

1-1-2010

The "Just War" Theory: Application to United States and Israeli Militarism

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THE HUMAN SPECIES HAS LONG BEEN ADDICTED TO WAR, FAVORING IT OVER GENTLER and more civilized modes of conflict resolution. In only eight percent of recorded history do we seem *not* to have been engaged in organized killing, and one wonders if, with further research, that eight percent gap might also reveal signs of bellicosity.¹ Humanity seems laced to the stubborn conviction that war can pass the most elementary ethical test of *doing more good than harm*. Efforts to apply the norms of justice to war have been halting, resisted, but not without some fruit.

War is perhaps the most muddled zone in our human moralscape. When we talk about war, we wallow in misnomers. “Victory” is one of those. In truth you can no more win a war than you can win a hurricane. Both sides lose. One side loses less and spins that as victory. The term “war” itself is a misnomer and a euphemism. Long-tenured usage of the term and gilded myths of military glory have defanged and neutered the term. We now use it as a metaphor for the most humane activities, such as “the war on poverty,” “the war on illiteracy,” or the “war on cancer.” We would not speak of raping poverty, illiteracy, or cancer because, rape, though all too common a crime, has not been linguistically purified.

What came to be called “the just war theory” (JWT) was an early effort to put the brakes of justice claims on the destruction called war. Ancient wars aimed at obliteration. When the Romans cried “*Carthago delenda est*,” they meant to leave nothing but dust and ash where Carthage once stood. And so they did, and this action was defended by no less a sophisticated Roman than Marcus Tullius Cicero. This was the same lethal formula employed by the ancient Hebrews. Deuteronomy spells out the God-sanctioned manner of warring: “You shall put the inhabitants of that city to the sword; you shall lay the city under solemn ban together with everything in it. You shall gather all its goods into the square and burn both city and goods as a complete offering to the Lord your God; and it shall remain a mound of ruin, never to be rebuilt” (Deut. 13: 15–17).

Restraints on the total obliteration approach appeared in ancient Greece. For practical and some humane reasons, they saw that Athens, Sparta, and Thebes

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may fight, but that they were all Greeks, with a basically common language, and they would have to deal with each other after the hostilities. The Romans, brutal imperialists that they were, reached some comparable conclusions. They concluded that war should be authorized only by the state and that it had to be in some fashion formally declared and marked by some effort at good faith.²

These faint beginnings would be developed later into what would be known as “the just war theory” in the Christian West when Christianity lost its early pacifism and needed to find a blessing for the newly friendly sword of Constantine.³ The “just war theory” has survived in various and often distorted forms into modern times, becoming today the most used and least understood part of the ethics of state-sponsored violence. President Barack Obama used and misused it in accepting the Nobel Peace Prize. Fragmented use of the theory is employed to justify every manner of military adventure.

Applying the word “just” to war, which began with Aristotle, is part of the problem. To suggest that a war could be *tout court* “just” made it easier to overlook the atrocities that invariably accompany “the dogs of war.” It shaded over the brutal complexities and yielded to the tyranny of “military necessity,” the term used to say that almost any means are justified to achieve “victory.” *Inter arma leges silent*. In the heat of battle, the rules of morality are stilled and silenced. Indeed, making rules for war is rather like making rules for an orgy; neither activity is patient of regulation.

Any Hope for “Just War” Theory?

Properly understood, “just war theory” is a peacemaker’s friend. The theory’s redemptive power is that it puts resort to state-sponsored violence in the dock and on the defensive. Since its elements have been internationalized and woven into the efforts of international law and custom, the theory has a tenured position in international discourse and, for that reason, it needs to be understood and taken seriously. When it is properly presented, state-sponsored violence can never be justified, except in the “policing” paradigm enshrined in the Charter of the United Nations—a paradigm subsequently ignored or trivialized, especially by the two nations under scrutiny here, the United States and Israel.

Taken seriously, the JWT would prove that all recent U.S. wars have been immoral and, therefore, nothing more, ethically speaking, than organized murder. The Israeli massacre of Gaza in December 2008, to cite but one example, failed every “just war” test. Indeed, that attack could not even be called a war, since Gaza has no army, navy, or air force. Moreover, the cornerstone of U.S. policy in the Middle East, i.e., our joined-at-the-hip alliance with Israel, fails the tests of justice on multiple counts if you seriously apply “just war” tests.

