

**The Ethics of Humanitarian Intervention and the Just War Tradition: Rethinking the Implications of Neighbor-Love in the 21<sup>st</sup> Century**

J. Daryl Charles, PhD  
Affiliated Scholar, John Jay Institute  
Email: dcharles@jjifellows.org

The Ethics of Humanitarian Military Operations and Intervention  
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Abstract

How might those in relatively free nations who are responsible for political and military policy propose to deal with the scale of humanitarian need in our day that is massive and frequently the result of unstable regimes? And what moral and political resources might inform our response to what has been called “complex humanitarian emergencies” – situations that fall short of formal war per se but which require some measure of interventionary force? This paper attempts to address the difficult humanitarian question by reflecting on the neglected – if not often misunderstood – moral capital and resources of the just war tradition – resources that are permanent and applicable to the humanitarian dilemma. The basic argument presented in this paper is that relatively free nations have both a “right” and a moral obligation to intervene in humanitarian emergencies where gross suffering is occurring. This obligation is founded not only on a principled sense of stewardship of our responsibilities in the world but a commitment to assist victims of extraordinary suffering based on the wedding of justice and charity. The symbiosis of these two universal virtues and the “social charity” which they express to victims of social-political catastrophe together underpin classic just war moral reasoning. These resources commend themselves to us not as a neat formula but as an important source of moral wisdom as we wrestle with our responsibilities in the face of varied and vexing humanitarian dilemmas of the day.

Bio

Dr. J. Daryl Charles is an affiliated scholar of the John Jay Institute and teaches in the Chattanooga Fellows Program. Having done public policy research in criminal justice in Washington, DC, before entering the university classroom, Charles served as a 2013/14 visiting professor in the Honors Program at Berry College, a 2007/8 visiting fellow in religion and public life at the James Madison Program, Princeton University, and a 2003/4 visiting fellow in the Institute of Faith and Life at Baylor University. He is author, co-author, or co-editor of 14 books, including most recently *America's Wars: A Just-War Perspective* (University of Notre Dame Press, forthcoming) and *First Principles and the First Freedom: The Role of Natural Law in Establishing Religious Freedom* (Routledge, forthcoming).

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*No authority on earth can withdraw from “social charity” and “social justice” their intrinsic and justifiable tendencies to rescue from dereliction and oppression all whom it is possible to rescue... This justification can never be withdrawn; it can only be limited, supplanted, or put in abeyance.* – Paul Ramsey<sup>1</sup>

## **1. Introduction**

In the aftermath of the Rwandan tragedy, just war historian James Turner Johnson rightly observed that, with the end of the Cold War, policy-makers were ill-prepared to deal with geopolitical crises that have arisen since, not to mention the fact that it exposed an utter lack of moral discourse regarding international affairs.<sup>2</sup> Adding insult to injury, those who might have viewed Cold War tensions as the fruit of defects in the international order, and thus envisioned a post-Cold War increase in the United Nations’ prestige, surely have had their hopes dashed. The truth of one Burmese human rights activist is patent: “There are no countries in the world which have gained liberation through the help of the United Nations.”<sup>3</sup>

The question before us: how might those in relatively free nations who are responsible for political and military policy propose to deal with the scale of humanitarian need in our day that is massive and frequently the result of unstable regimes.<sup>4</sup> Specifically, what moral and political resources might inform our response to what has been called “complex humanitarian emergencies”<sup>5</sup> – situations that fall short of formal war *per se* but which require some measure of military force?<sup>6</sup>

My paper attempts to address this question by marshalling the neglected – if not often misunderstood – resources of the just war tradition – resources that are permanent and applicable to the humanitarian dilemma. Herewith I am assuming that moral “neutrality” in life is impossible and thus untenable. Most mainstream debates about foreign policy and humanitarian intervention proceed from questionable – and contestable – assumptions

about state sovereignty, human rights, and cultural relativism that, alas, are anything but “neutral.” I wish to argue that the just war idea, because of its moral framework, is the *only* legitimate means of attempting to think responsibly about the dilemma of humanitarian intervention.<sup>7</sup>

Writing on the ethics of intervention two generations ago, ethicist Paul Ramsey set forth the argument that military intervention for the sake of justice and charity remains both a right and a duty.<sup>8</sup> In Ramsey’s view, the failure of relatively free nations to intervene in humanitarian emergencies would be “tragically to fail to undertake responsibilities that... are not likely to be accomplished by other political actors.”<sup>9</sup> Responding to the common objection that intervention can be unjust and illicit, Ramsey acknowledged both possibilities – unjust as well as just causes. But the mere *possibility* of unjust causes, Ramsey insisted, does not release political actors – and the “extended hands” of the military – from their moral responsibility. Not intervening can also be unjust; hence, one’s obligations are the fruit of charity toward one’s neighbor.<sup>10</sup>

The viewpoint assumed in this paper is that humanitarian intervention is justified in *some*, not all, cases. The reason for this is that the purpose of government is to protect and secure basic human rights of all persons by virtue of human personhood, worth and dignity. Those regimes which violate these basic rights in the end forfeit their own right to be protected by international law. State sovereignty is not an intrinsic value, as is human personhood. Sovereignty must serve human ends.<sup>11</sup> In respecting those basic human rights, we are hence obligated to assist and rescue others at reasonable cost to ourselves, and, where possible, assist in the social-political reconstruction of those victims’ lives. We do unto other as we wish that they do unto us.

