metaphor: the violent nature of the state (*polis*) has now become the state of nature, breeding ever more cycles of threats and anticipations.² So it is, in

² In the words of Donald Rumsfeld, “We know from history that every medium—air, land and sea—has seen conflict. Reality indicates that space will be no different. Given this virtual certainty, the U.S. must develop the means both to deter and to defend against hostile acts in and from space. This will require superior space capabilities. Thus far, the broad outline of U.S. national space policy is sound, but the U.S. has not yet taken the steps necessary to develop the needed capabilities and to maintain and ensure continuing

asserting StratCom's right (*ius*) "to strike anywhere in the world within minutes of detecting a target," we embody (or schematize) the Hobbesian logic of violence (*omnium in omnia*): we fear because we are violent, and are violent because we fear (Ellis).³

[21] In such a realist world, he *justum bellum* becomes, as the rhetoricians say, a "self-consuming artifact," re-inscribing the very violence we seek to redress. Yet it is not only the use that political realism distorts, but the form and force of just-war norms. In accordance with the Geneva Conventions, norms prohibiting torture are general in form, applying to all moral agents, and non-derogative – claims against torture oblige categorically. Signatory to the relevant Conventions, the U.S., as we saw, holds Saddam's human rights violations as (the remaining) *casus belli*. How, then, to account for Mr. Bush's brief for torture, abrogating these very accords? Hobbes, again, is instructive.

[22] Even for Hobbes, the laws of nature "dictate peace." Yet such laws, though "immutable and eternal," obtain only notionally prior to Leviathan. "The laws of nature oblige *in foro interno*" only," says Hobbes. "And whatsoever laws bind *in foro interno* may be broken . . ." (215). Indeed, "every man, ought to endeavor peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre" (190). Even Hobbes, then, does not banish the rules of war, but so empties them of force that they may become nugatory.

[23] Still subtler variations are worked on this theme. Thus we may recognize ordinary "permissions and prohibitions," but only within limits and not "in the midst of hell." Only a "supreme emergency" warrants a teleological suspension of the ethical. *In extremis* only, do we permit torture, renditions, etc. But with (post)modern terror, the extreme becomes quotidian, supreme emergency naturalized. Our Hobbesian logic is thus circumscribed within a moral world; and to preserve this world, we betray the very tenets that make it moral. Realism is, in effect moralized; and in such "utopian" realism, the "absorption of politics by the language and imperatives of war," says Jean Bethke Elstain, becomes "a permanent rhetorical condition" (407).

[24] In the previous sections, I've argued that precisely a hermeneutics of retrieving the Christian origins of the *justum bellum* warrant a hermeneutics of suspicion in assessing its use in public, political reasoning, e.g., in the doctrine of preventive war. In the Hobbesian "realist" narrative, we saw, the *telos* of self-preservation is writ large in the rhetoric of national security and military necessity. Inscribed within such narrative teleology, the just-war precepts bind but conditionally: Proportionality is relativized, not to the universal *bonum commune*, but to self-defense of the national state. And so too discrimination, last resort, etc., succumb to the naturalization of violence, truncating our moral imagination.

superiority" (Rumsfeld et al.: 10). Everett C. Dolman, Professor of Comparative Military Studies at the U.S. Air Force's School of Advanced Air and Space Studies, argues in a similar vein that the U.S. should endeavor to ensure its supremacy in space "for the purpose of stabilizing peace and extending into the foreseeable future its ongoing period of liberal hegemony."

³ Adm. James O. Ellis Jr., Director of StratCom, cited by Arkin. Arkin reports that "StratCom established an interim global strike division to turn the now preemption policy into an operational reality."

[25] And yet, a certain aporia invariably appears. For does not the very “foresight of their own preservation” militate against citizens’ self-sacrifice – if the latter is no longer warranted, as for Thomas, by the common good? Hobbes must invoke a less than noble lie; for citizen-soldiers must come to identify with the supra-personal good of the state. Religion itself, as we saw recently in Mr. Bush’s remarks to the National Religious Broadcasters Convention, may prove “useful” in promoting what, for the Hobbesian, remains a necessary altruism. And so, with ceremonies of innocence, mourning creates our “heroes,” even as Leviathan summons us with the polemics of “focused brutality” and “self-confident relentlessness” (Morrow).

[26] And yet, what the devil quotes remains Scripture, and may tempt us still to imagine otherwise, i.e., to recover the traces of the Augustinian-Thomistic tradition. The Augustinian sense of even legitimate warfare as tragic recalls the stringent demands of *caritas*, even to one’s enemies; a theme echoed in Pope John Paul II’s lament for Iraq that “War is never just another means that one can choose to employ for settling differences between nations. . . War is not always inevitable. It is always a defeat for humanity” (John Paul II).

[27] At the heart of Christian narrative, after all, is suffering innocence, crucified love. To speak, then, of “lost innocence” after September 11th, is a Christian solecism. *That* innocence, as H. Richard Niebuhr once wrote, was “slain from the foundations of the world.” And if the cross speaks of innocent suffering, it does so *sans* qualification: not only Americans figure in the calculus of innocence betrayed, but all those “crucified on many an obscure hill” (H. Richard Niebuhr: 70): the innocent Afghani and Iraqi civilians killed as collateral damage, the families displaced. Innocence, of course, is never policy; but the metaphor of crucifixion extends our gaze to every cross and every obscure hill, whether in New York, or Afghanistan, or Iraq.