The JWT had an honest birthing: it was born of the recognition that war is a horror and that any defense of it bears a huge burden of proof. It set up a series of six tests. For a war to be “just,” it must pass not one or two, but all tests. Otherwise,

the “war” is a barbaric form of mass murder, however we dignify it with national liturgies and patriotic mythology. Since war-makers pull out parts of the JWT to hallow their wars, it serves peace well to remind them when their wars have failing moral grades. As ethicist Joseph Fahey says, “the ‘just war’ model was never meant to justify war. It was meant to limit war, to control war, and even to avoid war.”⁴ The allegedly “justified” war is usually the mask of an unconscionable failure to do the advance work of peace and to hide the total embarrassment of statecraft that state-sponsored violence tends to exemplify.

The Six Criteria for a “Just War”

1. A Just Cause

Defense is the only “just cause.” If war is waged to get oil, more territory, to wreak vengeance for perceived past offenses, or to preserve imperial hegemony, or if it is presented as a preemptive attack on possible future threats, it is not a just war and it has flunked the first test. For this reason, the Nuremberg trials treated preemptive war as a war crime. For this reason, with Hitler’s preemptive war still a fresh memory, the United Nations Charter—to which the United States is bound by treaty—forbade preemptive wars and permitted state-sponsored violence (war) when nations react collectively within U.N. “policing” guidelines. The term “preemptive war” is a mask for aggressive wars and vigilante wars.⁵

As Richard Falk writes, “World War II ended with the historic understanding that recourse to war between states could no longer be treated as a matter of national discretion, but must be regulated to the extent possible through rules administered by *international* institutions. The basic legal framework was embodied in the U.N. Charter, a multilateral treaty largely crafted by American diplomats and legal advisers. [There’s a bit of irony!] Its essential feature was to entrust the Security Council with administering a prohibition of recourse to international force (Article 2, Section 4) by states, except in circumstances of self-defense, which itself was restricted to responses to a prior ‘armed attack’ (Article 51) and only then until the Security Council had the chance to review the claim.”⁶

This meant that state-sponsored violence, like police violent action, may be necessary in extremis, but it should be in a communitarian context, hemmed in by legal restraint, with subsequent review and judgment. If this moral breakthrough were honored, if we moved from the vigilante mode of war to the policing paradigm, it would be a major step toward a world without war. It is the way of human life, however, that moral ideals and moral breakthroughs like this appear as tender shoots and are easily crushed under the rushing wheels of expediency.

2. Declaration by Competent Authority

War can only be justified if it is waged to protect the common good. The government is by definition *the prime caretaker of the common good*. Corporations or

gangs cannot declare war, though in reality corporate manipulation of government is often decisive in the move to war. Our splendid Constitution saw this danger and said that it is the prerogative of Congress “to declare war” and to “provide for the common defense.” President Truman led the trashing of this provision of the Constitution when he attacked Korea without a declaration of war. No president has honored it ever since. The copout now in vogue is for a supine Congress to pass a “Resolution” that hands over the war-making powers to the president, exactly what the Founders proscribed.

The Congress-as-Patsy syndrome now in vogue is not the only culprit in this defection. A wimpy citizenry, beguiled by bread and circus, and seduced by governmental propaganda, endorses and legitimates governmental criminal warring by its indifference and silence. As Anne Frank wrote, “I don’t believe that only governments and capitalists are guilty of aggression. Oh no, the little man is just as keen on it, for otherwise the people of the world would have risen in revolt long ago.”⁷

The Constitution is not merely a collection of noble ideals. Rather, it is a practical plan for what works best in a democracy. When we frustrate the Constitution, failures ensue and democracy withers. According to Professor of International Relations Bruce Russett, democracies “more often win their wars—80 percent of the time.” The reason is that “they are more prudent about what wars they get into, choosing wars that they are more likely to win and that will incur lower costs.”⁸ Of course, we now enter wars the way autocracies and dictatorships do, with a cowardly press, a somnambulant citizenry, and a violated Constitution making that possible.

