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**PLOUGHSHARES INTO SWORDS?  
REFLECTIONS ON RELIGION AND VIOLENCE**

ESSAYS FROM THE INSTITUTE FOR THEOLOGICAL INQUIRY

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# Good Samaritans, Religious Violence, and Humanitarian Intervention

Eric Gregory

The role of religion in promoting and constraining violence has once again become a defining issue of public life. It is also a pressing *theological* topic. Familiar critiques of religion as a distinctive sponsor of violence grounded in absolutism, apocalyptic enthusiasm, or irrational superstition enjoy renewed attention in popular polemic and scholarly analysis.<sup>1</sup> At the same time, critics of modern nation-states challenge conventional—and often triumphalist—narratives about the ways post-Westphalian internationalism supposedly addresses the problem of “religion and violence” by consolidating state monopoly on the use of force. On this view, far from limiting religious violence, states perpetuate a kind of religiosity within their supposedly secular consolidation of sovereign legitimacy.<sup>2</sup> These origins, attached to new tales of martyrdom or redemptive significance, allow elites of modern nation-states to adopt messianic pretensions and co-opt their diverse religious citizens “into a kind of *ersatz* religion with its own *ersatz* liturgy.”<sup>3</sup> Indeed, the rituals of interstate warfare have escalated violence on a massive scale.

New weapons, including nuclear capacities and combat drones, are enlisted in a constantly moralized search for enemies and perpetual war that might legitimate political solidarity. In the past century, millions have been willing to kill and to die as expressions of loyalty to their state. Efforts to

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<sup>1</sup> Christopher Hitchens, *God is Not Great: How Religion Poisons Everything* (New York: Hachette, 2007); Mark Jurgensmeyer, *Terror in the Mind of God: The Global Rise of Religious Violence* (Berkeley: University of California Press, 2000).

<sup>2</sup> William T. Cavanaugh is a powerful exponent of this position; see his essay in this volume, “Secularization, Violence, and Idolatry.”

<sup>3</sup> William T. Cavanaugh, *Migrations of the Holy: God, State, and the Political Meaning of the Church* (Grand Rapids: Eerdmans, 2011), 3. For the purposes of this essay, it is striking that states seldom memorialize humanitarian interventions.

sacralize American foreign policy during the Cold War and the “global war on terror” are taken as the most recent examples of this religious link between sacrifice and violence where it is most denied.<sup>4</sup> For Jews and Christians, succumbing to pretensions of false transcendence with regard to the state is called idolatry.

For the purposes of this essay, let us stipulate the idolatry of modern nationalism as parasitic on a distorted religious phenomenology. Is there any way to maintain a distinction between judicial activity and violence that is not simply self-deceptive illusion?<sup>5</sup> Must morality and global politics be torn asunder? Is there a way to be responsive to the claims of victims without perpetuating idolatry or dangerous utopianism? Could acts of judgment (including the use of force) be understood as “the interim provision of God’s common grace” that “preserves the world against its own self-destruction”?<sup>6</sup> Might they even display a kind of “reparative thinking” for a broken world?<sup>7</sup> This essay poses the dilemmas of humanitarian intervention—which also challenge state sovereignty and nationalism—as a test case for thinking about these dilemmas as theological problems. I do so by assessing them in light of various readings of the parable of the Good Samaritan.

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<sup>4</sup> *Ibid.*, 94-96 and 177-179. On American militarism, see Andrew Bacevich, *Washington Rules: America’s Path to Permanent War* (New York: Metropolitan Books, 2011), and Harry Stout, *Upon the Altar of the Nation: A Moral History of the Civil War* (New York: Penguin, 2007). Stout argues that the joining of nationalist spirit to total war in the Civil War “prepared Americans for even more devastating total wars they would pursue in the twentieth century” (xv). For an appreciative theological reading of Stout’s work, see Stanley Hauerwas, *War and the American Difference: Theological Reflections on Violence and National Identity* (Grand Rapids: Baker, 2011).

<sup>5</sup> For a compelling challenge to Carl Schmitt’s dualistic notions of law and exception informed by modern Jewish thought, see Bonnie Honig, *Emergency Politics: Paradox, Law, Democracy* (Princeton: University Press, 2009).

<sup>6</sup> Oliver O’Donovan, *The Just War Revisited* (Cambridge: University Press, 2003), 6. Against most pacifist self-understandings (and Cavanaugh’s views above), O’Donovan charges that pacifism offers a more “statist” position because it does not “treat international politics wholly seriously as politics, a God-given sphere of peaceful interaction” (8).

<sup>7</sup> I borrow this term from Peter Ochs’, “Meantime-Endtime Theologies of the Return to Zion,” in this volume.

I do not aim to provide a complete survey of the burgeoning literature on armed intervention.<sup>8</sup> I also do not undertake a comprehensive history of the just war tradition. Indeed, there may be no such thing as a “just-war tradition” in the same way we can speak of a Thomistic, Kantian, or Aristotelian tradition. I am not interested in reinstating a tradition so much as uncovering lost rationales in light of the never-ending evolution of norms of conduct. Apart from its salience given recent political events, humanitarian intervention also invites further reflection given statements by pacifists and just-war theorists “that defy what we might expect them to say about the morality of using force for humanitarian aims.”<sup>9</sup>

The parable of the Good Samaritan is one of the most celebrated in ethics.<sup>10</sup> Many find important lessons about meeting the desperate needs of strangers and a universal concern for any human being as a potential “neighbor.” In Christian theology, principles like equal respect and impartiality often are taken as imitations of a generous divine love. The story is thought to expand moral concern

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<sup>8</sup> For my purposes, borrowing terminology from G. Scott Davis, “humanitarian intervention” refers to military interventions by a state or coalition of states into another state, against the wishes of that state, and for the purposes of rescuing and protecting foreign persons (often minorities) from grave harm or injustice (such as genocide, mass murder, or egregious violations of basic human rights). See G. Scott Davis, “Humanitarian Intervention and Just War Criteria,” *The Journal for Peace and Justice Studies* 12:1 (2002), 63-94. It should be noted that other actions, including trade sanctions and embargoes, include moral perils of their own. See, for example, Joy Gordon, “A Peaceful, Silent, Deadly Remedy: The Ethics of Economic Sanctions,” *Ethics and International Affairs* 13:1 (March 1999), 123-142.

