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George Weigel

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## POPE JOHN XXIII LECTURE

### THE JUST WAR TRADITION AND THE WORLD AFTER SEPTEMBER 11

*George Weigel*<sup>+</sup>

20 March 2002

Columbus School of Law

THE CATHOLIC UNIVERSITY OF AMERICA

Washington, D.C.

Thank you for honoring me with the invitation to deliver this lecture.

Americans have been telling each other for a long time that our culture is awash to the gunwales in moral relativism. Some have applauded this, for reasons personal, political, or philosophical. Alan Wolfe, for example, has argued recently that the plurality of ethical systems and the wide disparity of moral judgments found in the contemporary United States is a natural and welcome development of democracy: a kind of evolutionary extension of our commitment to equal opportunity and to religious, racial, and ethnic diversity.<sup>1</sup> Others have worried out loud about the very plurality Professor Wolfe applauds, asking how a democracy can function over the long haul if there is no common moral grammar to discipline and direct the public debate over public policy. Still others have deplored the moral relativism of our culture, seeing polymorphous perversity where Alan Wolfe sees healthy plurality, and questioning whether a people incapable of governing their own appetites from within can govern themselves in the public realm.<sup>2</sup>

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<sup>+</sup> George Weigel is a Senior Fellow of the Ethics and Public Policy Center, where he holds the John M. Olin Chair in Religion and American Democracy. Author of the international bestseller *Witness to Hope: The Biography of Pope John Paul II*, he is the author or editor of fifteen other books and one of the world's preeminent commentators on the Catholic Church.

1. See generally ALAN WOLFE, *MORAL FREEDOM: THE SEARCH FOR VIRTUE IN A WORLD OF CHOICE* (2001).

2. For an important analysis of the sociological dimensions of moral plurality in the United States, see JAMES DAVISON HUNTER, *CULTURE WARS: THE STRUGGLE TO DEFINE AMERICA* (1991). For analysis of the specifically religious dimensions of this phenomenon, see RICHARD JOHN NEUHAUS, *THE NAKED PUBLIC SQUARE: RELIGION*

But whether we applauded it, worried about it, or deplored it, many, many Americans over the past two decades have taken what might be called the Walter Cronkite view of moral relativism: “That’s the way it is . . .”

This bipartisan, ecumenical, and interreligious agreement about the pervasiveness of moral relativism in twenty-first century America collapsed on September 11, 2001.

In less than two hours, between the first attack on the World Trade Center and the crash of the fourth hijacked airliner in rural Pennsylvania, Americans discovered, or rediscovered, moral absolutes. Confronted by ruthless, well-planned, and deliberately-executed mass murder for evil political ends, the teaching of Pope John Paul II on exceptionless moral norms (or “intrinsically evil acts”), which had caused intense controversy after the 1993 encyclical *Veritatis Splendor*, seemed self-evidently clear: some things are definitely off-the-board.<sup>3</sup> Some things *must* be off-the-board if there is to be any civilized society. Some acts are evil in themselves, and no putatively mitigating combination of intentions and consequences can possibly justify them. Or, as a shocked Yale undergraduate, a self-confessed product of an education designed to inculcate “tolerance” of “other values” as the *summum bonum*, put it in a *Newsweek* guest column, “We should recognize that some actions are objectively bad, despite differences in cultural standards and values.”<sup>4</sup>

Appeals to toleration, cultural diversity, epistemological modesty, the fact/value distinction, and other modern and postmodern arguments for moral relativism cut very little ice when the American people faced the smoldering wreckage in lower Manhattan, the gaping hole in the Pentagon, and the deaths of more than three thousand innocents. If we were all relativists now, how could one condemn absolutely the attacks of September 11? On the other side of the coin of good and evil, if we were all relativists now, how could we comprehend the self-sacrificial sense of duty that led firefighters to their deaths in the Twin Towers, or the heroism that led doomed passengers on United Airlines flight 93 to deny the hijackers their goal of destroying the White House or the Capitol?

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AND DEMOCRACY IN AMERICA (1984); AMERICA AGAINST ITSELF: MORAL VISION AND THE PUBLIC ORDER (1992). My own parsing of the problem of plurality may be found in GEORGE WEIGEL, CATHOLICISM AND THE RENEWAL OF AMERICAN DEMOCRACY (1989).

3. See John Paul II, *Veritatis Splendor* 79-83.

4. Alison Hornstein, *The Questions That We Should Be Asking*, NEWSWEEK, Dec. 17, 2001, at 14.

There was good, and there was evil. We could tell the difference again, and we could use those words again.

This new moral realism is entirely welcome. It is welcome in itself as a matter of cultural hygiene. It is also essential for the future of the Republic. A society without “oughts” tethered to truths is going to find it difficult to defend itself against aggressors motivated by distorted “oughts.” The response to lethally distorted concepts of the good must be a nobler, truer concept of the good; it cannot be a principled skepticism about our capacity to know the good, or a thoroughgoing relativism about possible human goods.<sup>5</sup> Where shall we find the materials with which to build, on this recently unearthed foundation of realist moral intuitions, an understanding of America’s responsibilities amidst the new world disorder?

The just war tradition is a venerable form of theologically developed moral realism. It could help fill with real content our often inchoate national intuitions about the imperatives of moral realism. The just war tradition has also been the normative Catholic tradition for addressing questions of statecraft, war, and peace for a millennium and a half — which should mean that the Catholic Church is in a distinctive position to help our country (and especially its political and military leadership) think through the tangle of issues involved in the war on terrorism that we have been fighting since September 11.

That will not happen, however, unless and until we confront squarely the distortions of just war thinking in the Catholic discussion during the past twenty-five years.

The quarter-century just past has witnessed what can only be described, with regret, as a great forgetting of the classic Catholic just war tradition. This forgetting, which has been particularly acute among Catholic intellectuals and religious leaders, usually presents itself as a development of the just war tradition. In fact, what imagines itself as development is more accurately described as the abandonment of a rich and subtle Catholic understanding of international politics, war, and peace. In the course of this abandonment, the intellectual structure of the just war tradition has been inverted, the tradition has been reduced to another form of casuistry, and the notion of the just war tradition as a tradition of statecraft has gotten lost. The net result has been that a species of functional or *de facto* pacifism has become the new Catholic “default position” on questions of conflict and order in world politics.

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5. On this point, see George Weigel, *A Better Idea of Freedom*, in 121 FIRST THINGS 14-20 (Mar. 2002).

The terminology of the just war tradition remains; the classic content of the tradition has been largely forgotten.

This Catholic “default position” has been amply displayed since September 11. It was evident when Church leaders immediately reached for words like “tragedy” or “crime” to describe what the new moral realism instinctively understood to be acts of war.<sup>6</sup> It was evident when

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6. The Administrative Committee of the United States Conference of Catholic Bishops (USCCB) was meeting in Washington, D.C., on September 11, 2001. Its episcopal members immediately issued a statement that began by describing September 11 as a “day of national tragedy.” 31:15 ORIGINS 253 (Sept. 20, 2001). At a hastily organized Mass at noon that day in the Basilica of the National Shrine of the Immaculate Conception, Cardinal Theodore McCarrick spoke of a “moment of national tragedy” and a “horrible crime.” *Id.* at 255. Cardinal Edward Egan of New York also spoke of a “tragedy” on the night of September 11, as did Archbishop-elect John Myers of Newark in a joint statement with Newark’s apostolic administrator, Bishop Paul Bootkoski. *Id.* The same language of “tragedy” was used on September 11 by Bishops Kenneth Untener of Saginaw, Walter Sullivan of Richmond, and Robert Lynch of St. Petersburg. *Id.* at 256-58. On the night of September 11, Bishop Paul Loverde of Arlington, whose diocese includes the Pentagon, spoke of “diabolical acts of terrorism” that had led to an “unspeakable tragedy.” 31:16 ORIGINS 279 (Sept. 27, 2001). Archbishop Thomas Kelly of Louisville spoke of a “tragedy with unthinkable implications for our nation and our world.” *Id.* at 282.