The result? The United States now has a losing streak going, with four lost wars in a row. There is no way to describe the quagmire debacles of Korea, Vietnam, Iraq, and Afghanistan as victories. It is difficult to imagine what would constitute “victory” in any of these brutal misadventures. The Israeli “victory” in the 1967 War, which tripled its size, was the gateway to current Middle East disasters, making Israel a truculent, beleaguered redoubt with more aggression as its only defense.

This second “just war” criterion, declaration by the appropriate exercise of government, was meant to bring *recta ratio*—good and careful reasoning—to bear on the initiation of warring violence. In a democracy, it requires the informed consent of the people. The more participatory the decision-making process, the less likely it is that kill-power will be used foolishly. Tragically, *fear* and *propaganda* regularly override reason as nations gird for battle.

3. Right Intention

This test may sound bland, but, like the others, it has a bite in it (indeed, many bites). This test focuses on *why* you go to war (*jus ad bellum*) and *how* you behave when you get there (*jus in bello*.) Truth has been called the first casualty in every war and the wounding of truth starts well before the war starts. There may be some hope in the fact that war-makers sense that truth is their enemy and the assault on truth accompanies the first steps to war.

At the outset, right intention means that the reasons alleged for the war should be the real reasons. When the war has begun, right intention works against manipulative "support our troops" sloganeering by demanding to know why the troops were sent and how they are going about doing it. Simple as it may sound, there are many teeth in this requirement of justice.

(a) *Undue secrecy and propaganda violate "right intention."* Secrecy in war, though allegedly for "national security," is often rooted in the war-makers' fear of the *vox populi*. (The enemy usually knows the secrets.) Secrecy is a tactic of propaganda and propaganda is intrinsically undemocratic and violent since it disempowers citizens.

(b) *Right intention means that you do not impose unrealistic conditions that stifle accommodation and peacemaking.* "Unconditional surrender" was a demand that needlessly postponed the end of World War II. Similarly nonsensical are the claims that our wars in Vietnam, Iraq, and Afghanistan should go on "until we turn these nations into flourishing and edifying democracies." Recent history laughs at such specious defenses of our "shock and awe" approach to nation-building. Indeed, real democracy would run counter to our interest in oil-rich nations such as Saudi Arabia, since it would end our cozy deals with the autocrats who run them.

Our uncritical support of Israel's military seizure and occupation of Palestinian properties and land is allegedly and ironically based on a shared love of democracy. However, as Israeli historian Shlomo Sand points out, by claiming to be "a Jewish state," Israel has defined itself not as a democracy, but an ethnocracy, since all non-Jewish Israelis are there by sufferance and not as fully fledged citizens.⁹ The idea of a "Jewish democratic state" is an oxymoron. A "Jewish democratic state" negates the *e pluribus unum* thrust of a modern democracy by downgrading the "many" in favor of a dominant ethnic and religious group. It is also an anachronism, harking back to ethnic tribalism and the clan, where unity was found in real or imagined biological linkage. The problem is confounded by the inability, even in Israel, to decide definitively who is "a Jew" and who is not.¹⁰ The only hope for a peaceful Israel is in a single modern state in which the moral and spiritual strengths of Judaism can be celebrated in a welcoming pluralistic and truly democratic state. Ethnocracy purporting to be "democracy" cannot endure.

(c) *Right intention precludes the use of torture and other crimes against humanity.* After Abu Ghraib and revelations of "water boarding," etc., American boasts of innocence were undone. Both the United States and Israel were founded on ethnic cleansing—of the Indians or Native Americans in the former, and the Palestinians in the latter. *Ethnic cleansing means rendering an area ethnically homogenous by removing persons from another ethnic or religious group through force or intimidation.* An early American critic, Sylvester Judd, put it thus in 1842: "The people of this country would not be taxed without representation. They did not tax the Indians without representation, but exterminated them and planted themselves in their territories."¹¹ In one example, early America expropriated 25,000,000 acres

of Indian land to be sold to Europeans and Americans to pay for the Revolutionary War. Like Israel's euphemistic "settlements," this was land forcibly stolen from the indigenous peoples, a process that continues in Israel in ways that parallel the "reservations" and special status arrangements the United States used to isolate the Native Americans after the European invasion of North America.