<sup>9</sup> Richard B. Miller, “Humanitarian Intervention, Altruism, and the Limits of Casuistry,” *Journal of Religious Ethics* 28.1 (2000), 3-35. Miller highlights a willingness of important Christian pacifists like John Howard Yoder and Stanley Hauerwas to distinguish between “wars” and “police actions” in ways that render humanitarian intervention ambiguous. For calls to strengthen the United Nations in ways that rely on humanitarian intervention as a kind of policing, see, Glen H. Stassen, ed., *Just Peacemaking: The New Paradigm for the Ethics of Peace and War* (Cleveland: Pilgrim Press 2008) and Gerald Schlabach, ed., *Just Policing, Not War: An Alternative Response to World Violence* (Collegeville: Liturgical Press, 2009).

<sup>10</sup> On the role of parables in Scripture, see Robert Jenson, “The Prophets’ Double Vision of Return to Zion,” in this volume. According to Jenson, “rather than being illustrations of truths statable without them, Jesus’ parables are verbal presences of the Kingdom-to-come which they evoke” (9).

beyond one's local community, thereby extending the Hebrew Bible's indication that at the heart of ethics is a commandment to love.<sup>11</sup> Yet it is a text with a fraught history in Jewish-Christian relations given a tendency for Christian readers to suggest that Jesus's rebuke was against Jewish legalism and particularism relative to Christian universalism.

Moral duties which are not confined to family, fellow citizens, or co-religionists have been particularly attractive to modern thinkers seeking to widen the realm of justice.<sup>12</sup> At a sociological level, loving another as a fellow creature made in the image of God has fostered compelling commitments to the equal dignity of persons and the creation of institutions that manifest this commitment. But it has a shadow side. In the 1940's, Henry Luce called upon America to be a "Good Samaritan" to the world, a harbinger of renewed concerns today about imperial domination and Christian "care for the world."

In the 1960s and 1970s, theologian Paul Ramsey linked the just war tradition to biblical notions of charity expressed in the parable by asking, "what do you think Jesus would have made the Samaritan

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<sup>11</sup> For Jewish readings of neighbor love, see Ernst Simon, "The Neighbor (Re'a) Whom We Shall Love," in Marvin Fox (ed.), *Modern Jewish Ethics: Theory and Practice* (Columbus: Ohio State University Press, 1972), 29-56. Simon highlights a central shift from more restrictive readings of neighbor as "fellow Jew" (i.e., the Mishna, Maimonides) to "all humanity" (i.e., Mendelssohn, Cohen). A further move might re-interpret the Good Samaritan as *midrash* (rabbinic parable) interregarding the very identity of the Jewish People: see Berel Dov Lerner, "Samaritans, Jews and Philosophers," *The Expository Times* (2002), 152-156. For discussion of the identity of Israel, "compassionate righteousness," and ethical monotheism, see Shlomo Riskin, "The Significance—and Responsibility—of Israel's Return to Zion," in this volume.

<sup>12</sup> References to the Samaritan as an illustration of universal concern abound in secular moral and political philosophy. See, for example, Amartya Sen, *The Idea of Justice* (Cambridge, MA: Harvard University Press, 2009), 170-173. Sen retains a type of universalist reading, but suggests the primary point of "the story as told by Jesus is a reasoned rejection of the idea of a fixed neighborhood" (171).

do if he had come upon the scene while the robbers were still at their fell work?”<sup>13</sup> In criticizing the limited NATO bombing of Yugoslavia, Christine Chinkin concretizes Ramsey’s abstract question:

What would the man going from Jerusalem to Jericho have felt had the Samaritan, instead of putting him on his own beast and taking him to an inn for safety, merely thrown stones at the thieves from his donkey as he passed safely by, which then precipitated murder and sexual abuse because there was no one present to offer the victim effective protection where and when it was needed?<sup>14</sup>

In pursuing the relevance of these questions today, my aims are more conceptual than empirical.

Theorizing intervention no doubt has bearing on the very possibility of practical reasoning about warfare. Unintended consequences, mixed motives, and the fact that good will does not assure right action all should give extreme pause.

For these reasons, exposing the pieties of liberal humanitarian sentiment as pretext for new imperial politics is a major preoccupation of contemporary historians, philosophers, and pundits. This suspicion unmask the supposed virtue of appeals to human rights as rationalizations for power, glory, and domination. Humanitarianism is exposed as yet another way great powers perpetuate their control. Yet, despite this suspicion of states, the moral appeal and political possibility of a human rights agenda linked to international legal norms and (*in extremis*) humanitarian intervention has grown dramatically since the end of the Cold War. For many citizens, the hope for something like a

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<sup>13</sup> Paul Ramsey, *The Just War: Force and Political Responsibility* (New York: Scribners, 1968), 143. Robert Jenson characterizes this question as a “clichéd cheap shot, but it nevertheless demands an answer,” in Robert Jenson, “Is Patriotism a Virtue?” *God and Country? Diverse Perspectives on Christianity and Patriotism* (New York: Palgrave MacMillan, 2007), 147-153 (149). According to Jenson, “a Christian must indeed be a pacifist in his own cause, but can hardly be so in the cause of his neighbors in the world.”

<sup>14</sup> Christine Chinkin, “The State That Acts Alone: Bully, Good Samaritan, or Iconoclast?” *European Journal of International Law* 11:1 (2000), 31-41 (35). Chinkin, however, argues that Samaritanism is not a good model for the reconstruction needed after intervention: “the Samaritan did not assume to control the future life of the man whom he had assisted; he gave money and went on his way” (39).

commonwealth of nations under conditions of institutionalized legal norms seems the best hope for global order and earthly peace.