Insofar as I have been able to discern, no Catholic leader, on or shortly after September 11, publicly described what had happened as an act of war. Indeed, on September 16, Archbishop William Levada of San Francisco, preaching at a memorial Mass, urged that the United States “not dignify such acts of murder by calling them acts of war or political strategy,” even as he also demanded “zero tolerance for terrorism anywhere in the world.” *Id.* at 271.

In a letter to President Bush on September 19, 2001, Bishop Joseph Fiorenza, president of the USCCB, only spoke of “warlike acts.” 31:17 ORIGINS 294 (Oct. 4, 2001). In a service on September 22 at his cathedral in Lake Charles, Louisiana, Bishop Edward Braxton spoke of a “war’ against terrorism,” as if the very notion were dubious. *Id.* at 296.

This same reluctance to use the word “war” was evident in the initial commentary on September 11 by the chief intellectual architect of the new Catholic “default position,” Father J. Bryan Hehir. Writing in *America* shortly after September 11, Father Hehir had this to say:

How is it possible to broaden the horizon of policy debate and contextualize the military issues? Begin with the definition of what we are planning to do. Both the government and the press have decided the best term is “war.” Given the enormity of what the nation has suffered, there is a clear rhetorical reason for reaching for the term “war” to define what we face and what we should do. But beyond rhetoric there lie serious reasons to distinguish war from what is ahead of us. Even if one is convinced that there must be a military dimension to an effective response to terrorism, it is better not to locate the whole effort under war. Many who use the term “war” quickly say this will not be like our normal conception of war. It is better to forfeit the rhetorical bounce that comes from invoking war and define more precisely what we can and should do. Enough to say we need an internationally coordinated, long-term effort to erode the basis for terrorism in the life of states and nations. This is deadening rhetoric, but the

the overwhelming majority of Catholic religious leaders and intellectuals laid primary, and sometimes exclusive, stress on the imperative of avoiding non-combatant casualties in our national response to terrorism.<sup>7</sup> It was evident when some Catholic leaders, including senior representatives of the Holy See, deplored the “root causes” of terrorism — an analysis that seemed unacquainted with the history of modern terrorist politics, that ignored the empirical facts of September 11 (when the perpetrators were well-educated, amply-funded middle class people), and that implied a demeaning and deterministic reading of others’ moral capabilities (as if the perpetrators of September 11 were people who just did not know any better).<sup>8</sup> The “default position” was also evident in the

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purpose is to take some of passion out of the immediate sense of what must be done.

J. Bryan Hehir, *What Can Be Done? What Should Be Done?* AMERICA (Oct. 8, 2001) available at <http://www.america@americapress.org/articles/hehir-terror.htm>.

In the classic just war tradition, as I shall argue below, “war” is not a matter of rhetoric, but of moral reasoning and moral action. To reduce the invocation of “war” to a question of which rhetoric least inflames passions nicely illustrates just where the Catholic “default position” leads.

A month or so after September 11, in an interview with the popular Italian Catholic magazine *Famiglia Cristiana*, Cardinal Roger Etchegaray, a Frenchman who served for many years as President of the Pontifical Council for Justice and Peace and had undertaken numerous private diplomatic missions for Pope John Paul II, questioned the very concept of a “just war,” condemning the characterization of warfare as “divine, holy, or just.” Interview by FAMIGLIA CRISTIANA with Cardinal Roger Etchegaray cited in CATHOLIC WORLD REPORT, Dec. 2001, at 7.

In terms of the immediate responses to September 11 from Catholic religious leaders, some might object to my questioning the use of the language of “tragedy” and “crime,” on the grounds that these were responses made under great time pressure. That, however, is precisely when a “default position,” by definition, manifests itself most clearly. The “default position” can be overcome, as some Catholic leaders demonstrated, in later, more refined statements. But it remains the “default position” — the first, instinctive response.

7. See *supra* note 6 (the issues of ORIGINS cited include numerous examples of this tendency).

8. In a column in his diocesan newspaper shortly after September 11, Bishop Frank Rodimer of Paterson, New Jersey, wrote that “Nothing, absolutely nothing, justifies the evil that has been done to our American family, but once we have dealt with the terrorists who have caused such devastation, we must do everything we can to eliminate the root causes of the hatred that spawns terrorism.” 31:16 ORIGINS 281 (Sept. 27, 2001). The Commission of Episcopal Conferences of the European Community, in a statement issued shortly after September 11, wrote:

Injustices exist in the world; they are the source of many social and political conflicts. The world is divided into rich and poor, not by religions and cultures . . . . Our classical categories of justice seem inadequate to address the terrorist attacks on New York and Washington. The massive use of force is not an appropriate response for restoring law and justice.

ubiquitous warnings one heard from religious leaders and Catholic intellectuals about “violence begetting violence” — as if a proportionate and discriminate use of military force in a just cause were the moral equivalent of turning a 767 into a weapon of mass destruction.<sup>9</sup> Finally,

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*European Bishops Oppose Massive Use of Force: Classical Categories of Justice Seem Inadequate*, ZENIT (Sept. 19, 2001). Archbishop Renato Martin, the Holy See’s permanent observer at the United Nations, said in November that, while:

terrorism is unjustifiable . . . you can’t free the world from terrorism by police action, because it will only return if you don’t address what caused it in the first place. Any serious campaign against terrorism needs to address the social, economic, and political conditions that nurture the emergence of terrorism.

Interview with Archbishop Renato Martino, *General in the Fight for Peace*, NAT’L CATH. REG., Nov. 25-Dec. 1, 2002, at 1. World religious leaders, meeting in Assisi on January 24, 2002, at the invitation of Pope John Paul II, pledged themselves to “doing everything possible to eliminate the root causes of terrorism.” *Commitment to Peace*, OBSERVATORE ROMANO ENG. WKLY. EDITION, Jan. 30, 2002, at 2.

The Jesuit Conference Board, which includes the Jesuit provincials of the United States, wrote President Bush on 1 October 2001, and, mixing a “root causes” analysis with a psychiatric approach to foreign policy, urged “that our government radically examine the roots of suffering and anger in the Middle East.” The psychologization often evident in the new Catholic “default position” was also evident in more immediate responses to September 11. In his National Shrine homily of September 11, Cardinal McCarrick speculated that what had happened “may be the acts of a few irrational terrorists;” yet modern terrorism, from the mid-nineteenth century on, has been quite deliberate and “rational.” Bishop Loverde of Arlington, in a statement issued on September 11 itself, urged prayers for “an end to the madness of terrorism.” See 31:15 ORIGINS 253, 255 (Sept. 20, 2001).

A further variant within the “root causes” element of the “default position” is the notion that contemporary wars are driven by economic tensions. Thus the archbishop of Madrid, Cardinal Antonio María Rouco Varela, while addressing the question of the “peace of order” in an impressive speech to Spain’s Royal Academy of Moral and Political Sciences, also said that war has too often been caused by “the injustices that stem from excessive economic inequalities and delay in the necessary remedies.” *Response to Terrorism Must be a Just World Order*, ZENIT (Dec. 21, 2001). It is noteworthy that, whenever an exponent of the “default position” cites economic inequalities as the source of contemporary wars, examples are rarely, if ever, adduced.

9. Speaking for the Holy See at the United Nations on October 22, 2001, Archbishop Renato Martino said the following:

Acts of revenge will not cure such hatred. Reprisals, which strike indiscriminately at the innocent, continue the spiral of violence and are illusory solutions that prevent the moral isolation of the terrorists. We must rather remove the most obvious elements that spawn conditions for hatred and violence and which are contrary to any move toward peace.

