WAR AND THE CHRISTIAN CONSCIENCE / How Shall Modern War Be Conducted Justly?

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an agape-ethic precipitating some principled judgment about means that are permitted or prohibited. Such an understanding of Christian morality may be described as "faith effective through in-principled love." The task of Christian ethical analysis is to articulate what this should mean in political action, and for the vocation of citizen or statesman.

Chapter Two

THE JUST WAR ACCORDING TO ST. AUGUSTINE

Whoever wishes to understand the theory of the justum bellum (which should perhaps be translated the "justified war" rather than the "just war") must understand, in the writings of St. Augustine, the similarity between his critique of the pagan personal virtues and his critique of the social justice of any of the nations or empires of this world, in defense of which participation in warfare still could, he believed, be justified in Christian conscience. Augustine is not more severe in his criticism and rejection of the natural personal virtues as only "splendid vices" than he is in his analysis of the actual nature of that justice which prevails in the common life of a nation. Yet he was the first great formulator of the theory that war might be "just," which thereafter has mainly directed the course of Western Christian thinking about the problem of war. A brief inspection of Augustine's views will show that most later formulations of the theory of the justum bellum and, as a consequence, the verdict that no actual war can meet the conditions of the just-war theory, are radically un-Augustinian. It will show that the political experience and ethical analysis summarized in the so-called just-war theory cannot be dealt with all in one lump, as if it were a simple system of moral rules for the classification of cases, subject to no significant historical development, freighted with few ambiguities, there to be ac-
soundest perception who recognizes that even the love of praise is a vice,” and that “though that glory be not a luxurious woman [i.e., pleasure], it is nevertheless puffed up, and has much vanity in it.” Even when men pursue virtue for its own sake, and, as they say, for no other reward or benefit than virtue itself, still virtue is the form to which their secret love gives the substance: “For although some suppose that virtues which have a reference only to themselves, and are desired only on their own account, are yet true and genuine virtues, the fact is that even then they are inflated with pride, and are therefore to be reckoned vices rather than virtues.” If Augustine believed that Roman morality was “less base” than some of the types of character he knew to be cultivated under the sun, this can only mean that he paid it paradoxical tribute as more splendidly vicious than others. “Where there is no true religion”—bringing the soul to rest in the one good End that eternally endures, and converting, transforming, and redirecting the love wherewith a man loves every good—“there can be no true virtue.” Upright pagans have the form but not the substance of true virtue. As to this, there can be no distinction among men.

The word “form” is Augustine’s own, but not the word “substance,” in the foregoing discussion of his theory of moral virtue. The latter term, and the distinction to follow between the mere form and the real substance of justice, is used, not in the somewhat different sense in which later scholasticism may have used “form-substance,” but to direct attention to that charity which makes virtue virtuous. The heart of the matter of virtue or of justice consists in a matter of the heart. The right inner intention or direction of the will alone “rightwises” every virtue, regardless of the “for-

1 On the Morals of the Catholic Church, xv (italics added). Except where otherwise indicated, citations to the works of St. Augustine are from Basic Writings of Saint Augustine, ed. Whitney J. Oates. (Two vols.; New York: Random House, 1940).

2 Ibid., xxv.

3 Ibid., v. 40.

4 Ibid., xxix, 25.
mal" identity there may be between one "justice" and another "justice," warranting the use of the same word to point to patterns of behavior, character, or relationships which arise from and are in-formed by quite different sorts of love.

What Augustine says about social justice and the nature of the state in Book XIX of The City of God can best be comprehended by means of this distinction between form and substance. Moreover, his radical critique of such justice as characterizes, has characterized, or ever will characterize, the kingdoms of this world should be held firmly in mind whenever the question arises concerning the theory of a justum bellum, of which he was the primary architect. Properly grasped, even more than when improperly grasped, Augustine's views on political justice are apt today to occasion considerable puzzlement in a person who holds idealistic and universalistic conceptions of justice, and consternation in the Christian who may want real justice on the side he supports in war and who may have been informed that the theory of a just war is supposed to tell him clearly when this is the case and when not.