Recent studies have detailed these hopes in the face of ethnic conflict, genocide, and the various humanitarian crises in Somalia, Bosnia, Rwanda, Kosovo, East Timor, Iraq, Darfur, Sudan, and, more recently, Libya.<sup>15</sup> Some scholars emphasize the practical nature of human rights as a special class of norms for global politics faced with urgent needs and predictable threats.<sup>16</sup> Appeals to human rights and humanitarianism can also suggest a more ambitious cosmopolitan (often Kantian) vision that challenges the legitimacy of both nation-states and realist schools of international affairs. In religious circles, this vision taps into older theological notions of *ius gentium* that also chasten state sovereignty, though without subsuming all particular communities to an abstract universal.<sup>17</sup> These developments suggests possible coalitions between different communities wary of nationalism and liberal cosmopolitanism, but open to global legal norms as imperfect expressions of care for others in a violent world.

It is important to note the distinctive role of religious individuals and bodies in promoting human rights as expressions of theological commitments after World War II, even if the original *Declaration of Human Rights* resisted any single effort at their theoretical justification.<sup>18</sup> Most recently, the Vatican

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<sup>15</sup> See, for example, Clifford Bob (ed.), *The International Struggle for New Human Rights* (Philadelphia: University of Pennsylvania Press, 2010).

<sup>16</sup> Charles Beitz, *The Idea of Human Rights* (Oxford: University Press, 2009).

<sup>17</sup> For a distinctively Christian account of cosmopolitanism as an alternative to statism or liberal cosmopolitanism, see Luke Bretherton, *Christianity & Contemporary Politics* (Oxford: Wiley Blackwell, 2010).

<sup>18</sup> See, for example, Jacques Maritain, "Introduction," in UNESCO, *Human Rights and Interpretations* (London: Allen Wingate, 1949); Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001); and John S. Nurser, *For All Peoples and All Nations: The Ecumenical Church and Human Rights* (Washington, DC: Georgetown University Press, 2005).

and the World Council of Churches have supported the emerging doctrine of the Responsibility to Protect (R2P).<sup>19</sup> This doctrine aims to shift notions of sovereignty from the rights of states to their responsibilities for the most vulnerable.<sup>20</sup> I think this development parallels shifts within just war thinking from notions of *retribution* to *self-defense* to *protection of persons*.

Aspirations for justice and peace “*on earth* as it is in heaven” (as Christians pray in the Lord’s Prayer) provoke both suspicion and admiration for these efforts at protection in the name of the Bible (cf. Lev. 19). Justice is a good for which humanity has an infinite desire but a limited capacity to achieve. Such is the conventional wisdom of much of modern religious ethics. Desire for justice is seen as a part of the desire for the transcendent, which in all its forms has the power to destroy at the same time as it offers life. Unsatisfied longings for justice are sources of love’s grief in this world; it is a grief that can inspire religious violence.<sup>21</sup>

In the latter half of the twentieth-century, Reinhold Niebuhr’s Christian Realism was closely allied with a secular realism that tried to respond to this grief. Niebuhr proposed what he thought he

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<sup>19</sup> See Semegnish Asfaw, Guillermo Kerber, and Peter Weiderud (eds.), *The Responsibility to Protect: Ethical and Theological Reflections* (Geneva: World Council of Churches, 2005). For a critical assessment of this development in Protestant and Catholic teachings, see Esther Reed, “Responsibility to Protect and Militarized Humanitarian Intervention: When and Why the Churches Failed to Discern Moral Hazard,” *Journal of Religious Ethics* 40.2 (Spring 2012), 308-344. Reed documents Christian enthusiasm for R2P, but notes emerging caution about “the militarization of humanitarian action, the blurring of humanitarian and other security-related or Western liberal political agendas” (309). Reed argues that “churches neglected to exercise an adequately strong ministry of ideology critique between September 2003 and September 2008 with respect to R2P” (314) and warns against “the emergence of a new culture of violence under the guise of church-blessed moral acceptability” (320). Reed, however, accepts intervention as a “necessary evil” (314).

<sup>20</sup> International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001). In addition to challenging conventional discussions of a “right to intervene” and national sovereignty, the commission’s report emphasized a threefold set of responsibilities to “prevent”, “react,” and “rebuild.”

<sup>21</sup> See Eugene Korn’s ““Without believing in God, I would never have had the power to do this”: Religious Violence, Sacred Texts and Theological Values” in this volume—eds.

found in Augustine: a vision of *relative* justice which combines a Lutheran insistence on the impossibility of achieving an ideal society and a reformer's desire to take responsible action against evil. He tried to avoid cynicism and sentimentalism in a world marked by self-interest and power. Given the realities of sin, he thought norms might be violated under necessity yet reasserted by acts of contrition or lament.

Augustine's famous account of the wise judge in Book 19 of the *City of God* was Niebuhr's paradigm for statecraft that requires choosing between lesser evils in a fallen world. Political facts, he thought, require mournful choices in the face of inevitable sinning, a position which led to a soft consequentialism unable to adhere to traditional just war prohibitions. Indeed, referring to Nazism, Niebuhr counseled "we ought to do whatever has to be done to prevent the triumph of this intolerable tyranny."<sup>22</sup> Invocation of necessity, he admitted, gets you caught up in evil even as you try to do good.

Despite efforts to navigate between Niebuhr's "dirty hands" and principled pacifism, doing *whatever has to be done* has dominated visions of international relations that pit state interests against moral values (despite political rhetoric to the contrary). Christian critics argue that Niebuhr's realism, with its opposition of faithfulness and effectiveness, replaced biblical eschatology with a genuinely tragic view of history. Efforts to overcome the tragic have become even more deadly with myths of national identity and sacrifice.<sup>23</sup>

Charles Taylor has diagnosed the "moral earnestness of benevolent determination" as "one of the central beliefs of modern Western culture: we all should work to improve the human condition,

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<sup>22</sup> Reinhold Niebuhr, "To Prevent the Triumph of an Intolerable Tyranny," *Christian Century* 57, December 18, 1940.