Martino Interview, *supra* note 8. In an interview a month later, the archbishop completely conflated war and violence, saying that “violence on top of violence will only lead to more violence.” *Id.* In late October 2001, the Federation of Asian Bishops’ Conferences, issued the following statement:

In the Spirit of the Sermon on the Mount, we say “no” to a response of revenge in the sense of “a tooth for a tooth and an eye for an eye.” As disciples of Jesus, we reject in equal terms both violence and terrorism that destroy life and

the “default position” was omnipresent at the local parish level: how many prayers for the vindication of justice, much less for victory in the war against terrorism, have you heard since September 11?<sup>10</sup> Some perhaps, but not many. Somehow, to “pray for peace” has come unglued from praying for justice.<sup>11</sup>

Retrieving, renewing, and extending the just war tradition is essential if the Catholic Church in the United States is to make its proper contribution to the national debate that will shape the war against terrorism — the struggle for world order — in the years, perhaps

dehumanize humanity. We also note that the seeds of violence and terrorism lie in the many injustices and the unjust system in the world. Violence cannot be overcome by revenge that traps us in the spiral of violence.

*Statement of the Federation of Asian Bishops, ZENIT (Oct. 28, 2001).*

A similar pattern was observable domestically. Thus, on September 14, Bishop Tod Brown of Orange, California, chairman of the U.S. Bishops' Committee on Ecumenical and Interreligious Affairs, signed a joint statement with five American Muslim leaders, condemning “terrorist acts and hate crimes” in the same sentence — thus implying a kind of moral equivalence between September 11 and the rare (but always deplorable) acts of random vandalism that had been committed against U.S. mosques and Islamic centers. See 31:16 ORIGINS 275-76 (Sept. 27, 2001). One of the signatories of this statement was the executive director of the American Muslim Council, an organization not previously known for the rigor of its opposition to Islamic-based terrorism. *Id.*

Lutheran scholar David Yeago had this to say a few weeks after September 11, on the question of “violence begetting violence”:

The argument from principle — “violence never solves anything” — seems to be harnessing a valid point to a conclusion which does not follow from it. The valid point is this: government action cannot redemptively alter the human condition in any decisive way . . . . At most, government action can clear a little temporary space amidst the chaos of the present age, throw up a bit of transitory shelter, in which people may for a moment enjoy a modicum of safety and fair dealing . . . [but] no action of government can end the larger “cycle of violence” in human history . . . . Only the self-surrendered Lamb of God, who takes away the sin of the world, can grant the world peace in this sense.

David S. Yeago, *Just War: Reflections from the Lutheran Tradition in a Time of Crisis*, in X:4 PRO ECCLESIA 415-416 (2001).

On the roots and history of modern terrorism, see Walter Laqueur, *TERRORISM* (1977).

10. For the “default position” evident in an episcopal prayer, see the *September 11 Homily of Seattle Archbishop Alex J. Brunett*, 31:16 ORIGINS 276-77 (Sept. 27, 2001).

11. Some alternative voices, reflecting more accurately the main themes of the classic Catholic just war tradition, could be heard in the aftermath of September 11. See Archbishop John Myers, *Faith and Terrorism: Reflections on the Questions People Ask*, 31:24 ORIGINS 408-11 (Nov. 22, 2001); see also Bishop William E. Lori, *A Nation's Response to Terrorism: Six Moral Considerations*, 31:20 ORIGINS 333, 335-36 (Sept. 25, 2001). Bishop Lori was one of the few Catholic leaders to describe September 11 unambiguously as “an aggression” and to state that military action (as well as other measures) against international terrorism was “imperative.” The Catholic Bishops of Missouri avoided the “presumption against violence” reading of the just war tradition in their October 1, 2001 statement and acknowledged the government's “obligation to defend against unjust attacks” *Id.* at 336-38.



decades, ahead. It is important at the outset to grasp the nature of that contribution. The primary Catholic contribution to shaping the debate about the war against terrorism does *not* have to do with establishing a series of hurdles that civilian and military officials must overcome before the Church judges a particular military action or set of actions within the broader war justified. That is what the Catholic “default position” suggests, and that, too, is a misunderstanding of just war thinking. Rather, the first task of the Catholic Church is to teach the principles of the just war tradition, as they have been refined by 1,500 years of reflection and experience, so that those principles become ever more explicitly what they are implicitly: the framework for a comprehensive, morally serious, and realistic approach to world politics; an approach that we might call “idealism without illusions.” The first task of the Church, according to the classic just war tradition, is to help determine the morally defensible political ends to be sought in the present situation, for those are the ends that give meaning to the debate over means.

In doing this, Catholic religious leaders and scholars today will find intellectual allies — among those few mainline Protestant thinkers who have not succumbed to an even more debilitating form of functional pacifism than is found in many Catholic peace-and-justice circles, among evangelical Protestants who have begun to discover the just war tradition as an important element of Christian social ethics, and among some secular scholars who have been helping develop just war thinking for some decades now.<sup>12</sup> That ecumenical, interreligious, and interdisciplinary dialogue is entirely welcome. Let me focus here, though, on the crucial themes that would, in my judgment, revitalize just war thinking within the Catholic Church — in the United States and indeed around the world.

### *1. Recovering the Just War Tradition as a Theory of Statecraft*

In his recent and acclaimed book, *Warrior Politics*, veteran foreign correspondent and analyst Robert Kaplan suggests that only a “pagan ethos” can provide us with the kind of leadership capable of safely

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12. See Darrell Cole, *Good Wars*, 116 *FIRST THINGS* 27-31 (Oct. 2001); Yeago, *supra* note 9; MICHAEL WALZER, *JUST AND UNJUST WARS* (2nd Ed., Basic Books, 1992) (presenting a thoroughly secular perspective). In particular, Catholic religious leaders and scholars must attend far more seriously to the work of the English-speaking world’s premier just war historian and theorist, James Turner Johnson, whose major works include *CAN MODERN WAR BE JUST?* (1984), *THE QUEST FOR PEACE: THREE MORAL TRADITIONS IN WESTERN CULTURAL HISTORY* (1987), and *MORALITY AND CONTEMPORARY WARFARE* (1999).

traversing the world disorder of the twenty-first century.<sup>13</sup> It is a proposal worth examining as we hone Catholic thinking about the use of military force and its relationship to world politics.

Kaplan's "pagan ethos" has several interlocking parts. It is shaped by a tragic sense of life which recognizes the ubiquity, indeed inevitability, of conflict. It teaches a heroic concept of history: Fate is not all, and wise statecraft can lead to better futures. It promotes a realistic appreciation of the boundaries of the possible. It celebrates patriotism as a virtue. And it is possessed by a grim determination to avoid "moralism," which Kaplan (following Machiavelli, the Chinese sage Sun-Tzu, and Max Weber) identifies with a morality of intentions, oblivious to the peril of unintended consequences.<sup>14</sup> For Robert Kaplan, exemplars of this "pagan ethos" in the past century include Theodore Roosevelt, Winston Churchill, and Franklin Roosevelt.

Reading *Warrior Politics* and reflecting on the concept of morality that informs it, put me in mind of a story that I had not thought of for years. During the Korean War, the proudly Protestant Henry Luce, son of China missionaries, found himself puzzled by the debate over "morality and foreign policy" that Harry Truman's "police action" had stirred up. What, he asked his friend, Father John Courtney Murray, S.J., did foreign policy have to do with the Sermon on the Mount? "What," Father Murray replied, "makes you think that morality is identical with the Sermon on the Mount?"<sup>15</sup>

Robert Kaplan, a contemporary exponent of foreign policy realism, seems to share Henry Luce's *ur*-Protestant mis-impression that the moral life is reducible to the ethics of personal probity and interpersonal relationships. The implication, which Kaplan and Luce also share, is that issues of statecraft exist somewhere "outside" the moral universe. The classic Catholic just war tradition takes a very different view, which Kaplan unhappily ignores in *Warrior Politics*.

The classic Catholic tradition insists that no aspect of the human condition falls outside the purview of moral reasoning and judgment — including politics. Politics is a human enterprise. Because human beings are creatures of intelligence and free will — because human beings are inescapably *moral* actors — every human activity, including politics, is

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13. ROBERT D. KAPLAN, *WARRIOR POLITICS: WHY LEADERSHIP DEMANDS A PAGAN ETHOS* (2002).