## **2. Humanitarian Concern and Making Moral Judgments**

### *Challenges in Contemporary Humanitarian Thinking*

*To intervene or not intervene?* should always be a difficult question. Few have expressed this hesitation more potently than Michael Walzer in his essay “The Politics of Rescue.”<sup>12</sup> The need for extreme caution in such matters, of course, is uncontroversial. The problem, however, is that many governments and politicians prefer the “easy” solution to the humanitarian dilemma: *not* getting involved, given the “costs” to their political standing at home, which will be affected by the public’s perception of costs to their own soldiers.<sup>13</sup>

The diversity of “humanitarian” operations in our day spans a mind-boggling array of scenarios that are both civilian and military in nature, with the two *always intertwined*. This multiplicity has caused one analyst to speak of “the fog of peacekeeping”<sup>14</sup> to describe the

imprecision and ambiguity of guidelines surrounding the humanitarian task. And given the veritable explosion of new states or quasi-states since the Cold War era<sup>15</sup> as well as the collapse, fragmentation or disintegration of the same, “chaos has replaced tyranny,” in the words of one analyst, as the new challenge to human rights in the 21<sup>st</sup> century.<sup>16</sup>

Although the presumption against intervention must remain very strong, it must be said that non-intervention is not an absolute moral rule; it is a pragmatic policy.<sup>17</sup> While there is no higher moral law that *requires* non-intervention, the same cannot be said of intervention. While no higher moral principle requires that we *always and everywhere* intervene, there *is* a higher moral principle requiring that, in *extraordinary and tragic* situations, we have a duty to intervene. Hugo Grotius anchors this obligation in the natural law. He writes that those in political authority have a right to defend not only against injuries done to their own subjects but those injuries that *are excessive and do not directly affect them*.<sup>18</sup> In fact, Grotius insists, it is “much more honourable” to avenge other people’s injuries than our own.<sup>19</sup>

My intention, however, is not to attempt a “how to” guide to humanitarian intervention. It is, rather, to highlight the moral wisdom of the just war tradition as it applies to this challenge, to which we shall now turn.

#### *Moral-Philosophical Assumptions That Inform “Neighbor-Love” and the Just War Idea*

All human action is subject to moral evaluation, and it needs emphasizing in our day – a day of post-consensus, post-everything nihilism – that such evaluation is *not* arbitrary. No one is a pure moral relativist, for as soon as someone begins to use the language of “should” and “should not,” he exposes his real nature, believing indeed that there *are* moral reference points. In point of fact, all people will draw the line between “acceptable” and “unacceptable”; the difference, of course, is *where* people decide to draw the moral line. But make no mistake: all people *do* draw the line; *all* people use the language of “should” and “should not.”

And because society – any society – collapses without common standards (insofar as morality mirrors a community’s values and priorities), moral diversity cannot be “total,” even when there is moral-cultural particularity. The very notion of “justice” is sufficient to illustrate. Very few people believe that justice is different for Kansans, Cambodians, Canadians, and Kazakhstanis.<sup>20</sup> And where justice *does* seem different, we call this a “travesty” or “miscarriage” of justice. In this way, then, we arrive at the realization of universal human rights.

But our understanding of human nature, which undergirds any conception of “human rights,” is critically important – an understanding that is rooted in a moral realism.<sup>21</sup> This moral

realism lies at the heart of just war thinking. By virtue of their common humanity, human beings have moral duties – duties that are intuited through reason and understood to be universal and immutable. These duties, moreover, are not limited to family, ethnicity or politics; they extend to our “neighbor,” which is to say, *whoever stands in need*. Such duties, then, are “pre-political,” anchored in an awareness of a higher law, the natural law, from which any form of civil or positive law must derive.<sup>22</sup> The moral is supra-legal. Only in this way are we able to posit any sort of grounding for “universal human rights.” If that were not so, then “Nuremburg was nothing but victors’ vengeance dressed up in a fiction of ‘justice,’” in the words of one just war theorist.<sup>23</sup>

Just war thinking, then, allows us to conceptualize the assistance of a “neighbor” in need, through its morally justified application of limited force. This is because of its fundamental moral-philosophical commitment to desire the highest, the best, for fellow human beings.

### **3. Just War Moral Reasoning: A Closer Look**

#### *The Logic and Unity of Just War Moral Criteria*

The just war concept, as I’ve suggested, is not just about war; it is a way of thinking about broader political life. For this reason, it has been described as an “ethic of responsibility.”<sup>24</sup> After all, as Martin Luther famously quipped, if the lion and lamb are expected to lie down together in the present life, then the lamb will need constant replacing.

This just war “ethic of responsibility” concretizes human duties in the direction of those who stand in dire need, seeking to restore a justly-ordered peace. Hence, the ethic is not some “dirty hands” conception of armed force that utilizes some “lesser evil” to achieve some good or remove some greater evil. It is rather a necessary, though limited, means by which to bring about a *good* result, based on a *good* intention, just as criminal justice is designed to achieve a *good* result – an ordered peace in which people can flourish – in domestic life.<sup>25</sup> The just war ethic is rooted in civic virtue.<sup>26</sup>

At the most basic level, the tradition presupposes certain moral truths that not infrequently are ignored or forgotten by contemporary theorists, strategists, and political pundits – for example:

- That human nature is such that both individual persons and governments can do intolerable things to human beings – things that must not be (humanly) tolerated; and because injustice and evil may be politically and legally entrenched, the moral act is *never only* strictly legal or contractual.<sup>27</sup>

- That both natural and religious (or theological) sanctions inform the tradition, through which human beings can reason toward a normative understanding of human nature and human moral obligation (hence the significance of the natural law).
- That a moral distinction between relative guilt and innocence *can* be discerned, in spite of unbridled nationalism, political complexities, and non-state actors.
- That “war” and “peace” are not two discontinuous and distinct realms,<sup>28</sup> each with its own set of rules.
- That “peace” does not merely mean the absence of hostilities; rather, authentic peace must be justly ordered, since the mafia, pirates, dictators, and terrorists maintain an orbit of “peace” in which they operate.<sup>29</sup>
- That coercive force is both permissible and limitable, thereby avoiding the two extreme positions of pacifism and political realism, resisting both cynical relativism and despairing withdrawal.<sup>30</sup>
- That both conventional and non-conventional military operations will be necessary in the affairs of nations.
- That a hierarchy of moral values must guide military and humanitarian intervention – not a mere utilitarian estimate of material damage but the realization of human suffering and death caused by coercive operations.
- And that a moral continuity exists between ends and means, between *ius ad bellum* and *ius in bello*, based on the justness of a cause for intervening and the right intention that governs both ends and means; thus, even if the cause of interventionary action is justified by legitimate political authority, the means or execution of that intervention can be unjust.<sup>31</sup>