<sup>23</sup> See Chris Hedges, *War is a Force That Gives Us Meaning* (New York: Anchor Books, 2002); Jonathan Tran, *The Vietnam War and Theologies of Memory* (Oxford: Wiley-Blackwell, 2010).

relieve suffering, overcome poverty, increase prosperity, and augment human welfare.”<sup>24</sup> His work displays the continuity between the zeal of Christianity and moralized secularism, tracing the transformation of the church’s proselytizing work into a secular project of civilizing the world. For Taylor, this impulse reflects a fetishized and disembodied duty to promote human flourishing, a perversion of the contingency of the parable of the Good Samaritan. Whatever one makes of this loss, contemporary deliberations about humanitarian intervention are shaped by a growing awareness of connectivity as well as a variety of institutions and practices that mediate (and accelerate) a sense of responsibility between near and distant neighbors.

### **Humanitarian Intervention and Just War Reasoning**

The renaissance of just war reasoning and its theologically motivated pacifist critics is a remarkable feature of political discourse over the past fifty years. Many resist this development. Despite their differences, principled pacifists and hard realists criticize efforts to think about doing justice through the use of force. Pacifists condemn the “moralization” of war as cover for ideology, a counter-productive strategy for defending rights, or a violation of deeply held convictions about the sorts of persons we should be and the sorts of virtues we should embody in resolving conflicts. Realists reject moral considerations that lie beyond national self-interest or endorse the necessity of immoral action, albeit with regret or remorse. Others argue that the conditions of modern warfare render traditional just war theory inapplicable, inspiring a *de facto* pacifism despite a logical possibility.

By my lights, contrary to these positions (not to mention “holy war”), the recovery of just war reasoning is welcome and urgent. If all killing is not murderous, just war thinking offers a way of critically evaluating force by casting its use in legal, political, and moral frameworks. It does not

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<sup>24</sup> Charles Taylor, *Sources of the Self* (Cambridge: University Press, 1989), 85.

abandon war to a vacuum. To be sure, resort to war is at the limits of human action. But it should not be condemned to an unintelligible twilight where ethics cannot speak or is rendered dumb by the need to finish the messy business quick and dirty.

This is one reason why thinkers like Augustine and Aquinas—who supported resort to war as an extraordinary extension of politics—did not consider any war to be “just” without remainder. The (now uncommon) liturgies of repentance for soldiers returning even from a “just war” recognize this gap. For these thinkers, resort to war as a duty of charity on behalf of others presupposes an absence of peace and ordinary means of conflict resolution. Aquinas summarizes the view: “peace is not a virtue, but the fruit of virtue.”<sup>25</sup> Distinctively Christian reasoning about war sits uneasy with many realist assumptions that govern modern international relations theory. For example, Christians have claimed that they *owe* people charity (even self-sacrificial charity), and at its best, Christian just war thinking challenges military adventures that do not intend justice.

Most contemporary restatements of just war thinking and modern international law have been truncated by a failure to connect with diverse patterns of just war reasoning—including this appeal to charity and political responsibility.<sup>26</sup> Attending to different trains of thought and social imaginations may offer a more coherent way of defending and articulating resort to humanitarian intervention than continued exegesis of Article 51 of the UN Charter. These debates, couched

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<sup>25</sup> Thomas Aquinas, *Summa Theologica*, translated by Fathers of the English Dominican Province (New York: Benzinger Brothers, 1948), II-II.29.3.3.

<sup>26</sup> The book most responsible for re-introducing the just war for political and moral theory is Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977). For all of its philosophical and historical virtues, Walzer’s remarkable work is limited by his concern “not with the making of the moral world but with its present character” (xiv). By artificially detaching these two concerns, Walzer’s recovery of the just war distorts or neglects key features of classical traditions. Whether or not this leads, in the end, to the consequentialist elements in his approach to the ethics of war is beyond the scope of this essay.

primarily in terms of sovereignty versus human rights, piggyback on unwelcome assumptions about egoism versus altruism that betray their problematic distance from the common good notions that are central to just war thinking.

Just war reasoning has not always occurred in the context of a states-system or within the vocabularies of rights and utility. These moral languages and the strengths of a states-system are important realities for contemporary theorizing that can be *means* for instituting justice. They played an important role in the development of just war ideas that sought to restrain the arbitrary violence of Europe. Reasons for action should not be guided by radical alterations in our nature and circumstance. Political ethics should be, for creatures like us and in a world like ours, a thesis that might be raised against the pacifist and so-called realist alike. It is helpful to contest what these logistical and psychological conditions in fact might be, especially given emerging international political and constitutional forms. John Rawls calls this task “realistically utopian: that is, as probing the limits of practicable political possibility.”<sup>27</sup> Political and philosophical fictions, like theological speculation, can clarify even if they can also obscure. But moral theorizing need not be limited the status quo and its assumptions about what constitutes the basic dilemma of intervention.

The twentieth-century revival of just war reasoning was primarily a revival of late medieval and early modern criteria for resort to war (*jus ad bellum*) and for the means of war (*jus in bello*). There is a heuristic value in codification, and even greater virtue in the announcement of moral principles through convention and treaty. Most notably, the *jus in bello* principle of discrimination has become a

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<sup>27</sup> John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, MA: Harvard, 2001), 4. Rawls’ extension of political liberalism to international relations, however, appears to be an essentially conservative position that assumes a fairly traditional understanding of states as sovereign independent actors. For criticism of Rawls, see Eric Cavallero, “Popular Sovereignty and the Law of Peoples,” *Legal Theory* 9 (2003), 181-200.

staple of a common moral vocabulary. This publicity offers a grammar for thinking about war. It may have even had the effect of encouraging discriminate targeting and promoting selective conscientious objection. Nevertheless, the popular reduction of just war reasoning to a checklist of deontic norms can eclipse the logic behind its reasoning and perpetuate its abuse.<sup>28</sup> It risks turning practical reason into a decision machine or mere speculation. Public dialogue and social criticism suffer under the pretense of analysis, argument, and deliberation.