14. Brian C. Anderson, *Men o' War*, *NAT'L REV.*, Feb. 25, 2002, at 46.

15. This story is recounted in a slightly more generic form in JOHN COURTNEY MURRAY, S.J., *WE HOLD THESE TRUTHS: CATHOLIC REFLECTIONS ON THE AMERICAN PROPOSITION* 262 (1964).

subject to moral scrutiny.<sup>16</sup> There is no Archimedean point outside the moral universe from which even the wisest “pagan” statesman can leverage world politics.

Indeed, what Robert Kaplan proposes as a “pagan ethos” is a form of moral realism that would be enriched by a serious encounter with the classic Catholic just war tradition. One need not be a “pagan,” as Kaplan proposes, to understand the enduring impact of original sin on the world and its affairs; *Genesis* 1-3 and a good dose of Augustine’s *City of God* will do the job just as well, and arguably better. One does not need to be a pagan to act on the conviction that moral conviction, human ingenuity, and wise statecraft can bend history’s course in a more humane direction; one need only reflect on the public achievement of Pope John Paul II and the Catholic human rights resistance in central and eastern Europe in helping rid the world of the plague of Communism.<sup>17</sup> A realistic sense of the boundaries of the humanly possible in given situations is not foreign to Catholic moral reasoning; prudence, after all, is one of the cardinal virtues. Nor is patriotism necessarily “pagan”; indeed, in a country culturally configured like the United States, patriotism is far more likely to be sustained by biblical rather than “pagan” moral warrants. As for “moralism” and its emphasis on good intentions, classic Catholic moral theology in the Thomistic stream is dubious in the extreme about voluntaristic theories of the moral life and their reduction of morality to a contest of wills between the divine will and my will.<sup>18</sup>

Robert Kaplan notwithstanding, we can get to an ethic appropriate for leadership in world politics without declaring ourselves “pagans.” And as Brian C. Anderson has argued in a thoughtful review of Kaplan’s book, we can get there while retaining “a crucial place for a transcendent

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16. The most prominent contemporary exponent of this form of Catholic personalism is, of course, Pope John Paul II. Prior to his pontificate, he analyzed the capacity for moral action as the distinguishing characteristic of the human being in *Osoba y czyn, oraz inne studia antropologiczne*. *Osoba y czyn, oraz inne studia antropologiczne* (Tadeusz Styczen et al. eds., 1994) This is the revised Polish edition of Karol Wojty•a’s principal philosophical work; the presently available English translation is inadequate. *Osoba y czyn* is intelligently discussed in KENNETH L. SCHMITZ, *AT THE CENTER OF THE HUMAN DRAMA: THE PHILOSOPHICAL ANTHROPOLOGY OF KAROL WOJTY•A/POPE JOHN PAUL II* (1993) and JAROS•AW KUPCZAK, O.P., *DESTINED FOR LIBERTY: THE HUMAN PERSON IN THE PHILOSOPHY OF KAROL WOJTY•A /JOHN PAUL II* (2000).

17. See GEORGE WEIGEL, *THE FINAL REVOLUTION: THE RESISTANCE CHURCH AND THE COLLAPSE OF COMMUNISM* (1992).

18. For a Catholic critique of voluntaristic (i.e., will-centered) conceptions of the moral life, see SERVAIS PINCKAERS, O.P., *THE SOURCES OF CHRISTIAN ETHICS* (1995) and *MORALITY: THE CATHOLIC VIEW* (2001).

ought that limits the evil governments can do.”<sup>19</sup> An ethic for world politics can be built against an ampler moral horizon than Robert Kaplan suggests.

A recent statement on the post-September 11 situation by sixty American scholars, representing a broad spectrum of American religious conviction and political opinion, challenges Kaplan’s “pagan ethos” on similar grounds. The statement, called “What We’re Fighting For: A Letter from America,” is worth a lengthy quote:

We recognize that war is terrible, representative finally of human political failure. We also know that the line separating good and evil does not run between one society and another, much less between one religion and another; ultimately that line runs through the middle of every human heart. Finally, those of us — Jews, Christians, Muslims, and others — who are people of faith recognize our responsibilities, stated in our holy scriptures, to love mercy and to do all in our power to prevent war and live in peace.

Yet reason and careful moral reflection also teach us that there are times when the first and most important reply to evil is to stop it. There are times when waging war is not only morally permitted, but morally necessary, as a response to calamitous acts of violence, hatred, and injustice. This is one of those times.

The idea of a “just” war is broadly based, with roots in many of the world’s diverse religious and secular moral traditions. Jewish, Christian, and Muslim teachings, for example, all contain serious reflections on the definition of a just war. To be sure, some people, often in the name of realism, insist that war is essentially a realm of self-interest and necessity, making most attempts at moral analysis irrelevant. We disagree. Moral inarticulacy in the face of war is itself a moral stance — one that rejects the possibility of reason, accepts normlessness in international affairs, and capitulates to cynicism. To seek to apply objective moral reasoning to war is to defend the possibility of civil society and a world community based on justice.<sup>20</sup>

This last claim is crucial — and it is typically missing from the new Catholic “default position.” For the past quarter-century or more,

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19. Anderson, *supra* note 14, at 48.

20. What We’re Fighting For: A Letter from America, *available at* [http://www.propositionsonline.com/html/fighting\\_for.html](http://www.propositionsonline.com/html/fighting_for.html) (Feb. 12, 2002) (the statement and a full list of signatories are available from the Institute for American Values, Suite 211, 1841 Broadway, New York, NY 10023 or on the Web).

Catholic just war thought and Catholic commentary informed by it have focused so intently on *in bello* questions of proportionality and discrimination (non-combatant immunity) as to forget that, in the classic Catholic tradition, *war is a moral enterprise*: not only in the assessment of its conduct, but just as importantly in the definition of its legitimate political ends. This forgetting may help explain why so many Catholic leaders and commentators avoided the word “war” (preferring “tragedy” or “crime”) in the immediate aftermath of September 11. When we forget that the basic distinction in the just war tradition is the Augustinian distinction between *bellum* and *duellum*, between the use of armed force for legitimate public ends and the illegitimate use of violence for private ends, we can forget that, for the Catholic Church, war is emphatically not a term that implies the abandonment of moral reason; “war” *is* a term of moral reason.<sup>21</sup>

Indeed, the just war tradition is best understood as a sustained intellectual effort to relate the morally legitimate use of proportionate and discriminate military force to morally worthy political ends. In this sense (although Robert Kaplan fails to recognize it), the just war tradition shares Clausewitz’s view of the relationship between war and politics: unless war is an extension of politics, it is simply wickedness. For Kaplan, Clausewitz may be an archetypal “pagan.” But on this crucial point, at least, Clausewitz was articulating a thoroughly Catholic view of the matter. Good ends do not justify any means. But as Father Murray was wont to say, “If the end doesn’t justify the means, what does?” In the classic Catholic tradition of statecraft, what “justifies” the resort to proportionate and discriminate armed force — what makes the just war tradition make moral sense — is precisely the morally worthy political ends being defended and/or advanced. That is why the just war tradition is a theory of statecraft, not simply a method of casuistry.

## 2. *The Structure of Just War Analysis*

In 1983, the Catholic bishops of the United States issued a pastoral letter entitled “The Challenge of Peace: God’s Promise and Our Response” (TCOP). The letter was newsworthy at the time for its discussion of the morality of nuclear deterrence. Its long-term impact on Catholic life and thought in the United States has taken a different form, however. For among its many other assertions, TCOP taught that the

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21. On *bellum* and *duellum*, see James Turner Johnson’s comments in *Just War Tradition and the New War on Terrorism*, available at <http://www.pewforum.org/events/1005/> (last visited May 13, 2002).

just war tradition creates “a set of rigorous conditions which must be met if the decision to go to war is to be morally permissible. Such a decision . . . requires extraordinarily strong reasons for overriding the presumption *in favor of peace and against war*.”<sup>22</sup>

This notion of a “presumption against violence” as the starting-point of just war analysis was the product of a re-reading of intellectual history wedded to several contemporary concerns: the threat to human survival posed by massive numbers of nuclear and other weapons of mass destruction; the determination in some quarters to integrate elements of the pacifist conscience into mainstream Catholic thought and life; and the politics of the moment, in which fears of the alleged bellicosity of the Reagan Administration were widespread in U.S. Catholic peace-and-justice circles. However we parse its origins, however, the “presumption against violence” is perhaps the most enduring effect of TCOP, in the Church in the United States and elsewhere.<sup>23</sup> Indeed, the “presumption against violence” is the core claim in the new Catholic “default position.” In the aftermath of September 11, the “presumption against violence” was cited on numerous occasions.<sup>24</sup>

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22. Statement by the National Conference of Catholic Bishops, *The Challenge of Peace: God’s Promise and Our Response*, available at <http://www.usccb.org/sdwp/harvest.htm> (Nov. 17, 1993) (emphasis in original).