Israel's ethnic cleansing began in 1948. There are two narratives about what happened in Palestine then. Israeli historian Ilan Pappé states that for Israelis in 1948, "two things happened, one of which contradicts the other." In one narrative, Zionism triumphed and Jews returned to their "promised land." However, this narrative ignores "the ethnic cleansing carried out by the incoming Jews": in 1948, "500 Palestinian villages and 11 urban neighborhoods were destroyed; 700,000 Palestinians were expelled from their homes, and several thousand more were massacred."¹² The Israelis refer to these events as a War of Independence. The Palestinians refer to 1948 as *Al Nakba*, the catastrophe. Right intention requires readiness to confess one's own crimes and make reparation. Otherwise, resentments endure and undermine peaceful solutions.

Nations are prone to spin their own self-serving *Aeneids* regarding their origins. However, the United States and Israel cannot enter credibly or effectively into international converse of terrorism and ethnic cleansing if they pretend to innocence on these issues. Right intention requires candor and forbids righteous posturing and mendacity.

(d) *Right intention means that the burdens of war are distributed fairly.* It means you do not field an army of the poor, apparent in the spirit of the wealthy father of James Mellon at the time of the Civil War: "A man may be a patriot without risking his own life or sacrificing his health. There are plenty of lives less valuable." Dick Cheney's five deferments during the Vietnam War illustrate the perdurance of this tradition.

(e) *Right intention means that if you cannot love your enemies, you will at least try to understand them.* Why were the September 11 attackers so highly motivated? Why were their attacks directed against the United States and not Sweden or Brazil? Are there aspects of our Middle East policy or other policies that stirred this wrath? Why were 700,000 Palestinians forced from their home to make room for Israel resentful? Can their resentment simply be smothered by military might and occupation? These are fair questions. If they remain unasked and unanswered, intention is not right and any efforts at diplomacy are limited by the underlying deceptions.

(f) *Intention is not right if those closest to the action are denied the right to selective conscientious objection.* Current policy in the United States requires military personnel to be absolute pacifists if they object to an ongoing war. They have no right to object to a particular war. This is a difficult case for soldiers to make if they have already joined the army. The idea of the soldier as automaton, with no more conscience than a fired bullet, is the keystone of military culture. Blind obedience is as immoral as slavery, and insisting on it pollutes the intention

of the war-makers. Soldiers forced to act against their own consciences suffer from what is called "moral wounds." This is an important factor in post-traumatic stress disorder.¹³

4. The Principle of Non-Combatant Immunity

This condition makes a just modern war almost unimaginable and requires a return to the "policing paradigm" as presented in the United Nations Charter. "In the wars of the 1990s, civilian deaths constituted between 75 and 90 percent of all war deaths. Some two million children have died in dozens of wars during the past decade.... This is more than three times the number of battlefield deaths of American soldiers in all their wars since 1776."¹⁴ Military science has changed the nature of warfare.

Terrorism is by definition the intentional killing of the innocent to make their governments do what you want. It violates the "just war" criterion. However, as the science of modern war developed, this kind of terrorism became standard operating procedure, starting with World War II and continuing, with bald irony, in the "war on terror." Classical examples of terrorism are the atomic bombings of population centers in Hiroshima and Nagasaki. The U.S. "Shock and Awe" tactic in invading Iraq, with its massive assault on civilians, is another example of terrorism. State terrorism is infinitely more damaging than individual terrorism (such as the September 11 attacks) given the power differential.

The overwhelming disproportion between Palestinian deaths and Israeli deaths in that conflict show the predominant lethality of state-sponsored violence. In 1987, with no effective support coming from the neighboring Arab nations, the Palestinians began what was called the *intifada* (a "waking up"). The disproportionate results show the power of state violence over small-group or individual violence. As Jimmy Carter observed, "seventy thousand Israeli troops were deployed to confront mostly young people throwing stones." Not one Israeli soldier was killed during the first year of the *intifada*, with 12 Israeli fatalities occurring in the first four years of the uprising. In contrast, Israel acknowledged that over 700 Palestinian civilians were killed during that period. In the second *intifada* in 2000, 119 Israeli children were killed and 982 Palestinian children.¹⁵ The Palestinians need lessons from Gandhi on the practicality and effectiveness of nonviolent power.