An alternative approach joins morality with a political philosophy that does not divide *jus in bello* from *jus ad bellum*. To get to this position, consider a modern dispute about just resort to war. The widely discussed 1983 pastoral letter of the Catholic bishops of the United States, *The Challenge of Peace*, revised previous understandings of *jus ad bellum* by invoking a “presumption against the use of force.”<sup>29</sup> This presumption, aimed at finding common ground between pacifist and just war streams of the Catholic tradition, occasioned fierce debate. Some defend the move as consistent with a *prima facie* duty not to harm that may only be overridden by other *prima facie* obligations. The possibility of just war is still defended, but the burden of proof shifts as a corrective to the historical abuse of just war criteria by advocates of war. Critics, however, argue that traditional just war criteria (especially last resort and right intention) *already* stringently constrain resort to war.

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<sup>28</sup> Oliver O’Donovan, who I follow here, argues that the modern distinction between just resort to war and just conduct in war is a “secondary casuistic distinction, not a load-bearing one,” in *The Just War Revisited*, 15.

<sup>29</sup> National Conference of Catholic Bishops. Ad Hoc Committee on War and Peace, *The Challenge of Peace: God’s Promise and Our Response* (Washington, DC: United States Catholic Conference, 1983), paragraph 120. According to the statement, “the moral theory of the ‘just-war’ or ‘limited war’ doctrine begins with the presumption which binds all Christians: We should do no harm to our neighbors; how we treat our enemy is the key test of whether we love our neighbor; and the possibility of taking even one human life is a prospect we should consider in fear and trembling” (paragraph 80).

In fact, if there is a motivating presumption, it is a “presumption against injustice.” On this view, an alleged presumption against the use of force reflects not simply a narrow construal of the criteria—preempting their appropriate work of constraint—but a massive revision of political authority ordered to justice and peace. Here we find a deeper logic of classical just war reasoning.

Just war reasoning, on this account, aims to “vindicate” grave wrongs with a controversial judicial model (often punitive) in mind. To understand war as an exercise of practical reason that enacts the rule of law places it closer to ordinary acts of political judgment than is usually supposed. It also invites radical skepticism about armed conflict conceived as judicial vindication because of the violation of sovereignty and a rejection of *punishment* as a just cause in contemporary just war thinking.<sup>30</sup> To this skepticism, the just war idea responds by putting force into the creative service of a law-governed justice rather than merely self-defense, vengeance, or territorial expansion. A contemporary exponent of the proposal argues that doing justice in war stands “in relation to the exercise of domestic justice as an emergency operation, performed in a remote mountain-hut with a penknife, stands to the same surgery performed under clinical conditions in a hospital.”<sup>31</sup> The emergency operation diagnoses the injustice, rights the wrong, and prospectively aims to create better conditions in these remote areas. One prominent case of the “emergency” is humanitarian intervention: the extension of judgment beyond a domestic sphere of authority.

The flowering of the tradition in the sixteenth and seventeenth centuries presupposed an international law of nations—*ius gentium*—that sought to chasten national absolutism much like the

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<sup>30</sup> For a critique of retributive notions of war, see David Luban, “War as Punishment,” *Philosophy & Public Affairs* 39:4 (2012), 299-330. Luban distinguishes war as punishment from the possibility of international criminal justice. Kurt Richardson’s essay in this volume, “Punitive War: Persuasion and Aversion,” offers a valuable discussion of explicit and implicit theologies of war and retribution.

<sup>31</sup> Oliver O’Donovan, *The Just War Revisited*, 18.

“responsibility to protect” does today. Here the claim is that the right exists prior to institutions of right. To restrict just war to wars of defense formally abandons this conception—and may even provide incentives for provocation so that “self-interest” might be deceptively invoked. Many modern thinkers believe that domestic politics is a matter of pitting narrow self-interests against each other in order to issue public benefit. Critics of this Mandevillean approach are many. Can international relations avoid this approach? The just war idea offers an alternative by proposing the possibility of public acts of justice.

To imagine global justice, however, does not imply an apolitical situation. Some early Christians like Tertullian did show enthusiasm for cosmopolitanism: “nothing is more foreign to us than the state (*res publica*). One state we know, of which all are citizens—the universe.”<sup>32</sup> This view implies a moral order prior to existing political order, but it would fund later Protestant discussions of constitutional republicanism that sought to make political leaders responsible to the rule of law. Augustine, the great Christian critic of empire, could even imagine a possible world government: “the admission of all who belonged to the empire to the fellowship of the city, so that they became Roman citizens.”<sup>33</sup> Yet dominant traditions in Christianity, usually invoking Romans 13, do not abandon distinct political communities. Augustine himself, unlike some of his fellow *moral* cosmopolitans, would reserve hope for world government to the heavenly city. In the condition of Babel, and the time between the times, various distinct political authorities were construed as blessing rather than curse.

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<sup>32</sup> Tertullian, *Apologeticus* 38, in *From Irenaeus to Grotius: A Sourcebook of Christian Political Thought*, Oliver O’Donovan and John Lockwood O’Donovan eds. (Grand Rapids: Eerdmans, 1999), 26.

<sup>33</sup> Augustine, *City of God*, trans. R.W. Dyson (Cambridge: University Press, 1998), 5.17. Elsewhere, Augustine claims that “if men were always peaceful and just, human affairs would be happier and all kingdoms would be small, rejoicing in concord with their neighbors” (4.15).

Much of Christian political thought has embraced the idea that political authority responds to an existing communal identity shaped by “local” histories and shared narratives. Updating classical just war in terms of humanitarian intervention need not abandon a reasonable commitment to multiple political identities. Francisco di Vitoria, for example, offered a defense of the “true dominion” of non-Christians during the Spanish conquest of America. He did not believe that the mere violation of the natural law justified intervention. However, he was willing to endorse selective intervention on the grounds that gross injustice should inspire the virtuous to action. In modern terms, these justifications include claims that states, which violate human rights on a massive scale, are failed states. To imagine the possibility of this justice rejects a strictly antagonistic view of global politics.