23. It shaped, for example, the U.S. bishops’ letter to Secretary of State James A. Baker III in November 1990, when military action against Iraq was being debated. In a November 7, 1990, letter to Baker, which was later adopted by the entire body of bishops as their own, then-Archbishop Roger Mahony of Los Angeles, chairman of the bishops’ international policy committee, stated flatly, “In our tradition, while the use of force is not ruled out absolutely, there is a clear presumption against war.” JAMES TURNER JOHNSON & GEORGE WEIGEL, *JUST WAR AND THE GULF WAR* 101 (1991). A similar tack was taken in “The Harvest of Justice is Sown in Peace,” the U.S. bishops’ statement on the tenth anniversary of TCOP; here, TCOP’s “presumption *in favor of peace and against war*,” which had already elided into Mahony’s “clear presumption against war,” now became “a strong presumption against the use of force . . .” 23:26 ORIGINS 454 (Dec. 9, 1993).

24. See, for example, the developed statement by the U.S. bishops, “Living with Faith and Hope After September 11”:

Some Christians profess a position of principled nonviolence, which holds that nonmilitary means are the only legitimate response in this case. This is a valid Christian response. While respecting this position and maintaining a strong presumption against the use of force, the Church has sanctioned the use of the moral criteria for a just war to allow the use of force by legitimate authority in self-defense and as a last resort.

31:25 ORIGINS 417 (Nov. 29, 2001).

There are multiple confusions here. First, the statement confuses principled pacifism and a commitment to nonviolence, which are not identical. A Christian committed to the just war tradition could, in some circumstances, judge non-violent means of resisting evil more effective — or, in the case of resistance against particularly repressive regimes, the

The difficulty is that the classic Catholic just war tradition does *not* begin with a “presumption against violence.” To suggest that it does inverts the structure of the moral analysis in ways that inevitably lead to dubious judgments and distorted perceptions of reality.

The classic Catholic tradition, whose roots are found in Augustine, begins with the presumption — better, the moral judgment — that rightly-constituted publicly authority is under a strict moral *obligation* to defend the security of those for whom it has assumed responsibility, even if this puts the magistrate’s own life in jeopardy. That is why St. Thomas locates his discussion of *bellum iustum* within the treatise on charity in the *Summa Theologiae*.<sup>25</sup> That is why the late Paul Ramsey, who revived Protestant just war thinking in America after World War II, described the just war tradition as an explication of the public implications of the Great Commandment of love-of-neighbor (even as he argued that the commandment sets limits to the use of armed force).<sup>26</sup>

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only means of resistance available. These judgments have nothing to do with pacifism, which is based on the premise that, for a disciple of Jesus Christ, any resort to violence is *malum in se*. As for pacifism’s place in the Catholic Church, another confusion is evident in the new “default position.” It is true that the Catholic Church now teaches that the pacifist conscience is a legitimate option for individuals (although the moral-theological grounds of that legitimacy have not been clarified in a definitive way). But the Catholic Church has never taught, and does not teach, that pacifism is a morally possible option for governments, which have an obligation to defend the common good, by the use of armed force if necessary. “Living with Faith and Hope” manifests these “default position” confusions, for before the section just quoted (and after the now-obligatory nod to a form of the “presumption against violence”), the bishops “acknowledge . . . the right and duty of a nation and the international community to use military force if necessary to defend the common good by protecting the innocent against mass terrorism.” *Id.* at 416.

“Living with Faith and Hope” is also notable for its lack of reflection on the “order” (*tranquillitas ordinis*) component of the just war tradition, which would be stressed by Pope John Paul II six weeks later in his 2002 World Day of Peace message. But then the concept of peace as *tranquillitas ordinis* has never gotten much traction among the staff of the bishops’ international policy committee, who had a considerable hand in shaping “Living Faith and Hope.”

25. St. Thomas Aquinas, *Summa Theologiae* II-II, 40.1.

26. Ramsey’s principal works in this field are *WAR AND THE CHRISTIAN CONSCIENCE: HOW SHALL MODERN WAR BE CONDUCTED JUSTLY?* (1961) and *THE JUST WAR: FORCE AND POLITICAL RESPONSIBILITY* (1968). James Turner Johnson describes Ramsey’s specifically Christian understanding of the just war tradition in these terms:

Ramsey argued that Christian just war theory is based on the moral duty of love of neighbor. The obligation to protect the neighbor who is being unjustly attacked provided justification for Christians to resort to force; at the same time, love also imposes limits on such force, requiring that no more be done to the unjust assailant than is necessary to prevent the evil he would do, and that no justified use of force can ever itself directly and intentionally target the innocent.

The leading Anglophone scholar of the just war tradition, James Turner Johnson, has flatly denied that the tradition begins with a “presumption against violence.” To argue this, he suggests, is to falsify history and to distort the intellectual structure of the just war tradition.<sup>27</sup>

If the just war tradition is a theory of statecraft, to reduce it to a casuistry of means-tests that begins with a “presumption against violence” is to begin at the wrong place. The just war tradition *begins somewhere else*: it begins by defining the moral responsibilities of governments, continues with the definition of morally appropriate political ends, and then takes up the question of means. By reversing the analysis of means and ends, the “presumption against violence” starting-point tends to collapse *bellum* into *duellum* and ends up conflating the ideas of “violence” and “war” (another typical move in the new Catholic “default position”). The net result is that warfare is stripped of its distinctive moral texture. Indeed, in certain extreme cases within the new Catholic “default position,” the very notion of warfare as having a “moral texture” seems to have been forgotten.

The “presumption against violence” starting-point is not only fraught with historical and methodological difficulties, it is also theologically dubious. For its effect in moral analysis is to invert the tradition, such that *in bello* questions of proportionality and discrimination take theological precedence over what were traditionally assumed to be the prior *ad bellum* questions: just cause, right intention, competent authority, reasonable chance of success, proportionality of ends, and last resort. This inversion explains why, in much of the Catholic commentary after September 11, considerable attention was paid to the necessity of avoiding indiscriminate non-combatant casualties in the war against terrorism, while little attention was paid to the *prior* question of the moral *obligation* of government to pursue national security and world order, both of which were directly threatened by the terrorist networks.

This inversion is also theologically problematic because it places the heaviest burden of moral analysis on what are inevitably contingent judgments. There is nothing wrong, *per se*, with contingent judgments; but they are *contingent*. In the nature of the case, we can have less surety about *in bello* proportion and discrimination than we can about what

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James Turner Johnson, *The Just War Tradition and the American Military*, in JAMES TURNER JOHNSON AND GEORGE WEIGEL, *JUST WAR AND THE GULF WAR* 8-9 (1991).

27. JAMES TURNER JOHNSON, *MORALITY AND CONTEMPORARY WARFARE* 35-36 (1999).



have previously been assumed to be the prior *ad bellum* questions.<sup>28</sup> As I hope I have shown above, the tradition logically starts with *ad bellum* questions because the just war tradition is a tradition of statecraft: a tradition that attempts to define morally acceptable political ends. But there is also a theo-logic that gives priority to the *ad bellum* questions, for these are the questions on which we can have some measure of moral clarity.

The claim that a “presumption against violence” is at the root of the just war tradition cannot be sustained historically or theologically. As it has worked itself out empirically (and, one might almost say, psychologically), it has contributed immeasurably to the new Catholic “default position,” which in turn shed little light on the grave issues posed by September 11.<sup>29</sup> Thus the retrieval, renewal, and extension of Catholic just war thinking must include a recovery of the classic structure of the just war argument. How that structure might be developed is a topic I shall address in a moment.