Here it is necessary to oppose and reject Ernest Barker's interpretation of St. Augustine's political theory, and especially of Book XIX, set forth in his Introduction to the Temple Classics edition of The City of God. Barker's key distinction is only a relative one, between "absolute" and "relative righteousness." By the latter he means "a system of right relations mainly in the legal sphere" or "a system of right relations reckoning with, and adjusted to, the sinfulness of human nature." The State has relative justice (rel-

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7 Ibid., p. xxvi. The objection to this definition of the justice of nations is that it states only that the sinfulness of human nature is reckoned with and adjusted to. There is no suggestion that this "system of right relations" itself gives form to unrectified love and participates in the sin it represses.

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ative natural law?); the City of God, absolute justice (absolute natural law?); and the terrestrial city, absolute unrighteousness. Absolute righteousness goes further than the relative justice of states, but it does not fundamentally challenge this justice. Any flaw there may be in worldly justice is not intrinsically a flaw in the morality of it; and, on Barker's showing, love of God would, theoretically, only add to earthly justice a religious dimension. Such an interpretation does not take seriously into account Augustine's belief that there can be no justice, or rendering man his due, unless God is given His due.

In passing, it should be pointed out that Barker makes a similar donum superadditum analysis of Augustine's treatment of the personal moral virtues. "One by one," he writes, "St Augustine examines the four cardinal virtues of ancient theory ... and of each in turn he proves that so long as it is a merely moral virtue, without the comfort of faith in God and the corroboration of the hope of eternal life, it must necessarily absent itself from felicity." Love of God adds "comfort," "corroboration," and saving "felicity" to virtues that are already intrinsically, even if "merely," moral. Surely Augustine meant and said more than this. Moral virtue without charity not only "must necessarily absent itself from felicity"; it also, and primarily, necessarily absent itself from virtuousness and lacks the very essence of virtue.

Barker's eloquent words of tribute to the significance of St. Augustine fail, therefore, to communicate the full measure of the tumult and dialectical encounter that was going
in his mind. "It is the great fascination of The City of God (and particularly perhaps of the nineteenth book) that we see the two men ["the antique man of the old classical culture, and the Christian man of the New Gospel"] at grips with one another. This is what makes the work one of the greatest turning points in the history of human destiny: it stands on the confines of two worlds, the classical and the Christian, and it points the way into the Christian."10 Or again: "The nineteenth book particularly illustrates this sentinel attitude."11 Augustine is not only a sentinel on the ramparts. He not only points the way into the Christian world. He also attacks, in order to capture and; afterward, to conserve. His critique and rejection of the humanistic autonomy of classical moral achievement—the substance of its virtue—was most thoroughgoing and severe (as Cochrane has shown), in order that that world might be torn from its foundations, and turn if possible and be converted. The new direction of morality required more of a transformation than an addition, and Augustine's new direction in moral and political analysis proceeds not by distinctions in degree. Given man's citizenship in the City of God, his citizenship elsewhere is not merely relatively inferior; it must be seen as radically deprived of the ethical substance formerly attributed to it before that which is new had come. We may now turn to see confirmation of this in Book XIX, contra Barker.

Notice first that Barker insists on translating Justitia always as "righteousness" (even though, in the reverse, he notes the fact that the term for righteousness in Plato and in the New Testament was "received in the Latin" as Justitia, with large and sometimes disastrous consequences in the field of theology and of moral philosophy).12 The idea of "righteousness" was, for Plato, St. Paul, and St. Augustine, without much distinction, according to Barker, "a moral idea (which at its highest seemed to pass into a religious idea) rather than an idea of law."13 This means that in the thought of Augustine, Platonic "righteousness is lifted to a higher plane" rather easily and smoothly. Righteousness simply "ceases to be a system of right relations between men, based on the idea of social stations, and it becomes a system of right relations between man and God (but also, and consequently, between man and man)."14 If righteousness already seemed about to pass over into a religious idea, this higher plane has already been envisioned and in some degree attained. On this interpretation, there would be no mounting of an attack upon the will (or love) that governs, directs, and determines the innermost nature of the systems of justice and relationships within and among the nations. Consequently, Barker affirms that the State "has its own order: it has its own relative 'righteousness.'" It is not a magnum latrocinium; for you cannot remove righteousness from it and St. Augustine only said that kingdoms were great bands of brigands if you remove righteousness."15 However, it befalls this interpretation that Augustine also said that you cannot remove justice from a band of brigands! You would have left neither band nor brigands, for there is nothing so clearly contrary to nature as to display no order and no remnant of interrelationships that may be termed "due," by common consent or habitual acceptance.16