By just war reasoning, intervention must always be commensurate with the degree of human suffering where it is occurring and oriented toward a greater good, based on the natural law, which proceeds on the assumption of self-evident truths accessible to all – namely, do good and avoid doing evil. These “self-evident truths” are implicit in the so-called “Golden Rule” ethic by both Plato and Jesus, which places upon us both positive and negative moral obligations. Positively, we are to do to others as we would want others to do to us; negatively, we must not permit to be done to others what *we ourselves* would not want done to us. The implications here for humanitarian action are clear. Quite properly the just war idea has been called a “citizenship

model” for international justice, because it insists that “no unbridgeable conceptual and political divide be opened up between domestic and international politics.”<sup>32</sup>

What needs emphasis in just war thinking is the coherence as well as both formal and logical unity existing among the various criteria. All conditions need to be met as they interlock with and illuminate one another. So, for example, among the primary *ad bellum* criteria,<sup>33</sup> just cause is *necessary but not sufficient* to intervention; it needs the confirming or “verifying” light of right intention, which can unmask imperial pretensions or wrongful designs. Moreover, ends and means, aims and execution, must be interlocking and proportionate to the victims’ suffering.<sup>34</sup> Morally calibrated means have the effect of “verifying” the justness or appropriateness of an interventionary cause.<sup>35</sup>

Regardless of our disagreements about the specifics of interventionary activity, moral wisdom does not call us to be indifferent toward the suffering of others in the face of atrocity.<sup>36</sup> This leads us to a recognition of an important moral-philosophical underpinning in the just war tradition: the symbiosis of justice and charity, which creates a continuity between ends and means and elucidates the very essence of right intention.

#### *The Conjoining of Justice and Charity in Just War Reasoning*

Even when “humanitarian intervention” finds little support in modern international law, an older tradition, anchored in just war thinking, justifies force not only to correct wrongs but to protect the innocent. It is this “tradition” that best explains – and “re-locates”<sup>37</sup> – humanitarian intervention, and at the heart of this “tradition” is the conjoining of justice and charity.

To divorce justice and charity is to do irreparable damage to the character of both virtues as well as to alter the very moral foundation upon which just-war thinking rests. Both justice and charity are non-fluid in character. As quintessential *human* virtues, they are deemed universally binding, and hence, are “owed” all people. As already noted, evidence of this universality is the transcultural “Golden Rule” ethic surfacing in the teaching of both Plato and Jesus. And in the Christian moral tradition, this ethic, wherein justice and charity embrace, gives embodiment to the natural law and finds powerful expression in the parable of the “Good Samaritan.”

Charity, as Augustine conceives of it, must motivate all that we do, including the application of coercive force. Not the external act but our internal motivation determines the morality of our deeds.<sup>38</sup> As a social force, this “rightly ordered love”<sup>39</sup> is foremost concerned with what is good – good for the perpetrator of criminal acts, good for victims of criminal acts, good for society which is watching, and good for future/potential offenders.

To read Thomas Aquinas' treatment of both charity and justice in the *Summa Theologica* is instructive. Therein he examines the nature of charity, its moral dimensions, and its consequences. Charity, according to Aquinas, must be developed *through habit* and thus is "a principle of action."<sup>40</sup> Moreover, what is noteworthy is the fact that *war* is contextualized in the middle of Aquinas' discussion of charity (Q. 40 of II-II). In Thomistic thought, charity and justice meet and guide us in applying coercive force. Because "justice directs a man in his relations with others,"<sup>41</sup> justice and love meld in Thomistic thought.

Two innovative, early-modern thinkers in the just war tradition who saw the symbiosis of justice and charity applying in distinctly "humanitarian" situations of their day were Francisco de Vitoria and Francisco Suárez. Their context – Spanish "New World" discovery – is important, for it placed them at odds with conventional thinking of the day. Vitoria's task in particular was to challenge Spanish imperial pretensions and the unjust treatment of native Americans. "The barbarians are all our neighbors," he wrote, "and therefore anyone, especially princes, may defend them from...tyranny and oppression."<sup>42</sup> Spanish intervention could *not* mean *conquest*, based on the natural law and the natives' innocence, even when their customs might seem strange. Recall Vitoria's context: he advances just war reasoning on behalf of *those outside his cultural world*, that is, those who technically were not his "neighbors."

Like Vitoria before him, Suárez taught at a leading university of his day. Trained both as a lawyer and a theologian, he addressed the subject of war as did Augustine and Aquinas – as a duty of charity. This element, coupled with the belief that moral principles based on the natural law must guide the use of coercive force in war, formed the main argument of his treatise *On the Three Theological Virtues, Faith, Hope, and Charity*.<sup>43</sup> Following Aquinas, Suárez argued that not merely natural justice<sup>44</sup> but also the norm of charity constitutes the proper motivation for war and coercive force.