Even before the modern scientific enhancement of kill-power, the idea of non-combatant immunity was strained to the point of absurdity. In ancient India, laws were made in a futile effort to spare the "innocent." War was not to visit harm on "those who look on without taking part, those afflicted with grief, those who are asleep, thirsty, or fatigued or are walking along the road, or have a task on hand unfinished, or who are proficient in fine art."¹⁶ The Talmud recognized a problem with sieges in which warriors and children are lumped together. It ruled that for a siege to be moral, it must not be four sided; one side must be left open for the

innocent to escape. Of course, a three-sided siege with an escape hatch is not a siege. Logic melts in the heat of "military necessity."

The Principle of Double Effect

In a cruel irony, one tool of "just war" theorizing is used to circumvent the requirement of noncombatant immunity. That tool is known as "the principle of double effect,"¹⁷ and is widely used in distorted form, especially by war-makers. The core insight of the principle is straightforward: we often do good things that have bad effects. When is it moral to proceed in spite of that bad effect? That is the business of the principle of double effect. Thus, if we remove a cancerous uterus, the good effect is that the cancer is gone; the bad effect is that the woman is infertile.

The question the double effect principle sought to answer is whether I am morally responsible for the bad effect. In gist, the answer is: "No, as long as you did not really *want* that bad effect, but merely reluctantly put up with it as an unavoidable consequence, and as long as there was *proportionality* between the effects." It has been described as the principle of moral and psychological disassociation. You may be justified if you do not *will* the bad effect, but merely reluctantly *permit* and *put up with it*. That is the psychological component. The moral justification rests on the judgment of proportionality, on whether the good envisioned outweighs the harm entailed. For instance, by ending a longstanding 90 to 100% white male monopoly in professions and jobs, affirmative action has the good effect of enfranchising women and other excluded groups and receiving the benefit of their previously suppressed talents. It has the bad effect of excluding, until the monopoly is broken, qualified white males.¹⁸

Both the psychological and the moral factors suffer when the principle of double effect goes to war. In the stress and chaos of war, the "good effect" (doing something to defeat the enemy) drowns out even the most horrific "bad effects," such as the deaths of one hundred thousand people in bombing raids on Tokyo or Dresden. Today, anything that might defeat "terrorism" is rationalized and "justified," including U.S. "shock and awe" terrorism and Israel's allegedly defensive terrorism.

Historical examples clarify the misuses and proper use of the principle of double effect. A siege always violates the principle of noncombatant immunity. More civilians died in the siege of Leningrad than in the infernos of Hamburg, Dresden, Tokyo, Hiroshima, and Nagasaki combined. Writing a few years after these atrocities, Henry Davis, S.J., in his *Moral and Pastoral Theology*, uses the principle of double effect to justify starving a population by siege. "Enemy troops may be starved by blockade. If civilians suffer, it is not intended that they should suffer; it is their misfortune, and it is due to the fortune of a just war that they happen to be in the same place as their army. Blockade and siege are in principle not different from the bombing of fortified garrison towns."¹⁹ "It is their misfortune." Small comfort indeed! Note the chillingly strained effort to disassociate from the disaster: "it is not intended that they should suffer." As for proportion, their suf-

fering is balanced by the demands of victory in a "just war." Here, justice claims are being made for what are clearly acts of terror.

Ethicist Davis plunges more deeply into ethical absurdity when he justifies the bombing of hospital ships with the wounded on board. "The case may be imagined when even a hospital ship will be so valuable to the enemy for future aggression during a war that it may be of vital concern to sink it. Though such a necessity would be deplorable, we think the sinking of it may be justified, for what is attacked is the ship; the deaths of those on board are incidental and not wished."²⁰

Writing four years after the bombings of Hiroshima on Nagasaki, Davis stated: "The morality of the use in war of the atomic bomb is not different from the morality of the use of any other explosive." Military necessity can trump ethics even in the hands of ethicists. To say that you may be exculpated for directly bombing people, including wounded people on a hospital ship, because you did not *will* it, but merely *permitted* it, is hair-splitting at its silliest.