10 Ibid., p. xxiv.
11 Ibid., p. xxxii.
12 Ibid., p. xxi.
13 Ibid., p. xxi.
14 Ibid., p. xxiii.
15 The same point may be stated in terms of "peace." When discussing peace as the end of "just" wars, Augustine clinches his point by saying, "Even robbers take care to maintain peace with their comrades." An earthly kingdom, while it abhors "the just peace of God and loves its own unjust peace," cannot help loving peace of one kind or other. For there is no vice so clean contrary to nature that it obliterates the faintest traces of nature" (XIX, 12). "There may be peace without war, but there cannot be war without some kind peace, because war supposes the existence of..."
Barker affirms not only that states have "a sort of Justitia" of their own, but also that "the citizens of the heavenly city avail themselves of this Justitia in the course of their pilgrimage, so that the State is thus, in its way, a road to the City of God." 17 Now, it is significant that this is precisely what Augustine avoids saying, even when he might have done so, in the formal sense of the existing legal system or system of social relationships, not in the sense of substantive justice. One passage that Barker cites says not this, but that the children of God make use of earthly peace, 18 and Augustine ordinarily describes this as an "unjust peace." 19

The Heavenly City also uses the "order" of the world in the course of its pilgrimage. Augustine explicitly says pax-ordo, not justitia, in this connection. Barker places the term in the text, because what he wants to be able to take out of it is his own scheme of continuous religio-political concepts, e.g.: "Ordo is a great word in St. Augustine; and ordo is closely allied to what I have called a 'system of right relations,' and that in turn is closely allied to, and indeed identical with, the idea of Righteousness." 20 Augustine would not have said the relations were "right." Instead, he might have said that it is an "unjust order" as well as an "unjust peace" that the Heavenly City uses in its pilgrimage. That City does not rescind or destroy, rather it preserves and pursues those orders, different though they be in different na-
some natures to wage it, and these natures cannot exist without peace of one kind or other" (XIX, 13, italics added).

18 "Therefore the heavenly city rescinds and destroys none of those things by which earthly peace is attained or maintained: rather it preserves and pursues that which, different though it be in different nations, is yet directed to the one and same end of earthly peace.... Therefore, again, the heavenly city uses earthly peace in its pilgrimage: it preserves and seeks the agreement of human wills in matters pertaining to the moral nature of man....", The City of God, XIX, 17; quoted by Barker, p. xxvii. See also XIX, 26.
19 "Ibid., XIX, 12.
21 The City of God, XIX, 21.

ations, by which earthly peace, doubtless an unjust peace and a justendurable order, is maintained. It seeks every "agreement of human wills in matters pertaining to the moral nature of man." The Heavenly City, therefore, preserves, pursues, and uses the forms of justice, different though they may be in different nations, for that is but a necessary part of their pax-ordo, and the agreement of human wills about goods that are mortal, in the midst of which it continues on its journey. There is continuity among pax, ordo, and justitia in this sense; but a great gulf is fixed between these and either ultimate Righteousness or justice that is the substance of right human relations. Human wills are in themselves divided and sinful wills, and of course the same is the case also in their agreements of will, no matter how inclusive these may be.

In summary, Barker elevates Justitia by translating it as "righteousness": yet at the same time he continues to regard it as closely associated with the concrete order or system of relations that necessarily exists in any State. This brings about a seemingly smooth Christianization of classical politics. Such an interpretation is incapable of appreciating the passages in which Augustine evacuates the ethical idealism from Graeco-Roman definitions of the commonwealth before and in the course of pointing the way to the Christian world. To Barker, this—the most startling thesis of Book XIX—seems to be only a matter of language, a tour de force, or an unwarranted quarrel resulting from purely religious (i.e., non-political, non-moral) preconceptions on Augustine's part. The point here has to do with Cicero's definition of res publica as "as assemblage associated by a common acknowledgment of right (jus) and by a community of interests." 21 Barker comments:
It is the word Right, or _Jus_, which offends St. Augustine. In the Latin usage _Jus_ is a legal term; and it signifies simply the body of legal rules which is recognized, and can be enforced, by a human authority. On the basis of this significance of _Jus_ there is little in Cicero’s definition with which we need quarrel. It might, perhaps, go farther; but it is correct enough so far as it goes. But St. Augustine has his own preconceptions; and they made him resolve to quarrel with Cicero’s definition. With his mind full of the idea of Righteousness (the Greek _dikaiosune_, as it appears in Plato and in St. Paul), he twists the sense of _Jus_. He identifies _Jus_ with _justitia_; he identifies _justitia_ with _cura justitiae_; and he argues accordingly that “where there is no true righteousness, there cannot be a union of men associated by a common acknowledgement of Right.”