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28. On this point, see James Turner Johnson, *Just Cause Revisited*, in *CLOSE CALLS: INTERVENTION, TERRORISM, MISSILE DEFENSE, AND “JUST WAR” TODAY* 27 (Elliott Abrams ed., 1998).

29. The “presumption against violence” and its distortion of the just war way of thinking led to a serious misreading of the world politics of the 1980s in the U.S. bishops’ pastoral letter, “The Challenge of Peace.” TCOP was deeply influenced by the emphasis laid on questions of proportionality and discrimination because of the threat of nuclear war. No doubt these were important issues. But when that emphasis drove the moral analysis, as it did in TCOP, the result was a distorted picture of reality and a set of moral judgments that contributed little to wise statecraft. Rather than recognizing that nuclear weapons were one (extremely dangerous) manifestation of a prior conflict with profound moral roots, the bishops’ letter seemed to suggest that nuclear weapons could be factored out of the conflict between the West and the Soviet Union by arms control. And in order to achieve arms control agreements with a nervous, even paranoid, foe like the Soviet Union, it might be necessary to downplay the moral and ideological (i.e., human rights) dimensions of the Cold War. That, at least, was the policy implication of the claim that the greatest threat to peace (identified as such because *in bello* considerations trumped everything else) was the mere possession of nuclear weapons.

The opposite, of course, turned out to be true. Nuclear weapons were not the primary threat to peace; communism was. When communism went, so did the threat posed by the weapons. As the human rights resistance in central and eastern Europe brought massive regime change inside the Warsaw Pact, creating dynamics that eventually led to the demise of the USSR itself, the risks of nuclear war were greatly diminished and real disarmament (not “arms control”) began. The Catholic “default position,” as manifest in TCOP, produced a serious misreading of the political realities and possibilities. “The Harvest of Justice Is Sown in Peace,” the bishops’ 1993 statement on the tenth anniversary of TCOP, unhappily fails to acknowledge this misreading or analyze its intellectual roots. For a representative sampler of Catholic intellectuals’ reading of the immediate post-Cold war situation, see *PEACEMAKING: MORAL AND POLICY CHALLENGES FOR A NEW WORLD* (Gerard F. Powers et al. eds., 1994), which includes the full text of “The Harvest of Justice Is Sown in Peace.”

### 3. *The Peace We Are to Seek*

Fifteen years ago, before I had learned something about literary marketing, I published a book entitled *Tranquillitas Ordinis: The Present Failure and Future Promise of American Catholic Thought on War and Peace*.<sup>30</sup> In that book, I argued that the just war tradition, as a theory of statecraft, contained within itself a *ius ad pacem* in addition to the classic *ius ad bellum* and *ius in bello*. By *ius ad pacem*, I meant a concept of the peace that could and should be sought through the instruments of politics, including, if necessary, the use of armed force. Like the just war tradition itself, the classic Catholic concept of peace finds its roots in Augustine: peace is *tranquillitas ordinis*, the “tranquillity of order,” or as I preferred to render it, the peace of “dynamic and rightly-ordered political community.”

In classic Catholic thinking about statecraft, “peace” is not a matter of the individual’s right relationship with God, nor is it a matter of seeking a world without conflict. The former is a question of interior conversion (which by definition has nothing to do with politics), and the latter is impossible in a world forever marked, even after its redemption, by the *mysterium iniquitatis*. In the appropriate political sense of the term, peace is, rather, *tranquillitas ordinis*: the order created by just political community and mediated through law.

This is, admittedly, a humbler sort of peace. It coexists with broken hearts and wounded souls. It is to be built in a world in which swords have not been beaten into plowshares, but remain – sheathed, we pray, but ready to be unsheathed in the defense of innocents. Its advantage, as Augustine understood, is that it is the form of peace that can be built through the instruments of politics.

In contemporary Catholic thought, which has been deeply influenced by Blessed John XXIII and his 1963 encyclical *Pacem in Terris*, this peace of *tranquillitas ordinis* is composed of justice and freedom. The peace of order, as the Catholic Church understands it, is not the eerily quiet and sullen “peace” of a well-run authoritarian regime; it is a peace built on foundations of constitutional, commutative, and social justice. It is the peace of an order that reflects the core Catholic social ethical principles of personalism, the common good, subsidiarity, and solidarity. It is a peace in which freedom, especially religious freedom, flourishes.

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30. GEORGE WEIGEL, *TRANQUILLITAS ORDINIS: THE PRESENT FAILURE AND FUTURE PROMISE OF AMERICAN CATHOLIC THOUGHT ON WAR AND PEACE* (1987).

The defense of basic human rights is thus an integral component of “work for peace.”<sup>31</sup>

This is the peace that has been achieved in and among the developed democracies. It is the peace that has been built in recent decades between such ancient antagonists as France and Germany. It is the peace that we defend within the richly diverse political community of the United States, and between ourselves and our neighbors and allies. It is the peace that we are now defending in the war against global terrorism and against aggressor states seeking weapons of mass destruction.

International terrorism of the sort we have seen since the late 1960s, and of which we had a direct national experience on September 11, is a deliberate assault, through the murder of innocents, on the very possibility of order in world affairs. That is why the terror networks must be dismantled or destroyed. The peace of order is also under grave threat when vicious, aggressive regimes acquire weapons of mass destruction which we must assume, on the basis of their treatment of their own citizens, they will not hesitate to use against others. That is why there is a moral *obligation* to ensure that this lethal combination of irrational and aggressive regimes, weapons of mass destruction, and credible delivery systems does not go unchallenged. That is why there is a moral *obligation* to rid the world of this threat to the peace and security of all. Peace, rightly understood, demands it.

In eradicating global terrorism and denying aggressive regimes weapons of mass destruction, we are addressing the most threatening problems of global *dis-order* that must be resolved if the peace of order,

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31. Pope John Paul II has made important contributions to this idea, especially in his World Day of Peace message in 1981. See *WAYS OF PEACE: PAPAL MESSAGES FOR THE WORLD DAY OF PEACE 1968-1986*, 147-61 (1987). The Pope's most recent World Day of Peace statement refines the discussion of the components of *tranquillitas ordinis* further by teaching that there is no peace without justice and no justice without forgiveness. Forgiveness helps create the conditions of civil society in which the peace of order, composed of justice and freedom, can flourish. In a comment on the message, Richard John Neuhaus notes:

The title of the message has it right: there is no peace without justice, and temporal justice is secured by the acknowledgment of a transcendent judgment that reveals our need to be forgiven and to forgive. This is said [by the Pope] without any blurring of the line between good and evil, or any obscuring of the duty to defend the innocent. Rather, it anticipates the day when, beyond the present battles, there may be a new order based on a shared recognition of God's justice and mercy. Some call that idealistic. The right word is prophetic.

See John Paul II, *No Peace without Justice, No Justice without Forgiveness*, 31:28 *ORIGINS* 461-66 (Dec. 20, 2001); Richard John Neuhaus, *The Public Square*, 120 *FIRST THINGS* 88 (Feb. 2002).

the peace of *tranquillitas ordinis*, is to be secured in as wide a part of the world as possible in the twenty-first century.

#### 4. The Development of the Tradition

In addition to *retrieving* the idea of the just war tradition as a tradition of statecraft, *recovering* the classic structure of just war analysis, and *renewing* the concept of peace as *tranquillitas ordinis*, the Catholic Church today must *develop and extend* the just war tradition to meet the political exigencies of a new century, and to address the international security issues posed by new weapons technologies. Permit me to sketch briefly three areas in which the *ad bellum* (or “war-decision”) criteria of the just war tradition require development, even as I suggest what the policy implications of these developments might be in the situation we face after September 11.