Another ethicist who examined World War II bombing practices showed that the same theory can be both perverted and helpfully used and applied. The Allies emulated Hitler in the practice of "obliteration bombing." Jesuit ethicist John Ford published "The Morality of Obliteration Bombing" in 1944, at the height of this practice. Against the strong militaristic headwinds of the time, he used the principle of double effect to argue that such bombing was immoral. It was impossible for bombardiers to drop bombs and withhold their intention to kill the people those bombs would directly strike. He also challenged the proportionality of this terrorist tactic. In the violent fervor of the moment, with victory as the all-justifying Holy Grail, no one heard Professor Ford. Following this line of thinking, however, the Second Vatican Council condemned the view that atomic weapons were simply another bomb. The use of atomic weapons merited, the bishops said, "unequivocal and unhesitating condemnation."²¹

In sum, given the development of military science and the indiscriminate nature of modern weaponry, justice requires that human societies move to nonviolent modes of power and restrict state-sponsored violence to the policing paradigm envisioned in the Charter of the United Nations. If this paradigm is used, the principles and tests of just war theory can be profitably employed.

5 and 6: Last Resort and the Principle of Proportionality

The "last resort" principle is simple: *resorting to violence when there are neglected alternatives is barbaric*. If state-sponsored violence is not our very last resort, we share the same moral ground with hoodlums who solve problems by murder.

The principle of proportionality is the capstone of the JWT. *It means that the violence of war must do more good than harm*. There is nothing wild about that statement. Anything we do, in any context, should do more good than harm. As weapons grow in lethality, wars are less and less able to pass this rudimentary test. Since the preparation for war bankrupts nations and starves the poor, wars start

their killing even before the first shot is fired. War has been called development in full reverse. It kills uninvolved people and animals and wreaks havoc on the environment, of which our economy is a wholly owned subsidiary.

An honest, "strict constructionist" use of the just war theory challenges the conscience of war-makers. Warriors are champions at self-justification. It is an act of social justice to challenge them and show the rigid tests that must be passed before you use violence and ecological devastation to attain some proposed good. Without passing every JWT test, the word "just" cannot be linked to the word "war." Philosophers and theologians have been remiss by failing to bring the demands of justice to the fore in the public square as nations embark on state-sponsored violence.

Social Justice and the Just War Theory

The literature on justice easily contains over 50 kinds. All of them are reducible to three. As I write in my book, *Ethics: A Complete Method for Moral Choice*:

There are three forms of justice because persons relate to persons in three different ways. We relate on a one-to-one basis (commutative justice); individuals relate to the social whole (social justice); and the representatives of the social whole relate back to individuals (distributive justice). When we talk about fulfilling contracts or repairing injuries done to the discrete individuals, we are speaking of commutative justice. When we speak of indebtedness to the social whole and the common good exemplified by such things as taxes, voting, jury duty, and eminent domain, we are speaking of forms of social justice. And when we speak of distributing the goods and burdens of society fairly (largely but not exclusively through the instrumentality of government), we are speaking of distributive justice. Social and distributive justice both relate to the common good and are thus coordinates.²²

When a nation goes to war, social and distributive justice are key, but social justice is most crucial and fundamental. Social justice relates to what individual citizens, as individuals and as groups, owe to the common good. In a democracy, they are the *demos* to whom legitimate governments must respond. A mute, nonparticipatory *demos* abdicates its power and responsibility. War-making also involves the principal agent of distributive justice—the government, which alone has the power to declare war. However, government is grounded in the people. Even eight hundred years ago, Thomas Aquinas faced the view that distributive power is the sole prerogative of the "prince," the view insisted on by royal courts. Not at all, said Thomas. The prince gets the power from the people, the subjects (*subditi* in Thomas' wording). If the citizens are not, as Thomas says, *contenti*, satisfied, not making a fuss, they are underwriting and legitimating the deeds of government.²³

Thus, citizenship is a moral vocation entailing duties of participation. If those duties of social justice are not fulfilled (and often large majorities of citizens do not even vote), then corporations, lobbies, and elitist interest groups will fill the democratic gap. Morally speaking, there is no time when citizens are more bound to rule by participation than when their government is killing people in their name. Because this duty is not fulfilled, true democracy remains a phantom in most cases and terms like *corpocracy* and *lobbyocracy* arise to cynically, but more accurately, describe the kind of government in place.