On the surface, of course, Barker is correct. In Cicero, and elsewhere in Latin political writings, _Jus_ signifies simply the body of legal rules recognized and enforced by the State. But when Augustine moves quickly on to the assertion that where there is no true justice (_justitia_) there can be no right (_Jus_), more is involved than the mistaken replacement of one word for another. Augustine goes behind the words, behind the system of legal rules, to the common assumption of Graeco-Roman political theory that justice is the ethical substance of a commonwealth. This he gets a grip on; and, therefore, it is a theoretical argument, not mere logomachy, when he contends that “where there is no true justice there can be no assemblage of men associated by a common acknowledgment of right, and therefore there can be no people...; and if no people, then no weal of the people”—and therefore “there never was a Roman republic.” Whether contained in the term _Jus_ or not, there is a real difference between Augustine’s and the classical conception of the State; and this difference is at the level of the analysis of the actual justice present in the commonwealth. When Augustine writes that the virtues which a soul or a State seems to possess “are rather vices than virtues, so long as there is no reference to God in the matter,” he is not calling for a mere religious addendum, or for a State that goes further than its existent, intrinsic justice to become a denominationally Christian State. Rather he is making a judgment in political analysis itself, a judgment upon such seeming justice. When, therefore, Barker rejoins that “this has only been proved on the basis of assumptions about the significance of _Jus_ which Cicero would never have admitted,” he may be correct so far as this word alone is concerned; but the challenge to Cicero’s assumptions, not about religion, or _Jus_, but about _secular justitia_, remains. Incidentally, if Augustine’s meaning in himself using _justitia_ (despite its translation as Righteousness) was to signify a system of right legal relations; if, as Barker contends, the word _ordo_ is closely allied with such a system of relationships or functions in society, and this in turn is “closely allied to, and indeed identical with the idea of Righteousness,” then one wonders what led him to make the mistake, even verbally, of objecting at all to Cicero’s definition. He did this because behind _Jus_ he seemed to discern pretensions to a quality of justice he could not allow to be the case in any earthly kingdom.

By discarding the definition of a commonwealth which was so idealistic as to be a logical class without any members, and adopting another, Augustine reaches the conclusion that Rome, after all, was a “people.” If only there is an assemblage of reasonable beings, and not of beasts, and they are bound together by an agreement as to the objects of love, it can reasonably be called a people. Thus Augustine demoralizes _res publica_. For the word “love” as used here has no specially laudable denotation or connotation. It simply means the activity of “will.” “An assemblage of reasonable beings bound together by a common agreement as to the
objects of their love... whatever it loves”. 25 or, as Barker translates, “a reasoning multitude associated by an agreement to pursue in common the objects which it desires.” 26 Neither a common language nor a common ethnic origin nor common and universal conceptions of the norms of justice nor the substance of justice in the common life constitute a people, but a common will or love. “This is practically Cicero’s definition,” the Carlyles comment, “but with the elements of law and justice left out. No more fundamental difference could well be imagined, although St. Augustine seems to take the matter lightly; for Cicero’s whole conception of the State turns upon the principle that it is a means of attaining and preserving justice... It would appear, then, that the political theory of St. Augustine is materially different in several respects from that of St. Ambrose and other Fathers, who represent the ancient tradition that justice is the essential quality, as it is also the end, of the State.” 27

As with justice as a personal virtue, so with social justice. “When a man does not serve God what justice can we ascribe to him?... And if there is no justice in such an individual, certainly there can be none in a community of such persons.” 28 Indeed, what justice can be ascribed to such communities? The forms of justice, lacking the inner rectitude that makes justice just or relationships right among men.