Two Christian thinkers closer to our time share this commitment to prevent love and justice from being disengaged, though in differing ways. Reinhold Niebuhr, as clouds were forming on the European horizon in the 1930s, grew impatient with standard Protestant ethics of his day. In the end, Niebuhr rejected the divorce of love and justice (even when his theological reasoning must be viewed as deficient).<sup>45</sup> The divorce of love and justice, he believed, is tragic: we end up abetting *injustice*.<sup>46</sup> Hence, with sarcasm he lampoons Protestants' WW2-era naïveté: "if Britain had only been fortunate enough to have produced 30 percent instead of two percent

conscientious objectors to military service, [then] Hitler's heart would have been softened and he would not have dared attack Poland."<sup>47</sup>

A generation closer to us, the noted Princeton ethicist and just war theorist Paul Ramsey cautioned that "a Christian, impelled by love," simply "cannot remain aloof...toward the neighbor."<sup>48</sup> Love, Ramsey insisted, originates in justice.<sup>49</sup>

Neighbor-love is the primary feature of Ramsey's construal of love because it is cognizant of the dignity and worth of others. For this reason Ramsey could speak of a "preferential ethics of protection"<sup>50</sup> that has the innocent neighbor or third party in view.<sup>51</sup> "[N]o authority on earth," he writes, can withdraw from charity or justice their inclination to "rescue from dereliction and oppression all whom it is possible to rescue."<sup>52</sup> To his great credit, Ramsey's theological orientation always had responsible policy in view.<sup>53</sup>

Just war thinkers, then, from Augustine to Ramsey and beyond illustrate why, particularly in *our* day, charity will need to be redefined once more.

#### *Right Intention as "Verification" of Justness*

Thus far I have argued that the symbiosis of justice and charity lies at the heart of just war reasoning. Specifically, it underpins right intention. Without right intention, there can be no continuity between ends and means, and hence, no justification for intervention.<sup>54</sup> Without right intention, the link between one's action and one's justification for the action can be – and often is – severed, which means that "just cause" might be serving as a pretext for other ulterior motives. In the just war ethic, the criterion which explicitly directs of the use of force in the task of building or restoring peace is right intention.<sup>55</sup>

Intention in humanitarian emergency as well as in war is both forward- and backward-looking.<sup>56</sup> It is forward-looking in the sense that our stated aims should be evidenced through our actions, and it is backward-looking in the reverse sense: actions will confirm or conflict with the originally stated aims. Formally, we may argue that right intention consists of two components: (1) avoiding wrong intention, which harms and does not assist, and (2) facilitating a justly-ordered peace.<sup>57</sup> Right intention is helpfully illuminated by the character of its opposite, wrong intention, which would include imperialism, unbridled state nationalism, vengeance, blood-thirst, lust for domination, or territorial expansion.<sup>58</sup> This anatomy demonstrates that just war reasoning is not extrinsic to or removed from civic life; rather, it is an extension of community, responsible government, and our most basic values.

In the end, we might reasonably argue that right intention – strategically – is *the most important* of all the just war criteria,<sup>59</sup> inasmuch as without an appropriate moral disposition, without the ability to ask a myriad of *why* questions about  *motive*, the other criteria can become distorted or inoperable.<sup>60</sup> And it is right intention that will guide – via *public acts* – the restraining *in bello* principles of discrimination and proportionality. (An important component herein is the moral distinction between retribution and revenge. While time does not permit me to develop this important distinction, perhaps we can discuss this in the Q&A.<sup>61</sup>)

#### 4. Concluding Reflections

##### *The Costs and Character of Non-Intervention*

Assuming that all moral conditions for intervention have been met, charity and human decency compel us to conclude that we have not only a right but a responsibility to intervene where atrocity is afoot. And *who* should do the rescuing? Our answer must be: those states that are (a) best placed and (b) able to assist. While agreement on specifics of those options may elude us, *that* human beings are morally obligated to intervene and come to the aid of victims of gross injustice, where possible, should be beyond controversy.<sup>62</sup>

A word of caution: current unpopularity among the American public and American policy-makers regarding humanitarian intervention *may or may not* represent moral principle. While no nation on earth *can or should* “police the world,” and while no outcomes are guaranteed, a general attitude of moral detachment *may* in fact serve as a smokescreen for our inability to make moral judgments and engage social-political evil head-on.

##### *The Morality of National Interest: Responding to Charges of Inconsistency*

But *what about humanitarian interventions where we have no national interests?* This is a legitimate question. While acknowledging our responsibilities at home, these do not preclude responsibilities abroad. They simply remind us that there are finite limits on the responsibilities that we owe others. And these responsibilities abroad, of course, will vary according to the situation.<sup>63</sup>

“National interest” as it concerns security issues is not merely “selfish”; it is inevitably tied to the security of *other* nations. Granted, it is *not* unreasonable to ask, *Why should we be bearing the burden of military intervention in remote parts of the world?* And it is *not* unreasonable to ask, *Why should our soldiers in particular be bearing that burden?* But national interest, in the end, need not vitiate the motivation to assist other nations where the need is dire.

And should we be accused of hypocrisy or a double standard regarding intervention, as is inevitable, it is “better to be inconsistently responsible than consistently irresponsible.”<sup>64</sup>

### *Second Thoughts on “Last Resort”*

A final source of frequent misunderstanding invites our consideration. If we insist on viewing “last resort” as the *mathematical last* in a serial line of possible actions or strategies, there will *always* be one more alternative to try. And in our day, intervention is more likely to be late than pre-mature. Hence, we must qualify possibilities constituting “last resort” with the word “reasonable,” and for two reasons. First, all who oppose coercive force in principle will *never* acknowledge that diplomatic maneuvering is ever exhausted. Second, last resort might be immoral – and destructive – when and where it stalls and becomes too late to defend the suffering innocent. Quite properly, Michael Walzer has written: “Taken literally... ‘last resort’ would make war [indeed, any forceful intervention] morally impossible. For we can never reach *lastness*, or we can never know that we have reached it. There is always something else to do: another diplomatic note, another...resolution, another meeting...”<sup>65</sup>

Delay for the sake of delay, however, is not the intent of last resort in classical just war thinking. For if there is some great evil that must be prevented or stopped, we are not morally permitted to wait on every possibility. Delay at some point becomes immoral, inhumane and complicit with the crime or crimes needing interdiction – a *critically important* consideration as it applies to the question of “humanitarian intervention.” (After all, economic sanctions will not deter terrorists or tyrants.) For this reason, “last resort” is anchored in considerations of just cause, not vice versa.<sup>66</sup>