NOTES

1. Chris Hedges, *What Every Person Should Know About War* (New York: Free Press, 2003): 1.
2. Roland H. Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (New York and Nashville: Abingdon Press, 1960): 33–52.
3. Stanley Windass, *Christianity Versus Violence* (London: Sheed & Ward, 1964).
4. Joseph Fahey, *War and Christian Conscience* (Maryknoll, New York: Orbis Books, 2005): 110.
5. Distinctions are sometimes made between "preventive" and "preemptive" war. "Preventive" refers to a situation in which an army has massed at the border and an attack is clearly and obviously about to begin. Indeed, it can be said that the preparations and deployment constitute the beginning of the attack, and thus the response would best be described as defensive, rather than preventive.
6. Richard Falk, "Why International Law Matters," *The Nation* 276 (March 10, 2003): 20.
7. *The Diary of a Young Girl*, translated by B.M. Mooyart (Garden City, New York: Doubleday, 1953): 201.
8. Bruce Russett, in Glenn Stassen (ed.), *Just Peacemaking: Ten Practices for Abolishing War* (Cleveland: The Pilgrim Press, 1998).
9. Shlomo Sand, *When and How Was the Jewish People Invented* (London and New York: Verso, 2009): 307. At www.consortiumnews.com/Print/2009/070809.html.
10. Alana Newhouse, "The Diaspora Need Not Apply; Israeli Legislation Would Let the Ultra-Orthodox Say Who Gets to Be a Jew," *The New York Times* (July 16, 2010, Op-Ed).
11. Sylvester Judd, *A Moral Review of the Revolutionary War* (Hallowell, ME: Glazier, Masters and Smith, Printers, 1842, 38).
12. Ilan Pappé, "State of Denial: Israel, 1948–2008," *The Link* 41, 2 (April–May, 2008): 1–3.
13. See www.CenteronConscience.org. Center on Conscience & War, 1830 Connecticut Ave. NW, Washington, DC, 20000–5706. This group supports giving all military personnel the right to selective conscientious objection.
14. Desmond Tutu, "Stop Killing the Children," *The Washington Post* (November 24, 1996).
15. Jimmy Carter, *We Can Have Peace in the Holy Land: A Plan That Will Work* (New York: Simon & Schuster, 2009): 45. In the second *intifada*, "Israeli strikes against Gaza cost 2,974 Palestinian lives while 580 Israelis were killed" (p. 94). Again, in that second *intifada* "119 Israeli children and 982 Palestinian children were among the dead" (p. 62).
16. S.V. Viswanatha, "International Law in Ancient India," quoted in Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977): 43.
17. See Daniel C. Maguire, *Ethics: A Complete Method for Moral Choice* (Minneapolis: Fortress Press, 2010): 113–115.

18. See Daniel C. Maguire, *A New American Justice: Ending the White Male Monopolies* (Garden City: Doubleday, Inc., 1980; republished by Harper & Row, Perennial Library, 1980).
19. Henry David, S.J., *Moral and Pastoral Theology*, Vol. 2, Sixth edition (London and New York: Sheed and Ward, 1949): 150.
20. *Ibid.*
21. See *The Horrors We Bless: Rethinking the Just-War Legacy* (Minneapolis: Fortress Press, 2000): 58.
22. Daniel Maguire, *Ethics: A Complete Method for Moral Choice*, 55–56.
23. Thomas Aquinas, *Summa Theologiae* II-II, Q. 61, a. 1, ad 3. Some refer to the JWT as “the Catholic Just War Theory” since historically Catholic scholars have elaborated on it most fully. As such, we must issue a loud *j'accuse* to, for example, the U.S. Catholic Bishops who sanctimoniously and carefully elaborated the principles of JWT in their 1983 Pastoral Letter, “The Challenge of Peace.” Yet, when the United States launches into wars that egregiously violate these principles, the Catholic bishops are distracted by obsessive concern over what I have called “the pelvic issues”—abortion and same-sex marriage—while American war crimes proceed. We must call politicians and “people of faith” before the bar of their professed ideals and charge them with hypocrisy when such a charge is merited.