##### a. Just Cause

In the classic just war tradition, “just cause” was understood as defense against aggression, the recovery of something wrongfully taken, or the punishment of evil. As the tradition has developed since World War II, the latter two notions have been largely displaced, and “defense against aggression” has become the primary, even sole, meaning of “just cause.”<sup>32</sup> This theological evolution has parallels in international law: the “defense against aggression” concept of “just cause” shapes Articles 2 and 51 of the Charter of the United Nations. In light of twenty-first century international security realities, it is imperative to re-open this discussion and to develop the concept of “just cause.”

As recently as the Korean War (and, some would argue, the Vietnam War), “defense against aggression” could reasonably be taken to mean a defensive military response to a military aggression already underway. New weapons capabilities and outlaw or “rogue” states require a development of the concept of “defense against aggression.” To take an obvious, current example: it makes little moral sense to suggest that the United States must wait until a North Korea or Iraq or Iran actually launches a ballistic missile tipped with a nuclear, biological, or chemical weapon of mass destruction before we can legitimately do something about it. Can we not say that, in the hands of certain kinds of states, the mere possession of weapons of mass destruction constitutes an aggression — or, at the very least, an aggression-waiting-to-happen? The

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32. See JOHNSON, *supra* note 28 (providing a historical survey and contemporary arguments).

“regime factor” is crucial in the moral analysis, for weapons of mass destruction are clearly not aggressions-waiting-to-happen when they are possessed by stable, law-abiding states. No Frenchman goes to bed nervous about Great Britain’s nuclear weapons, and no sane Mexican or Canadian worries about a pre-emptive nuclear attack from the United States. Every sane Israeli, on the other hand, is deeply concerned about the possibility of an Iraq or Iran with nuclear weapons and medium-range ballistic missiles. If the “regime factor” is crucial in the moral analysis, can we not say that pre-emptive military action to deny the rogue state that kind of destructive capacity would not contravene the “defense against aggression” concept of “just cause”?

I think we can; indeed, I think we must. The post-Westphalian notion that all states are equal and enjoy equal sovereign immunity assumes at least a minimum of acquiescence to minimal international norms of order. Today’s rogue states cannot, on the basis of their behavior, be granted that assumption. Therefore, they have forfeited that immunity. The “regime factor” is determinative, in these extreme instances.<sup>33</sup>

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33. Denying rogue states weapons of mass destruction and the means to deliver them, and effecting regime change if necessary to accomplish this, could also have a salutary effect on changing the state-of-the-question in Islamic societies. Political modernization in the Arab Islamic world has not, typically, meant liberation. Rather, the importation of western revolutionary ideologies has generally led to repression. In his recent study, *What Went Wrong? Western Impact and Middle Eastern Response*, Bernard Lewis argues that Arab Islamic states “looked for the secret of Western success in those features of the West that were most distinctive, most different from anything in their own experience — and not tainted with Christianity.” BERNARD LEWIS, *WHAT WENT WRONG? WESTERN IMPACT AND MIDDLE EASTERN RESPONSES* (2001). This, as Christopher Caldwell notes in a review of Lewis’s work, led Arab Islamic states to modern western political ideologies. Caldwell writes:

The French Revolution was a major influence, “but also, eventually, nationalism, socialism, and National Socialism, whose baleful influence Lewis still sees at work in the Ba’athist regimes of Iraq and Syria. The move to political modernization in Islam did not enhance freedom and autonomy, but strengthened states through modern approaches to enforcement, surveillance, propaganda, and the consequent depredations against civil society.”

Christopher Caldwell, *The Closing of the Muslim Mind*, WKLY STANDARD, Jan. 21, 2002, at 39. This, in turn, has led to a blame-the-West phenomenon throughout the Arab Islamic world, with the United States currently replacing European colonialism, which replaced the Turks, who replaced the Mongols, as the source of Islamic decline. It is crucial, Bernard Lewis argues, to change the question, so that the Islamic world stops asking “Who did this to us?” and starts asking the question, “What did we do wrong?” Regime change in places like Iraq could well contribute to changing the question, as well as to clearing the ground on which the seeds of a new Islamic civil society could be planted. See generally LEWIS, *supra*; Caldwell, *supra*; Joshua Muravchik, *Freedom and the Arab World*, WKLY STANDARD, Dec. 31, 2001, at 15-16.

The debate over “humanitarian intervention” launched in the 1990s by the Somali famine and the genocidal violence of an imploding Yugoslavia also remains to be completed, and bears on the development of the just cause criterion. Addressing the U.N. Food and Agricultural Organization on 5 December 1992, Pope John Paul II spoke of humanitarian intervention as a “duty of justice” in cases of impending or actual genocide, or mass starvation caused by political upheaval or ethnic conflict. But the Pope did not specify precisely *why* this is a moral duty, on whom that duty falls, or how it is to be fulfilled. Development is, again, required.

Can we argue that the mass murder of innocents (or the starvation of entire peoples) constitutes an unacceptable affront to world order and a challenge to international security that must be met? That might have arguably been true in Yugoslavia, but it seems a stretch in regions more marginal to mainstream world politics — no matter how much we deplore (as we should) situations like the Somali famine or the genocide in Rwanda. If, as the Pope proposes, there is a “duty” of humanitarian intervention in these cases, then perhaps it is time to revisit the old notion of “punishment for evil” as satisfying the criterion of “just cause” for the resort to armed force in the vindication of justice and the peace of order. That would not resolve other questions posed by the assertion of a “duty” of humanitarian intervention, but it would get the just cause debate tethered to what are likely to be an increasing number of “real-world” situations in the twenty-first century.<sup>34</sup>

Finally, on this matter of “just cause,” the tradition needs development in terms of its concept of the relevant actors in world politics. Since September 11, exponents of the new Catholic “default position” have sometimes objected to describing our response to the international terrorist networks as “war” because, they argue, al-Qaeda and similar networks are not states, and only states can, or should, wage “war,” properly understood. There is an important point at stake here, but the “default position” misapplies it.

Limiting the legitimate use of armed force to those international actors who are recognized in international law and custom as exercising “sovereignty” has been one of the principle accomplishments of just war thinking as it has shaped world political culture and law; over a period of centuries, the classic distinction between *bellum* and *duellum* has been

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34. For a stark reading of the likely evolution of twenty-first century world politics which, however exaggerated in parts, nevertheless poses important questions for the just war tradition, see ROBERT D. KAPLAN, *THE COMING ANARCHY: SHATTERING THE DREAM OF THE POST COLD WAR* (2000).

concretized in international law. At the same time, however, I would argue that it does not fudge or blur this crucial distinction to recognize that al-Qaeda and similar networks function like states, even if they lack certain of the attributes and trappings of sovereignty traditionally understood. Indeed, terrorist organizations provide a less ambiguous example of a legitimate military target, because, unlike conventional states (which are always admixtures of good and evil, against whom military action sometimes threatens the good as well as the evil), the “parasite states” that are international terrorist organizations are unmitigated evils whose only purpose is wickedness — the slaughter of innocents for ignoble political ends.<sup>35</sup> Thus the exigencies of the current situation require us to think outside the Westphalian box, so to speak, but to do so in such a way as to avoid dismantling *de facto* the distinction between *bellum* and *duellum*.

*b. Competent Authority*

Two questions involving the *ad bellum* criterion of “competent authority” have been raised since September 11: the question of the relationship between a government’s domestic and foreign policy and its legitimacy as a belligerent, and the question of whether “competent authority” now resides in the United Nations only. Let me address these briefly in turn.

One of the more distasteful expressions of the new Catholic “default position” post-September 11 could be found in suggestions that there were “root causes” to terrorism that not only explained the resort to mass violence against innocents but made the use of such violence humanly plausible, if not morally justifiable. The corollary to this was the suggestion that the United States had somehow brought September 11 on itself, by reasons of its economic and cultural dominance of the world, its Middle East policy, or some combination thereof. The moral-political implication was that such a misguided government lacked the moral authority to respond to terrorism through the use of armed force.