### *Human Solidarity and Neighbor-Love*

In an important address in 1997 at the U.S. Holocaust Museum, South African Justice Richard Goldstone, who had previously been chief prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, had this to say:

The one thing that I have learned in my travels to the former Yugoslavia and in Rwanda and in my own country is that where there have been egregious human rights violations that have been unaccounted for, where there has been no justice, where the victims have not received any acknowledgement, where they have been forgotten, where there’s been a national amnesia, the effect is a cancer in the society. It is the reason that explains, in my respectful opinion, spirals of violence in the former Yugoslavia for centuries and in Rwanda for decades...<sup>67</sup>

Goldstone’s remarks, fresh on the heels of unprecedented genocidal violence, serve to remind us that Paul Ramsey was right. No authority on earth can withdraw from “social charity” and “social justice” their intrinsic and justifiable tendency to rescue from dereliction and oppression all whom it is possible to rescue. That justification can never be withdrawn; it can only be limited, supplanted, or suspended temporarily.

It has been said that people will not cherish their own freedom if they are unwilling to intervene on behalf of others in need. Ancient proverbial wisdom beckons people of principle, irrespective of their location in life, to act on behalf of the traumatized. Such a call bears repeating, especially in a post-consensus cultural climate and at a moment when nations suffer from “humanitarian fatigue”:

If you faint in the day of adversity,  
How small is your strength.  
Rescue those who are being led away toward death,  
Hold back those stumbling toward the slaughter.  
If you say, “But we nothing about this,”  
Does not He who weighs the heart consider it?  
Does not He who guards your life not know it?  
And will He not repay each person  
According to what that person has done?<sup>68</sup>

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<sup>1</sup> *The Just War: Force and Political Responsibility* (New York: Scribner, 1968), 35-6.

<sup>2</sup> James Turner Johnson, “Humanitarian Intervention, Christian Ethical Reasoning, and the Just War Idea,” In Luis E. Lugo, ed., *Sovereignty at the Crossroads? Morality and International Politics in the Post-Cold War Era* (Lanham: Rowman & Littlefield, 1996), 127.

<sup>3</sup> Ludu Sein Win, veteran Burmese (and Rangoon-based) journalist, cited in *Irrawaddy*, April 2008, p. 5 (the *Irrawaddy* online website has since been removed).

<sup>4</sup> This instability might be characteristic of new states, failed states, or those states on the verge of collapse.

<sup>5</sup> We may define humanitarian intervention as “the proportionate international use or threat of military force, undertaken in principle by a liberal government or alliance, aiming at ending tyranny or anarchy, welcomed by the victims, and consistent with the doctrine of double effect” (Fernando R. Tesón, “The Liberal Case for Humanitarian Intervention,” in J.L. Holzgrefe and Robert O. Keohane, eds., *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* [Cambridge: Cambridge University Press, 2003], 94). Characteristic of “complex humanitarian emergencies” are several factors: they are crises that are (1) multi-dimensional (involving a wide array of disasters such as war, widespread violence and human rights violations, famine and disease, widespread suffering, social-political disorder, mass displacements of people-groups, etc., resulting in massive death rates), (2) man-made (and thus not “natural disasters”), and (3) essentially political and politicizing. See Jeni Klugman, *Social and Economic Policies to Prevent Complex Humanitarian Emergencies: Lessons from Experience* (New York: United Nations University World Institute for Development of Economics Research, 1999), 1-2.

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<sup>6</sup> Indeed, the sheer number and intensity of geopolitical horrors since the Cold War – from Bosnia and Kosovo, Rwanda, Sudan, Sierra Leone, and Liberia to East Timor, Iraq, Syria and the Central African Republic – force us to reconsider the *necessity* of military force in “humanitarian intervention.” The tragic lesson of genocide in Rwanda and ethnic cleansing in the Balkans is that large-scale violations of human rights may be *impossible* to prevent or punish *without* military intervention. And where the problems are internal, that is, where they are rooted in particular social structures, a particular political culture, a collapsed infrastructure, or a mindset that gives rise to ethnic hatred, resentment and violence, the conundrum of humanitarian intervention requires us to ponder the costs of nation-building. I shall argue in this paper that states in faraway places do indeed have an obligation to intervene, where they have the wherewithal and when the costs are not unreasonable. Politically, I assume that stable states in particular have this obligation, given that they have a stake in global security. From a moral standpoint, I assume stewardship based on the principle that to whom much is given, much will be required.

<sup>7</sup> Elsewhere I have argued similarly in “The Ethics of Humanitarian Intervention,” in Jonathan Chaplin and Robert Joustra, eds., *God and Global Order: The Power of Religion in American Foreign Policy* (Waco: Baylor University Press, 2010), 145-69.

<sup>8</sup> More recently, Michael Walzer has also made a similar argument in Chapter Five (“The Politics of Rescue”) of *Arguing about War* (New Haven and London: Yale University Press, 2004), 67-81. This essay originally appeared in the journal *Dissent* (Winter 1995): 35-41.

<sup>9</sup> Paul Ramsey, *The Just War*, 23.

<sup>10</sup> In his writings on social ethics, war and force, Ramsey shares the Augustinian conviction that charity must motivate all that we do, inclusive of restraining social-political evil. On charity as a governing motive of going to war or intervention, see as well Hugo Grotius, *The Rights War and Peace* 2.1.9; 2.17.9; 2.25.3, 9; 3.1.4; 3.2.6; and 3.13.4. Multiple times in this work Grotius refers to the “rules of charity” as they relate to – and support – formal justice.

<sup>11</sup> So Tesón, “The Liberal Case for Humanitarian Intervention,” 93-129.

<sup>12</sup> See n. 8.

<sup>13</sup> *Arguing about War*, 67.