Vitoria writes:

The victor must think of himself as a judge sitting in judgment between two commonwealths, one the injured party and the other the offender; he must not pass sentence as the prosecutor but as a judge. He must give satisfaction to the injured, but as far as possible without causing utter ruination of the guilty commonwealth.<sup>34</sup>

This view, with its gesture to a transcendent judge, may fit better with a tradition of natural law rather than legal positivism. Indeed, some critics argue there is an internal incoherence in the mixture of these two traditions in contemporary human rights discourse.<sup>35</sup> Modern appeals to “crimes against humanity” or acts “that shock the conscience of mankind” imply something like this transcendent perspective on law or metaphysics.

I have not here argued for a particular authority in the modern world as just and competent to aspire to this judicial activity, whether it be the United Nations, regional security alliances, “coalitions of

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<sup>34</sup> Francisco di Vitoria, *De iure belli relectio* 3.9.60, in *Vitoria: Political Writings* (Cambridge: University Press, 1991), 327.

<sup>35</sup> See Costas Douzinas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism* (New York: Routledge, 2007), 15-26. On the tension between international law and premodern traditions of natural law, see Terry Nardin, “The Moral Basis of Humanitarian Intervention,” *Ethics & International Affairs* 16:2 (2002), 57-70.

the willing,” or individual nation-states like the United States. Humanitarian intervention most often becomes a live option when institutions of justice are not working properly.

## **Charity and Justice**

The possibility of doing justice in war arose in Christian thought as a paradoxical expression of neighbor-love in a fallen world. Enlightenment thinkers influenced by this tradition secularized central Christian concepts of charity into compassion for “humanity,” which provided soil for the flowering of modern rights language. Christian pacifists find the notion of marshaling love in the service of war to be the very perversion of love. As political advocates of an “ethic of care” suggest, however, love as a civic virtue can motivate concern for the vulnerable that subsequently justifies (potentially extensive but not unlimited) coercion on their behalf. Love both defines the end and limits the means by which we pursue this end.

Augustine famously argued in his letter to Boniface that “even wars will be waged in the spirit of benevolence.”<sup>36</sup> But this Augustinian application of the spirit of benevolence should not be governed simply by analysis of motives. A charitable motive does not justify injustice. Motives cannot do all the work of morality (although below, I argue that it should do some). Augustine considered lethal self-defense wrong because it entails preferring one’s own life to that of another for whom Christ died. Only the public defense of innocent others might curb inordinate self-assertion. Augustine’s writings on love and war focus more on the evaluation of persons than acts. The “law of love” in writers like Aquinas, Suarez, Vitoria, and Grotius, however, imposed strong constraints on right action. In fact, they required aiming action toward the most virtuous acts as a matter of justice. The

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<sup>36</sup> Augustine, *Ep.* 138, in *Augustine: Political Writings*, E.M. Atkins and R.J. Dodaro eds. (Cambridge: University Press, 2001), 38.

virtuous act is also the best act. Aquinas locates his discussion of war within his treatise on the virtue of charity.<sup>37</sup> Suarez's treatment concludes his work *De triplici virtute theologica*, the third part of which is *de caritate*. This effort to maintain love's relation to justice was split apart in the early modern period, often contrasting "public" reasons of justice against "private" motives of love. For many, the very idea of a humanitarian war is an "oxymoron," especially given the sad history of humanitarian missions

Paul Ramsey tried to recover this internal dynamic between love and justice by restoring the relation of war and political responsibility. He argued that "the western theory of the just war originated, not primarily from considerations of abstract or 'natural' justice, but from the interior of the ethics of Christian love, or what John XXIII termed 'social charity.'"<sup>38</sup> Charity is not simply a feeling of benevolence; it is a learned practice. For Ramsey, "while Jesus taught that a disciple in his own case should turn the other cheek, he did not enjoin that his disciples should lift up the face of another oppressed man for *him* to be struck again on *his* other cheek."<sup>39</sup> Many interpreters point out that the Good Samaritan is not a "model of heroic, individual extraordinary self-giving at all, but rather a model of love based on interdependence."<sup>40</sup> In fact, it was because he was able to *trust* the innkeeper (another member of a despised group) that he was able to go about his personal affairs. For Ramsey, the compassion of the Good Samaritan invites these further steps:

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<sup>37</sup> Aquinas, *Summa Theologica*, 2-2.40, set within *de vitiis oppositis caritati* (cf. 34 prol.). On charity and justice in the Jewish tradition, see Meir Soloveichik, "Tzedek and Interfaith Relations," in this volume.

<sup>38</sup> Paul Ramsey, *The Just War*, 142.

<sup>39</sup> *Ibid.*, 142-143. For Ramsey, "it is the work of love and mercy to deliver as many as possible from tyranny, and to protect from oppression, if one can, as many of those for whom Christ died as it may be possible to save" (143).

<sup>40</sup> Gerald Schlabach, *For the Joy Set Before Us: Augustine and Self-Denying Love* (Notre Dame, IN: University Press, 2001), 150.

It would have been a work of charity, and not justice alone, to maintain and serve in a police patrol on the Jericho road to prevent such things from happening. By yet another step, it might well be a work of charity to resist, by force of arms, any external aggression against the social order that maintains the police patrol along the road to Jericho. This means that, where the enforcement of an ordered community is not effectively present, it may be a work of justice and a work of social charity to resort to other available and effective means of resisting injustice.<sup>41</sup>

Ramsey's work, like much of just war theory in the twentieth century, focused primarily on *jus in bello*. He did not pursue *jus ad bellum* beyond these imaginative readings of the parable of Jesus.

Ramsey admitted war was the "alien work" of love. But his writings tend to offer a cleaner conscience than his Augustinian predecessor, Reinhold Niebuhr. Niebuhr thought war was a paradoxical demand of sober realism, promoting a kind of agonism that relies on stark separation of love from justice.