26 Op. cit., p. xlix. Yet it was Augustine who first fully formulated the “justice” of Christian participation in war to preserve earthly pax-ordo! One may compare this with the way C. C. Morrison, in a remarkable series of editorials in The Christian Century, removed clear judgments of greater justice from among the grounds for a Christian’s positive involvement in his nation’s cause in World War II (The Christian and the War, Willett, Clark & Co., 1942), and with Reinhold Niebuhr’s wonderfully ironic and self-analytic remark about the occasion he has to thank God for placing him on the just side in three wars in one lifetime.
28 The City of God, XIX, 21.

The Just War According to St. Augustine

Then should be kept clearly in mind the justice of which Augustine was speaking when he wrote of wars in which Christian engagement was justified

How many great wars, how much slaughter and bloodshed, have provided this unity [of the imperial city]? And though those are past, the end of these miseries has not yet come. For though there have never been wanting, nor are yet wanting, hostile nations beyond the empire, against whom wars have been and are waged, yet, supposing there were no such nations, the very extent of the empire itself has produced wars of a more obnoxious description—social and civil wars—and with these the whole race has been agitated, either by the actual conflict or fear of a renewed outbreak. If I attempted to give an adequate description of these manifold disasters, these stern and lasting necessities, though I am quite unequal to the task, what limit could I set? But, say they, the wise man will wage just wars. As if he would not all the rather lament the necessity of just wars, if he remembers that he is a man; for if they were not just he would not wage them, and would therefore be delivered from all wars. For it is the wrongdoing of the opposing party which compels the wise man to wage just wars; and this wrongdoing, even though it give rise to no war, would still be matter of grief to man because it is man’s wrongdoing. Let every one, then, who thinks with pain on all these great evils, so horrible, so ruthless, acknowledge that this is misery. And if any one either endures or thinks of them without mental pain, this is a more miserable plight still, for he thinks himself happy because he has lost man feeling. 29

Notice that Augustine writes of “the wrongdoing of the opposing party which compels the wise man to wage just wars,” as incidental to his stress upon the mental pain this misery should cause every man to feel. It is not made incidental to justifying the right side specifically in terms of universal standards of justice. The same is true of his statement that “even when we wage just war, our adversaries must be sinning;” this is prefatory to pointing to the fact

29 Ibid., XIX, 7.
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that “every victory, even though gained by wicked men, is a result of the first judgment of God, who humbles the vanquished either for the sake of removing or punishing their sins.”\(^{30}\) It is a lively sense of man’s common plight in wrongdoing and of the judgment of God that overarches the justifi ed war, and not—except perhaps as an incidental implication of what Augustine says—a sense of or clarity about the universal ethical standards that are to be applied. On the face of it, therefore, the statement of the Calhoun Commission (in the course of outlining “three main attitudes toward participation in war which developed in the life of the Christian Church:” pacifism, the just war, and the holy war) that “the just war was carefully defined, in such terms that only one side could be regarded as fighting justly,”\(^{31}\) cannot certainly be read back as far in this tradition as Augustine’s first statement of it.

If Augustine believed that there is always only one side that can be regarded as fighting justly in the wars in which a Christian will find himself responsibly engaged, he should not have believed this. For his own analysis of the pax

ordo-formal justitia or jus of nations gives no ground for any such conclusion in every case, perhaps not in most cases. Justice is the form of men’s loves: in the State it is the form of that love or agreement to pursue in common the objects which a “people” desire. Moreover, social justice “arises from” a common agreement as to the objects of their love (will); and, since the agreement would break down and the people become a mere multitude without minimum or greater degrees of participation in the life of a nation, accepted schemes of justice serve to strengthen that common will or love which constitutes res publica. The Christian has reason to endeavor to strengthen the combination of

men’s wills to attain the things which are helpful to this life.” The “heavenly city, while it sojourns on earth..., not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace... [is] so far from rescinding and abolishing these diversities, that it even preserves and adopts them... Even the heavenly city, therefore, while in its state of pilgrimage, avails itself of the peace of earth, and... desires and maintains a common agreement among men regarding the acquisition of the necessities of life.”\(^{32}\) Thus, a Christian in this life finds his own life and will bound up inextricably with such a common agreement among men as to the objects of their political purposes, and he is bound to foster the combination of men’s wills to attain the things which are helpful to this life. Doubtless he seeks not only to preserve but also to enlarge such agreements of will and the scope of peaceful orders on this earth. But is it not likely that there will be occasions on which the love or will in-forming secular justice cannot be extended into greater combinations, that appeal must then be made the ultima ratio of war, and that the existing justice Augustine has in mind when speaking of the “just” war may tragically be on both sides? In any case, all Augustine’s language about the purpose that lies at the root of the State, and his severe castigation of the resulting justice which still must be what justifies warfare, brings us remarkably close to that remarkable statement in the best book about “limited warfare” that has appeared in recent years, to the effect that “nations might better renounce the use of war as an instrument of anything but national policy.”\(^{33}\)

\(^{30}\) Ibid., XIX, 15.