<sup>14</sup> Daniel S. Bloch, “The Fog of UN Peacekeeping: Ethical Issues regarding the Use of Force to Protect Civilians in UN Operations,” *Journal of Military Ethics* 5, no. 3 (2006): 201-13. In his 1992 report *An Agenda for Peace*, then UN Secretary-General Boutros Boutros-Ghali identified four different kinds of “peace” intervention: pre-crisis deployment, peace-making (ending a conflict), peace-keeping (securing and maintaining peace), and peace-building (from truce to permanence).

<sup>15</sup> Much of this corresponds with what Samuel Huntington has described as the “third wave” of democracy in the 1990s. See Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991).

<sup>16</sup> Michael Ignatieff, “State Failure and Nation-Building,” in J.L. Holzgrefe and Robert O. Keohane, eds., *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), 299.

<sup>17</sup> So Walzer, *Arguing about War*, 69.

<sup>18</sup> *The Law of War and Peace* 2.20.40, emphasis added. Here I am relying on the translation provided by F.W. Kelsey (Indianapolis: Bobbs-Merrill, 1962), 504.

<sup>19</sup> *Ibid.* Elsewhere, in addressing the question of whether we have a just cause to intervene in order to relieve the suffering of people who are being oppressed by a ruler, Grotius answers that this “right of human society” may not be excluded, where the injustice is “visible” and the prince “disturbs and molests” his own country (*ibid.*, 2.25.8).

<sup>20</sup> That a common morality and a culturally specific morality co-exist needs no major philosophical justification. What needs emphasis is that the common – i.e., the over-arching – defines how that community relates to the outside world.

<sup>21</sup> In his important book *A Conflict of Visions: Ideological Origins of Political Struggles* (New York: Basic Books, 2002), Thomas Sowell contrasts two competing visions of human nature in our world today – what he calls the “constrained” and “unconstrained” visions. The difference between the two understandings cannot be over-stated. Sowell’s great service is to point out the ethical, social, and political consequences of the latter while arguing for a more modest and, ultimately, realistic or “constrained” understanding of human nature.

<sup>22</sup> Hugo Grotius observes that the natural law “remains still in Force where there are no Courts of Justice” (*The Rights of War and Peace* II.20.8, art. 5). I am here using the version edited by Richard Tuck (Indianapolis: Liberty Fund, 2005).

<sup>23</sup> Nigel Biggar, *In Defence of War* (Oxford and New York: Oxford University Press, 2013), 214. Although the political development of “human rights” is more recent, our cultural tradition’s understanding of human respect – and hence basic “rights” – has deep roots, anchored in the Judeo-Christian emphasis of human dignity and intrinsic

worth and issuing from the conviction of human beings being fashioned in the “image of God.” This “natural-law” understanding of human nature, wherein human beings are understood to be morally “free” agents (and hence morally responsible), has been coupled with the Judeo-Christian belief in a transcendent moral order, has contributed to a social-cultural environment in which the very notion of human “rights” and human flourishing has been bred. Since 1948, major international declarations have borrowed and assumed these essential truths, even when such declarations have been clothed in secular language. The problem with cultural relativism, for those who would deny or question the notion of a fundamental human “nature” and inherent human “rights,” is that if cultural relativism and moral pluralism are true, then nations could never pass judgments – indeed, *any* judgments – on “crimes against humanity.” If, however, there is such a thing as “universal human rights,” then preventing genocide, mass murder, ethnic cleansing, and the like must be a part of our foreign policy. And although historically such abuses have been due to dictatorial regimes, the reality is that in our day these atrocities more often than not occur in failed or collapsing states. This burden, in 2001, led the International Commission on Intervention and State Sovereignty (ICISS) to argue for a “re-conceiving” of the notion of sovereignty in its report “The Responsibility to Protect,” which was endorsed with strong support again at the 2005 United Nations World Summit. Whether “R2P” has been effectual is, of course, another matter.

<sup>24</sup> Jean Bethke Elshtain, “Just War and an Ethics of Responsibility,” in Eric Patterson, ed., *Ethics beyond War’s End* (Washington, DC: Georgetown University Press, 2012), 123. This, of course, places just war thinking at odds with pacifism, which rejects the essence and significance of political activity *qua* politics. Because it ignores questions of power, pacifism can offer little in terms of authentic peace-building in a fallen world, despite its claims.

<sup>25</sup> Grotius insists that the laws governing the ethics of war and peace are anchored in the same principles of justice that hold together all domains of civil society (*The Rights of War and Peace*, prol. no. 24; cf. also 2.1.9-11). In the same vein, Augustine writes that it is good – and charitable – to resist, prevent, or subdue a wrongdoer; we do him a service by expressing a “benevolent harshness” (*Epistle* 138 [“To Marcellinus”]).

<sup>26</sup> Jean Bethke Elshtain, “Epilogue: Continuing Implications of the Just War Tradition,” in idem, *Just War Theory: Readings in Social and Political Theory* (New York: New York University Press, 1992).

<sup>27</sup> This in no way is to deny the moral logic that requires military interventions to receive international support.

<sup>28</sup> See esp. John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed and Sheed, 1968), 12-13.

<sup>29</sup> As Augustine famously quipped, “Without justice, what are kingdoms but great robber bands?” (*City of God* 4.4). That is to say, the legitimacy of a state rests on justice. Here I am relying on the translation found in E.L. Fortin and D. Kries, eds., *Augustine: Political Writings* (Cambridge and Indianapolis: Hackett, 1994), 30.

<sup>30</sup> While this “mediating” has always been lodged at the heart of just war reasoning, it is succinctly stated by Grotius in the Prolegomena (no. 30) of *The Rights of War and Peace*.

<sup>31</sup> Aquinas (*S.T.* II-II Q. 40, a. 1) writes that “it is necessary that those waging war should have a rightful intention, so that they intend the advancement of good, or the avoidance of evil... For it may happen that the war is declared by the legitimate authority, and for a just cause, and yet be rendered illicit through a vile intention.” Here I am utilizing the translation found in Gregory M. Reichberg, Henrik Syse, and Endre Begby, eds., *The Ethics of War: Classic and Contemporary Readings* (Oxford and Malden: Blackwell, 2006), 177.