I want to extend and append Ramsey's project by thinking about *humanitarian intervention* in terms of an ethics of virtue. Right actions are what virtuous people do. For Christians, charity is the greatest virtue. So a right action, for this tradition, is what a loving person does. Considerations of justice and utility may give shape to the experience of love without grounding morality in either of these values as a sole justification. Attention to motives does not defeat concern for right action or good consequences. We should reject the dichotomy between "motive" and "outcome" approaches to humanitarian intervention. The truly loving person acts well because the character of her loves place her in just relations with others; that is, love is ordered. Right intention, however, has been neglected

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<sup>41</sup> Ramsey, *The Just War*, 142. Ramsey's argument is similar to Henry Shue's claim that protection of negative rights requires institutions like police force and criminal courts. See Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (Princeton: University Press, 1996).

by just war advocates—or simply taken to be satisfied once the state actor refuses the charge of pursuing advantage.

These issues raise questions of moral character about the sort of political community we want to be: are we willing to die (or ask our fellow citizens to die) for distant strangers? A healthy society cultivates a citizenry with developed habits and dispositions to care for others, not just formal subscription to liberal principles and procedures. I do not propose a fantastic political psychology of good will, but global realities demand we get beyond egoism or altruism as the only alternatives in the moral life of political communities. Charity remains central in motivation, but it casts up different possibilities of just action. For example, in Christian ethics, concern for one's own rights (even if only for the neighbor's sake) allows for a proper self-love that cares for one's own projects. Liberals will rightly ask who is being asked to sacrifice and by what means, just as pacifists ask who is being asked to kill and by what means. Against some Christian theorists, I reject *agapism* as a political ethic because it jeopardizes the integrity of citizens by encouraging overly thick notions of political responsibility and moral obligation that disregards their own rightful interests. I want to ward off an incessant obligation to intervene. But, at the same time, I want to promote an obligation to assume responsibility for creative response to our social world in particular situations.

To be motivated by charity will not ensure that all actions in war will be just. Apart from the self-deceptions of charity without justice, bad luck can prevent the virtuous from doing well.

Humanitarian interventions are notorious for their capacity to cause more harm than good, and many consider them as cheap ways of avoiding long-term tasks of development or structural reform.

There have been counter-productive consequences of both humanitarian aid and humanitarian

intervention.<sup>42</sup> Good motives surely do not necessarily deliver right actions. They often blind us. But identifying charity (linked with justice and prudence) as a motive is a way to limit the case for humanitarian intervention by assessing the tendency of action. Most importantly, for example, it rejects would be interventions that *simply* advance national interests as unjust even if they produce good consequences.<sup>43</sup> Such intentions, like the quality of our loves, are revealed by our actions.

### **Permissibility and Obligation**

Anxious readers may worry that a judicial model, coupled now with a vision of “armed Good Samaritans,” swings the door wide open for self-deceptive abuse and constant interventionism. Humanitarian intervention, usually considered an exception within the just war, has become the odd paradigm. This section may add to the worry and the oddness. I argue that a justified intervention implies an obligation to intervene (or, at the very least, a *normative expectation* for some agent to intervene). My purpose is not to undermine appropriate caution about intervention, especially in terms of the *proper authority* to intervene given existing disparities in military power which give rise to concerns that humanitarianism is parasitic on a patron-client imperial system. To the contrary, just war standards for any use of force, including intervention, are exceedingly high. Modern formulations of *jus ad bellum* require just cause, proper authority, right intention, due proportion, reasonable chance of success, and last resort. I doubt that many armed conflicts fulfill these various demands, let alone all of them jointly. But, as a matter of conceptual grammar, I believe it is the case that a justified humanitarian intervention is a *moral* obligation rather than mere permission. The context-dependent criteria of the just war conditions give rise to this status: no further *reasons* can be

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<sup>42</sup> See David Rieff, *A Bed for the Night: Humanitarianism in Crisis* (New York: Simon & Schuster, 2003).

<sup>43</sup> On this, see Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002).

given. Therefore, its strangeness as an obligation is not a question of morality as such. In fact, it would be strange to be outraged by a grave violation of human rights (say, Rwanda in 1994), and still also believe that it is not important enough to warrant an obligation (if the conditions of just war are satisfied). Rather, like many imperfect duties, it is a strange obligation because it stands in need of an adequate agent (or group of agents) able to collectively bear its demand.

The question of permissibility or obligation is a neglected issue in discussions of just war more generally, but it is particularly relevant for our concerns.<sup>44</sup> A standard view is that humanitarian intervention is supererogatory—a failure to intervene *might* display a lack of virtue but it does not constitute a vice or violation of justice. Most Christian supporters find it “hard to defend an *imperative* to violence as an outgrowth of Christian charity (even in direst situations).”<sup>45</sup> But some authors have argued that humanitarian intervention is, in fact, a perfect duty (for an international agency) demanded by “respect for humanity” when fundamental human rights are violated.<sup>46</sup> Still others, invoking Judith Thomson’s famous distinction between a Good Samaritan and a Minimally Decent Samaritan, argue that “the notion of minimal decency allows one to identify the moral

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<sup>44</sup> For a discussion of that compares Western discussions of “just” and “unjust” wars with a rabbinic distinction between “obligatory” and “optional” wars, see Noam J. Zohar, “Can a War be Morally Optional?” *The Journal of Political Philosophy* 4:3 (1996), 229-241. Zohar argues for a division within just war theory between obligatory and optional war, and includes humanitarian intervention under the latter category. The moral costs of intervention “so exceed those of charity as to transport intervention altogether beyond the realm of duty and into the domain of supererogation... people show virtue by choosing it, but they are not duty-bound to do so” (237). As such, he argues, the state cannot force participation in these missions, but can invite volunteers. For related discussion, see Aaron Kirschenbaum, “The Bystander’s Duty to Rescue in Jewish Law,” *Journal of Religious Ethics* 8:2 (Fall 1980), 204-226.