The Surplus of Religious Meaning

[28] Re-inscribing the *justum bellum* in Christian narrative reminds us, then, of the original uses, form and force of the *ad bellum* and *in bello* norms. Indeed, religious *différance* casts the Christian churches (and by the same token, synagogues, mosques, et al.) in a critical role; theirs must remain a hermeneutics of suspicion in assessing the state’s use of just-war rhetoric. And it is against this backdrop, I believe, that we best interpret the “overlapping and crisscrossing” similarities of Christian pacifism and just war: first, with respect to public reason or deliberation and then with respect to personal discernment.

[29] Were pacifism merely rule-governed behavior, its opposition to just-war is patent: in Childress’s words, the “duty of nonmaleficence – the duty not to harm or kill others” is not *prima facie*, but absolute. Conversely, for the partisan of just war, the duty of justice trumps that of nonmaleficence, and though “traces” of the Christian “will to peace” persist, they seem – to the pacifist – vanishingly small. Yet as we saw in part two, not only Christian pacifism, but Christian adherence to the *justum bellum*, turn on a “way of discipleship” inspired by radical fidelity to the Gospel. The pacifist’s maxims preclude violence; yet the leitmotif of discipleship, of “loving your enemy” in accordance with *caritas* is decisive for *either* strain of the tradition (Cahill: 1-14).

[30] Where Machiavelli (whose infamy is exceeded only by his emulation) bequeaths us an armed peace in which there is no “place” for *shalom*, the pacifist bears witness to such a place or *locus*. And this witness, precisely as such, plays its role in public reasoning. Christian pacifists may concede, with Augustine, that the “*tranquilitas ordinis*” of earthly peace falls short of the biblical ideal of *shalom*. But Christian narrative is never disenchanting; even if it is, at best, only partially translated into public *reasons*. What remains *is* witness. And though witness is not simply argument, it is, as John Rawls himself recognized on reading M. L. King, no less relevant to argument, i.e., to public *reasoning*. For the regulative ideal of *caritas*, of “love of enemies,” remains the *locus* of deliberation – even if disciples, pacifist *or* just-war, differ as to its implications, *hic et nunc*.

[31] Pacifism, then, is no mere exercise of private piety. Neither can we regard the state as simply fallen or “immoral” as in Reinhold Niebuhr’s Christian realism. Public reason, though disciplined by pluralism – and thus the virtues of civility and reciprocity – is not, for that reason, “godless or prophet-less.” The City of God and earthy cities are distinct (as for Augustine), but never separate (as in later Reformation theology). We remain citizens of two kingdoms, and hence of differing, but not opposed moral rubrics.

[32] Christian narrative, one might say, grounds or justifies natural law, yet provides as well, for existential discernment. In an illuminating essay, Karl Rahner distinguishes “essentialist” ethics, e.g., the norms of the just war, from “formal, existential ethics,” wherein we discern the particular call of God for the disciple as “*individuum ineffabile*, whom God has called by name, a name which is and can only be unique (217-34). Obedience to the “grammar” of our narrative traditions frames our existential obedience; yet loving compassionately is not exhausted by acting justly for the disciple who walks with Jesus in the way of peace. Whether one should fight, as in the *justum bellum*, or refrain from fighting, as in the Christian pacifist tradition, would thus be assimilated to discernment, i.e., obedience to the concrete, particular will of God. Yet the state, as I argued above, is not simply the individual writ large. The state is not an *individuum ineffabile*, and precisely so, falls under different moral rubrics: the state can never claim divine sanction for its war-making; at best, obedience to the divine will would be mediated through generalized *political* – and thus fallibilistic – norms of the just war (Kelsay).

Conclusions

[33] “Christian realism,” for Reinhold Niebuhr, remains a paradox, but Niebuhr’s paradox lacks the saving subtlety of Kierkegaard’s irony. In times of terror, I’ve argued, realism is quickly moralized in the polemics of “focused brutality.” Lance Morrow thus urges us to “relearn why human nature has equipped us all with a weapon (abhorred in decent peacetime societies) called hatred” (Morrow). Rage has found a voice, seductive as it is potent. And yet, for the Christian, it is Calvary’s silence that enfleshes the great command, “love your enemy.” For Christians, this is the very touchstone of discipleship. Christians are summoned to seek those things which “make for peace” (Luke 19:42), to embody, personally and collectively, the “Gospel of peace.” The hermeneutics of hatred is not, after all, something we Americans must relearn. It is a weapon we have wielded often and well in the past.

[34] Perhaps we must rather relearn, in Augustine’s words, that for those called Christian, “love of enemy admits of no exceptions,” and that those inflicting punishment must “first

overcome hate in their hearts.” A hard lesson, to be sure, after Sept. 11th, but enmity cannot be a fitting memorial to our grief. Nature, graced even in tragedy, has equipped us with other, better weapons. If September’s tragedy has taught us anything, perhaps it is to imagine otherwise: in the words of Dorothy Day, whom Machiavelli would deride as unarmed prophet: “Yes we go on talking about love. St. Paul writes about it, and there are Father Zossima’s unforgettable words in *The Brothers Karamazov*, ‘Love in practice is a harsh and dreadful thing compared to love in dreams’. What does the modern world know of love, with its light touching of the surface of love? It has never reached down into the depths, to the misery and pain and glory of love that endures to death and beyond it. We have not yet begun to learn about love. Now is the time to begin, to start afresh, to use this divine weapon” (Day 1946: 2).

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