\(^{32}\) The City of God, XIX, 17.

In elevating a better peace as one criterion of the just war (we may also say the limited war), Augustine was not unaware that there slips into the national policy which constitutes the multitude a people, an attitude according to which “even those whom they make war against they wish to make their own, and impose on them the laws of their peace.”44 And so the “just” war which seeks peace in the sense of a larger and better and more stable agreement of wills, has its own intrinsic limits which it may overstep. Nations may seek to extend pax-ordo by mere compulsion, and not by agreement of wills. Yet Augustine could not have supposed that warfare is justified only on the part of the side which is driven by none of the desire to impose the laws of its own peace. Such a supposition would be contrary to his basic analysis of the reality of States, and of the love basic to their nature. Whether of individuals or of communities of individuals who are agreed to be a people, the love for temporal goods and for those material things necessary for individual or collective life must of necessity be a love in which then must fear to have colleagues. All men’s loves, for any other good than the bonum summum et commune, is of its nature fratricidal. That is why Cain, who killed his brother, is the founder of the earthly city. If it be said, quite correctly, that the earthly city is an “ideal negation” and that actual societies are not necessarily like that, then we must remember Remus and point to Romulus, who was the founder of Rome. The truth is that, according to Augustine, fratricidal love and brotherly love based on love of God are always commingled in human history. There is no heart, no people, and no public policy so redeemed or so clearly contrary to nature as to be without both. Communities are built over fratricidal love by men with divided hearts. We must not only say that, according to the doc-

44 The City of God, XIX, 12.

trine of the divided will, Augustine was unable to will entirely, and with a whole heart, to love God, because at the same moment he nilled this for the will (or love) of his “ancient mistresses” (the adjective I understand to indicate the span of time that had elapsed, not to characterize his mistresses when he had them).45 We must also say that he was equally unable to will entirely to love his mistresses with a whole heart, because of the foundation of the love of God that was laid in him. Them he also nilled for the love of God, for God had made him for himself.46 The same complex analysis must be given of the love or will in common which makes a people. It too, cannot will any finite thing entirely. Something is sought in every human desire, no matter to what it is directed, that is not obtained. That is the created good, and at the same time the misdirected evil of it: for men and States necessarily will and love more than they get in this world. They desire not only some good, or even a good higher than all others, but also the permanent enjoyment of it. An unrectified nisus toward the eternal disturbs every people’s purpose: that is why they see in their good the Good, in the laws of their peace the conditions of universal peace, and are resolved that this too shall not pass away. Yet Augustine, who saw all this so clearly, not as an aloof spectator of the human scene or of the rise and fall of empires but as one who was content to dwell in the midst of this since God had placed him there, was almost the first thinker known in our literature to justify Christian participation in wars. The just-war theory cannot have meant for him the presence of justice (i.e., the temporary order and form of these divided loves) on one side, its absence on the other.

These conclusions, then, have been demonstrated from a review of St. Augustine’s views of political justice and the

45 The Confessions, VIII, 26.
46 Ibid., VIII, 20-22.
justum bellum. At least at the outset, the just-war theory did not rest upon the supposition that men possess a general competence to discriminate with certainty between social orders at large by means of clear, universal principles of justice, so as to be able to declare (without sin’s affecting one’s judgment of his own nation’s cause) one side or social system to be just and the others unjust. This was not the premise by which Augustine came to a confident enough judgment as to a Christian’s responsibility in justifiable (if not unambiguously just) war. My contention is that Christian ethics may attribute to ordinary men, and to their political leaders, a capacity to know more clearly and certainly the moral limits pertaining to the armed action a man or a nation is about to engage in, than they are likely to know enough to compare unerringly the over-all justice of regimes and nations. There is still more reason to believe that men know something of moral significance about proper conduct than to believe that they are able to count up all the remote effects of their actions, so as to measure their actions by the standards of any consequentialist system of ethics.