<sup>45</sup> Timothy P. Jackson, *The Priority of Love: Christian Charity and Social Justice* (Princeton: University Press, 2003), 110. Jackson does not pursue this question *per se*. But, since he believes that love can sometimes rise above justice, he asserts “it is better, I think, to see just war as permissible for Christians, rather than as obligatory.” It remains unclear to me how this conception of justice remains tethered to charity.

<sup>46</sup> Carla Bagnoli, “Humanitarian Intervention as a Perfect Duty: A Kantian Argument,” *Nomos* 47 (2004), 117-148.

reasons (or rights) that give rise to the negative duties (which are constant and unyielding), and affirm that these moral reasons have sufficient strength to give rise to a positive duty of action, within *a specific context*.<sup>47</sup> It would seem an account of humanitarian intervention moves in these directions because it already includes considerations of context and the virtuous exercise of prudence (i.e., due proportion and reasonable hope of success that does not pose horrific risks of its own).<sup>48</sup>

To think that a just war is only permitted—but not obligated—is to deny the normative status of moral conclusions. The concrete work of ends/means calculation, threshold of abuse, and proper judgment is already done. Justice, charity, and utility do not compete for our attention. Permissibility is a moral judgment. But, if conscience carries its own authority, how can what we have concluded is the best particular course of action (*all things considered*) be merely permissible but not also obligated? Prudential judgments as exercises of virtue rather than simply calculation are packed into the consideration itself. Whether or not such a judgment can be made *ex ante* is a particular difficult question for prospective humanitarian interventions. But this difficulty is not unique to it. The moral life often casts up such difficulties in the face of contingency.

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<sup>47</sup> Jovana Davidovic, “Are Humanitarian Military Interventions Obligatory?” *Journal of Applied Philosophy* 25:2 (2008), 134-144 (139). Davidovic argues that minimal decency “is a sort of bridge between these (negative and positive) conceptions of duties, and if it is the case that governments can have both positive and negative duties, then there should be nothing mysterious about claiming that the concept of minimal decency applies to governments or nations in a similar way that it applies to individuals” (140).

<sup>48</sup> For example, Walzer argues that, “if Palmerston was right in believing that the defeat of Austria would shatter the peace of Europe, a British intervention ensuring that defeat would not have been ‘honorable and virtuous’ (however noble the Hungarian struggle),” in *Just and Unjust Wars*, 95. The same might be said about possible interventions in Syria, Bahrain, Tibet, or North Korea.

## Good Samaritans, Just Warriors, and Dirty Hands

Against Ramsey, I think Niebuhr was right to bolster Augustinian claims that war (even humanitarian intervention) is a strict necessity and a sorrowful act. But “dirty hands” and tragic views of history are not the only way to address this sorrow. How far apart can we hold our assessment of actions from their agents? Can actions be right even if they are regretted? Consider this provocative claim by philosopher Rosalind Hursthouse:

There are situations in which even a virtuous agent cannot emerge with her life unmarred—not in virtue of wrongdoing (for *ex hypothesi*, in making a forced choice, the agent is blameless), and not in virtue of having done what is right or justifiable or permissible (which would sound very odd), but simply in virtue of the fact that her life presented her with this choice.<sup>49</sup>

It may be that any decision to wield power or not to wield power incurs some type of guilt. The consequences of action or inaction are ones which religious traditions might judge in different ways. Pacifists are not willing to kill for principles, but they are willing to allow others to suffer for their principles. Judgments about humanitarian intervention involve balancing *prima facie* obligations, but they need not be framed as choices between justice and peace. We are faced with manifold choices among various goods we could be promoting instead of a particular intervention. Many Christian traditions reject claims that the world is structured in such a way that unfortunate circumstances can compel one to sin. Like utilitarians, they reject genuine moral dilemmas. The limits of morality are within us, not in the external situation; we are never forced by reality, trapped by the way things are. Other Christian traditions, including some divine command or virtue theorists, are more open to moral tragedies. They suggest the best of all possible worlds includes dilemmas in order to generate dependence on grace. It may be that our personal duty to rescue is limited by a duty to support institutions which assume such duties, which would relieve the pressure of some dilemmas by

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<sup>49</sup> Rosalind Hursthouse, *On Virtue Ethics* (Oxford: University Press, 1999), 74-75.

distributing duties of samaritanism.<sup>50</sup> Could the same be said with respect to humanitarian intervention? The question arises, whether *through no fault of your own*, you find yourself in a situation complicit in evil because of a power to end grievous wrongs. I think humanitarian intervention does invite this possibility, and, at the very least, should elicit moral anguish whether or not one thinks it justifies the use of force.

Once the claim of need is acknowledged, however, it is not easy to see what, morally, can constrain its demand. Most Jewish and Christian traditions oppose the view that human beings (either individually or collectively) are responsible for the ultimate good of the world. Appeal to divine grace and providence, as well as an affirmation of particular vocations, resist theories of value that consider political morality from this type of perspective.<sup>51</sup> The embodied lives of Jesus and the Good Samaritan suggest that they did not perform every possible act of beneficence. Only a misguided humanitarianism entertains moral obligations beyond human limits and fuels the erosion of appropriate boundaries of responsible care.

These arguments, however, can also serve to justify oppression and to pacify possible resistance to them. They can locate obligation within a static framework of beliefs that “God” has ordained certain relationships and structures of affinity. Their appeal is suspect given the ways in which human beings choose to distance themselves from those in need. New political realities might allow shifts in conventional boundaries of moral responsibility. If they do, the centrality of humanitarian

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<sup>50</sup> Thomas Pogge has made a similar argument with respect to global poverty. See Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002).

<sup>51</sup> See, for example, Robert M. Adams, *Finite and Infinite Goods* (Oxford: University Press, 1999). For a valuable guide to Jewish notions of providence and current debates about global justice, see Michael L. Morgan, “Providence: agencies of redemption,” in *The Cambridge History of Jewish Philosophy: The Modern Era*, Martin Kavka, Zachary Braiterman, and David Novak, eds. (Cambridge: University Press, 2012).

intervention for just war reasoning will not recede as a theological task, even if we are suspicious of recent cases that invoke its name.

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**Christian and Jewish Perspectives**

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