<sup>32</sup> Joseph Boyle, “Traditional Just War Theory and Humanitarian Theory,” in Terry Nardin and Melissa S. Williams, *Humanitarian Intervention* (Nomos 47; New York: New York University Press, 2006), 66.

<sup>33</sup> Here I follow those just war theorists who distinguish between “primary” and “secondary” just war criteria. The primary *ad bellum* considerations, following Aquinas (*S.T.* II-II Q. 40) are just cause, legitimate authority, and right intention; *in bello* criteria are chiefly twofold: considerations of discrimination and proportionality. The designation “secondary” does not suggest that these moral considerations are insignificant; it is only to emphasize that they are prudential considerations and owing their moral character to the primary criteria. Thus, we do not begin moral deliberation with “last resort”; “last resort” is only meaningful as it mirrors our deliberations over the justness of a cause.

<sup>34</sup> Proportionality, in just war moral reasoning, is not foremost the reckoning of *more versus less force* used but rather a calculation of *harm versus good* done.

<sup>35</sup> So Paul Ramsey, *War and the Christian Conscience: How Shall Modern War Be Conducted Justly?* (Durham: Duke University Press, 1961), 8. In the words of Grotius, the means employed in pursuit of any object “must, in a great degree, derive the complexion of their moral character from the nature of the end” (*The Rights of War and Peace* 3.1.2).

<sup>36</sup> Hereon see Taylor B. Seybolt, “The Myth of Neutrality,” *Peace Review* 8 (1996)521-27; Richard Betts, “The Delusion of Impartial Intervention,” *Foreign Affairs* 73, no. 6 (1994): 2-33; and Thomas G. Weiss, “Principles, Politics, and Humanitarian Action,” *Ethics & International Affairs* 13 (1999): 10-21.

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- <sup>37</sup> Terry Nardin, "The Moral Basis of Humanitarian Intervention," *Ethics & International Affairs* 16, no. 1 (2002): 57-8.
- <sup>38</sup> *The City of God* 14.9.
- <sup>39</sup> All that was created is "good," for Augustine; however, when our loves are not rightly ordered, the ultimate good is violated (*City of God* 15.22).
- <sup>40</sup> *S.T. II-II Q. 23-46, 58*; cf. also *Commentary on Nicomachean Ethics*, Lectures IV-VI.
- <sup>41</sup> Because "justice directs a man in his relations with others" (*ibid.* II-II Q. 58, a. 9, r. 3), justice and love meld in Thomistic thought.
- <sup>42</sup> Francisco de Vitoria, "On the American Indians," reproduced in Anthony Pagden and Jeremy Lawrance, eds., *Vitoria: Political Writings* (Cambridge Texts in the History of Political Thought; Cambridge: Cambridge University Press, 1992), 288.
- <sup>43</sup> This was published posthumously in 1621.
- <sup>44</sup> Cf. in this regard Aristotle, *Politics* 1333b-1334a. Suárez rejects the Aristotelian assumption of a natural moral "elite" within society who through their superior knowledge intuit justice over injustice and right over wrong.
- <sup>45</sup> Here I refer to his now famous words, the "impossible possibility," to describe Jesus' love ethic. See Reinhold Niebuhr, *Christianity and Power Politics* (New York: Scribner's, 1940), 3. In *An Interpretation of Christian Ethics* (Cleveland and New York: Meridian, 1956 [repr.]), 134, Niebuhr writes, "The ideal possibility is really an impossibility." What Niebuhr called "Christian idealism" creates an illusion; what is needed, rather, is a "Christian realism" (D. B. Robertson, ed., *Love and Justice: Selections from the Shorter Writings of Reinhold Niebuhr* [Philadelphia: Westminster, 1992], 41-43). A useful corrective to Niebuhr's deficient theology is offered by Paul Ramsey in "Love and Law," in Charles W. Kegley and Robert W. Bretall, eds., *Reinhold Niebuhr: His Religious, Social and Political Thought* (New York: Macmillan, 1961), 79-123, and more recently, in David D. Corey and J. Daryl Charles, *The Just War Tradition: An Introduction* (Wilmington: ISI Books, 2012), 207-26.
- <sup>46</sup> *Ibid.*, 136.
- <sup>47</sup> *Christianity and Power Politics*, 6.
- <sup>48</sup> *Basic Christian Ethics* (New York: Scribner's, 1950), 345-46.
- <sup>49</sup> *Ibid.*, 367.
- <sup>50</sup> *Ibid.*, 166-71.
- <sup>51</sup> In this vein, Ramsey takes Jesus' teaching on "turning the other cheek" in the Sermon on the Mount and extrapolates, noting that Jesus does not say, *If someone strikes your neighbor on the right cheek, turn to his aggressor the other as well* (170-71).
- <sup>52</sup> Ramsey, *The Just War*, 35-6.
- <sup>53</sup> Despite the volume's sensitivity to the divorce – theoretically and practically – of justice and charity, Nicholas Wolterstorff's *Justice in Love* (Grand Rapids/Cambridge, UK: Eerdmans, 2011) is remarkable for its inattention to the work of Ramsey. An additional fundamental weakness of Wolterstorff's volume is its deficient understanding of the relationship between punishment and forgiveness and its rejection of retributive justice and restitution, which Wolterstorff fails to distinguish from revenge. I have evaluated Wolterstorff's book at length in the review essay "Toward Restoring a Good Marriage: Reflections on the Contemporary Divorce of Love and Justice and Its Cultural Implications," *Journal of Church & State* 55, no. 2 (Spring 2013): 367-83.
- <sup>54</sup> Here I depart from Walzer's otherwise insightful exposition of just war reasoning in *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (4<sup>th</sup> ed.; New York: Basic Books, 2006), 21, 228-32, 251-5. Walzer believes that *ad bellum* and *in bello* criteria are independent, even existing in a tension or possible opposition, in the end tempting him in the case of "supreme emergencies" to set aside moral principle. Paul Christopher follows Walzer in this regard, asserting that "questions of *jus ad bellum* are not relevant to *jus in bello* proscriptions" (*The Ethics of War and Peace* [Upper Saddle River: Prentice Hall, 1999], 91).
- <sup>55</sup> This function has been described with exceeding clarity by H. David Baer, *Recovering Christian Realism: Just War Theory as a Political Ethic* (Lanham: Lexington Books, 2015), esp. chapter four ("The Criterion of Just Intention").
- <sup>56</sup> So Darrell Cole, "War and Intention," *Journal of Military Ethics* 10, vol. 3 (2011): 188.
- <sup>57</sup> This is the *tranquillitas ordinis* described by Augustine in *City of God* 19.13.
- <sup>58</sup> *Against Faustus* 22.72. To these I would even add the spread of democracy, insofar as not every state or sovereignty in the world is necessarily suited to democratic form of governance as the West has known and practiced it.
- <sup>59</sup> Thus Anthony J. Coates, "Is the Independent Application of *Jus in Bello* the Way to Limit War?" in David Rodin and Henry Shue, eds., *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford and New York: Oxford University Press), 191.