Here, Lutheran scholar David Yeago has been a wise guide. Writing in the ecumenical journal *Pro Ecclesia*, Yeago clarified an essential point:

The authority of the government to protect the law-abiding and impose penalties on evil-doers is not a *reward* for the government’s virtue or good conduct . . . . The protection of citizens and the execution of penalty on peace-breakers is the

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35. On this point see the editorial *In a Time of War*, 118 *FIRST THINGS* 11-17 (Dec. 2001).

commission which *constitutes* government, not a contingent right which it must somehow earn. In the mystery of God's providence, many or indeed most of the institutional bearers of governmental authority are unworthy of it, often flagrantly so, themselves stained with crime. But this does not make it any less the vocation of government to protect the innocent and punish evil-doers. A government which refused to safeguard citizens and exercise judgment on wrong out of a sense of the guilt of past crime would only add the further crime of dereliction of duty to its catalog of offenses.<sup>36</sup>

The pursuit of national interest is often understood by exponents of the new Catholic "default position" to be an exercise in amorality — a notion they have, oddly, picked up from certain streams of foreign policy realism. A developed Catholic just war tradition, understanding itself as a theory of statecraft, would insist that the very definition of national interest is an exercise in moral judgment. For among the primary elements of the American "national interest" are, in the first instance, the defense of the core values of American democracy and the institutions that give political content to those values, and, in the second instance, the defense of a measure of order in international public life, sufficient so that those committed to the rule of law can live in the peace of "order."<sup>37</sup> One of the tasks that Catholic just war thinking should take up is to refine our moral understanding of "national interest" and

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36. Yeago, *supra* note 9, at 414-15.

37. I once parsed the relationship between national interest and world order in these terms, which still seem to me to have some relevance for our situation post-September 11:

The irreducible core of the "national interest" is composed of those basic security concerns to which any responsible democratic statesman must attend. But those security concerns are not unrelated to a larger sense of national purpose: we defend America because America is worth defending, on its own terms and because of what it means for the world. Thus those security concerns that make up the core of the "national interest" should be understood as the necessary inner dynamic of the pursuit of the "national purpose."

And the larger American purpose in world affairs is to contribute, as best we can, to the long, hard, never-to-be-finally-accomplished "domestication" of international public life: to the quest for ordered liberty in an evolving structure of international public life capable of advancing the classic goals of politics — justice, freedom, order, the general welfare, and peace. Empirically and morally, the United States cannot adequately defend its "national interest" without concurrently seeking to advance those goals in the world. Empirically and morally, those goals will not be advanced when they are pursued in ways that gravely threaten the basic security of the United States.

George Weigel, *Beyond Moralism and Realpolitik: Notes Toward Refining "America's Purpose"*, in *IDEALISM WITHOUT ILLUSIONS: U.S. FOREIGN POLICY IN THE 1990s*, 91-107 (1994).



demonstrate the implausibility of the Realpolitik notion of the “amorality” of “national interest.”

Finally, on this question of competent authority, there is the question of alliances and international organizations. Must any legitimate military action be sanctioned by the U.N. Security Council? Or, if not that, then is the United States obliged, not simply as a matter of political prudence but as a matter of moral principle, to gain the agreement of allies (or, more broadly, “coalition partners”) to any use of armed force in response to terrorism, or any military action against aggressive regimes with weapons of mass destruction?

The manifest inability of the United Nations to handle large-scale international security questions suggests that assigning a moral veto over U.S. military action on these fronts to the Security Council would be a mistake. Building coalitions of support for dismantling the international terror networks and denying rogue states lethal weapons capacities is politically desirable (and in some instances militarily essential). But it may not be morally imperative from a just war point of view. The United States has a unique responsibility for leadership in the war against terrorism and the struggle for world order; that is not a statement of hubris but of empirical fact. That responsibility may have to be exercised unilaterally on occasion. Defining the boundaries of unilateral action while defending its legitimacy under certain circumstances is one task for a developing Catholic just war tradition.

### *c. Last Resort*

In the new Catholic “default position,” the classic *ad bellum* criterion of “last resort” is usually understood in mathematical terms: the use of proportionate and discriminate armed force is the last point in a series of options, and prior, non-military options (legal, diplomatic, economic, etc.) must be serially exhausted before the criterion of “last resort” is satisfied. This is both an excessively mechanistic understanding of “last resort” and a prescription for danger.

The case of international terrorism again compels a development of this *ad bellum* criterion. For what does it mean to say that all non-military options have been tried and found wanting when we are confronted with a new and lethal type of international actor, which recognizes no other form of power except the use of violence and which is largely immune (unlike a conventional state) to international legal, diplomatic, and/or economic pressures? The charge that U.S. military action after September 11 was morally dubious because all other possible means of redress had not been tried and found wanting misreads the

nature of terrorist organizations and networks. The “last” in “last resort” can mean “only,” in circumstances where there is plausible reason to believe that non-military actions are unavailable or unavailing.

As for rogue states developing or deploying weapons of mass destruction, a developed just war tradition would recognize that here, too, “last resort” cannot be understood in mathematical terms, as the terminal point of a lengthy series of non-military alternatives. In the case of Iraq, for example, it would always be possible to imagine trying to send in one more international team of weapons-inspectors; meanwhile, as the Ba’athist regime stalls on accepting the conditions laid down by the United Nations, the regime’s weapons programs grind ahead, increasing the danger to America, its allies, and world order every day. Can we not say that “last resort” has been satisfied in those cases when a rogue state has made plain, by its conduct, that it holds international law in contempt and that no diplomatic solution to the threat it poses is likely, and when it can be demonstrated that the threat the rogue state poses is intensifying?

Some states, because of the regime’s aggressive intent and the lack of effective internal political controls on giving lethal effect to that intent, cannot be permitted to acquire weapons of mass destruction. Denying them those weapons through proportionate and discriminate armed force — even displacing those regimes — can, I suggest, be an exercise in the defense of the peace of order, within the boundaries of a developed just war tradition. Until such point as the international political community has evolved to the degree that international organizations can effectively disarm such regimes, the responsibility for the defense of order in these extreme circumstances will lie elsewhere.

*d. An Argument That Cannot be Avoided*

In his *Small Catechism*, Martin Luther suggested that one positive meaning of the commandment against lying is that the Christian ought to put the best construction on everything. Following that counsel, we should assume that one motivation underlying the new Catholic “default position” is the religious and moral intuition that, in the third millennium of Christian history, humanity ought to be able to develop a more satisfactory way to handle conflict than through organized mass violence. That admirable and understandable intuition, forged in the fires of the bloody twentieth century, has also been influenced by the success of the non-violent Revolution of 1989 in central and eastern Europe and other late twentieth-century examples of profound and desirable political change effected through non-violent means.

This should not be dismissed entirely as romanticism or frivolous utopianism, although elements of both maladies all too frequently shape the new Catholic “default position.” The hope for a better future — the determination that, as the Holy Father put it at the United Nations in 1995, a “century of tears” be succeeded by “a new springtime of the human spirit” — should not be extinguished in the name of a realism that, on closer examination, is actually a tired cynicism.<sup>38</sup>

The quest for peace, however, must be informed by the moral wisdom of the just war tradition, rightly understood in its history and its logic. There is no way around this argument. If international politics is ever “domesticated” — if a genuine, law-governed international political community were to emerge over time (which the Catholic tradition of statecraft and the modern papal magisterium both suggest is our goal) — it would have to wrestle with the questions I have posed above, just as much as we do in this age of stable, unstable, and crumbling nation-states. For the moral “logic” within the criteria of the just war tradition is also the moral “logic” that must guide any meaningful political action. To put it another way, the just war criteria, are the “moral economy” that tempers and orders the use of armed force, which, this side of the coming Kingdom, is an inescapable part of all political life.

To suggest that the just war tradition is obsolete is to suggest that politics — the organization of human life into purposeful political communities — is obsolete. To reduce the just war tradition to an algebraic casuistry is to deny the tradition its capacity to shed light on the irreducible moral component of all political action. What we must do, in this generation, is to retrieve, renew, and extend the just war tradition to take account of the new political and technological realities of the twenty-first century. September 11, and what has followed, have demonstrated just how urgent that task is.

Let us get on with it.

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38. Pope John Paul II, Address to the Fiftieth General Assembly of the United Nations Organization (Oct. 5, 1995).