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<sup>60</sup> These “why” questions entail – but are by no means limited to – the following: What is the threshold for violating a state’s “sacred borders”? By what authority do agencies, actors, or collations intervene? What are the motives of intervening actors? What do charity and good will require? How long do potential intervening actors wait before intervening? What measures are needed for a “successful” intervention? What goal represents a “better peace”? To what extent are the host governing authorities responsible/accountable for victims of injustice and suffering? What level or degree of force is needed to protect victims and supply aid? How long will retaining or peacekeeping force be needed to restore order? What is the “common good” as it applies to a broken, failing, or oppressive state? What response and actions are proportionate to the country’s need? How are innocents/citizens properly protected during the interventionary process? And what will be needed for long-term healing?

<sup>61</sup> At its core, right intention in just war thinking distinguishes between revenge and retribution. If a categorical moral distinction cannot be made – and preserved – between the criminal act and the retributive act (a moral qualification that distinguishes not only right from wrongful intention but legitimate from illegitimate political authority), then it follows that a culture, society, or community cannot be considered “civil” and just. At its base, the moral outrage that expresses itself through retributive justice is first and foremost rooted in moral principle and not hatred, prejudice or uncontrolled passion. For this reason Augustine can speak of retribution in terms of “benevolent harshness.” Conceptually, revenge and retribution are worlds apart. Whereas revenge (i.e., vengeance or retaliation) strikes out at real or perceived injury, retribution speaks to an objective wrong. Because of its retaliatory mode, revenge will target both the offending party and those perceived to be akin. Retribution, by contrast, is targeted yet impersonal and impartial, thereby distinguishing itself from “vigilante justice.” It is for this reason that “Lady Justice” is depicted as blindfolded. Moreover, whereas revenge is wild, insatiable, and not subject to limitations or moral constraints, retribution acknowledges both upper and lower limits as well as the moral repugnance of both draconian punishment for petty crimes and light punishment for heinous crimes. Vengeance, by its very nature, has a thirst for injury, delighting in bringing further evil upon the offending party. The avenger will not only kill but rape, torture, plunder, and burn what is left, deriving satisfaction from the victim’s direct or indirect suffering. Augustine condemns this “lust for revenge” (*City of God* 4.6 and 14.28), a propensity prompting C.S. Lewis – who served as a soldier in World War I – to observe: “We may kill if necessary, but we may never hate and enjoy hating. We may punish if necessary, but we must not enjoy it. In other words, something inside us, the feeling of resentment, the feeling that wants to get one’s own back, must be simply killed... It is hard work, but the attempt is not impossible” (*Mere Christianity* [repr.; New York: Simon & Schuster, 1996], 109). The impulse toward retribution, it needs emphasizing, is not some lower or primitive instinct, even when many social scientists and social psychologists in our day hold this view. It is rather to dignify fellow human beings by treating them as responsible moral agents. Civilized human beings will not tolerate murder and mayhem at any level; the uncivilized will. Correlatively, civilized humanity will exercise moral restraint in responding to moral evil – a commitment that is rooted in neighbor-love and an awareness of the dignity of all human beings. The particular character of this response is chiefly twofold in its expression during interventionary action: it is both discriminating and proportionate in its application of coercive force.

<sup>62</sup> Among those “first-order” priorities that inform the ultimate justification for intervening are the following: (1) embodied justice as it affects the people who stand in need, (2) creating order out of chaos in social-political terms, and (3) seeking the common good of those in need, and (4) seeking the international common good as it is affected by the crisis (thus Ramsey, *The Just War*, 28-33).

<sup>63</sup> These realities are argued with great clarity in James Turner Johnson, “Moral Responsibility after Conflict,” in Eric Patterson, ed., *Ethics beyond War’s End* (Washington, DC: Georgetown University Press, 2012), 17-33.

<sup>64</sup> Biggar, *In Defence of War*, 233.

<sup>65</sup> *Arguing about War*, 88.

<sup>66</sup> Again, this suggests the need for prioritizing “primary” and “secondary” criteria (see n. 32).

<sup>67</sup> The transcript of this address appeared in the *Washington Post*, February 2, 1997, C4. In this speech, Goldstone recommended doing four things for the sake of those who have suffered: (1) exposing the truth of specific guilt and avoiding general guilt; (2) recording the truth of moral atrocity for the historical record in order to counter attempts by the guilty to avoid guilt; (3) publicly acknowledging the loss of the victims, who, as terrified people, need justice; and (4) applying the deterrent of criminal justice, since human nature tends to be deterred from criminal behavior by the fear of punishment.

<sup>68</sup> Proverbs 24:10-12.