Two main alterations of the just-war doctrine took place between Augustine and Aquinas. First, a shift from voluntarism to rationalism in understanding the nature of political community, and therefore an increasing emphasis upon the natural-law concept of justice in analysis of the cause that justifies participation in war. This is what is usually meant by the doctrine of the just war. I shall reject this, in the belief that Augustine was more correct and realistic in believing people to be bound together more by agreement of will and purpose than by agreement in their general conceptions of justice. Secondly, rules for the right conduct of war were drawn up, particularly for the protection of noncombatants. This is usually dismissed as the weakest part of the traditional theory of the just war. I propose, however, that we seriously reconsider this question of the just conduct of war. For, it may well be the case that natural reason falter in attempting to make a large comparison of the justice inherent in great regimes in conflict but is quite competent to deliver verdict upon a specific action that is proposed in warfare. It is striking that Christian theories of justified war in the past have directed attention at least as much to the conduct as to the ultimate and large-scale consequences of military action.

In any case, the work of love (or of “faith effective through in-principled love”) in limiting the conduct of war, or acts of war that are ever justified, can be clearly demonstrated. This will be our task in the following chapter. At the same time, a study of the genesis of the so-called rule of double effect, prohibiting the direct and intentional killing of anyone besides “combatants” in warfare, will show that, in very large measure, “natural law” judgments do not proceed from autonomous reason alone, but are derivative principles in which agape shapes itself for action.
Chapter Three

THE GENESIS OF NONCOMBATANT IMMUNITY

A great deal of the history and later meaning of the just-war theory may best be comprehended from two passages—one from St. Augustine and the other from St. Thomas Aquinas—and by a careful study of the movement of thought from one of these positions to the other and thence into contemporary treatments of the just or limited war. In this survey the issues which will be raised are these: In participating in warfare, is it his sense of justice and injustice or of what <love> requires that motivates the Christian? When did the requirements of natural justice become so complete and clear that Christian ethics claimed to be able to define exhaustively and with considerable certainty those inherently wrong means that may never be used to accomplish directly any good, however great, even the ends of charity? When and in what way may it be said that to bring about the death of an unjust aggressor is intrinsically justifiable? What is the meaning of the natural-law-immunity and rights of the innocent (the noncombatant)?

The striking thing about the views of Augustine is that, while he was quite realistic, as we have seen, about the necessity and justifiability of public defense and the Christian’s responsibility for it, nevertheless he saw no cause for private self-defense. And the striking thing about the views of Thomas Aquinas is that, despite the development of the theory of the just war by the Canonists over the intervening centuries and despite his own theory of natural law, he was almost equally reluctant to justify the direct killing even of the enemy, or of an unjust aggressor, as in itself intrinsically right. The thought of these two men on this subject is worth profound consideration, if only in order to understand the background and shape of the ethical judgments that are made in the natural-law tradition which followed from the development we will trace, and which persists to the present day.

The passage from Augustine is to be found in a chapter on the question “whether Libido dominates also in those things which we see too often done.”1

For me the point to be considered first is whether an onrushing enemy, or an assassin lying in wait may be killed with no wrong-headed desire [for the saving] of one’s life, or for liberty or for purity. . . . How can I think that they act with no inordinate desire who fight for that [i.e., some creaturely good], which they can lose without desiring to lose it? . . . Therefore the law is not just which grants the power to a wayfarer to kill a highway robber, so that he may not be killed [by the robber]; or which grants to any one, man or woman, to slay an assailant attacking, if he can before he or she is harmed. The soldier also is commanded by law to slay the enemy, for which slaying, if he objects, he will pay the penalty by imperial order. Shall we then dare to say that these laws are unjust, or more, that they are not laws? For to me a law that is not just appears to be no law. . . . For that he be slain who lays plans to take the life of another is less hard [to bear] than the death of him who is defending his own life [against the plotter]. And acting against the chaste life of a man in opposition to his own will is much more evidently wrong than the taking of the life of him who so does violence by that one against whom the violence is done. Then again the soldier in slaying the enemy is the agent of the law [in war], wherefore he does his duty easily with no wrong aim or purpose. . . . That law therefore, which for the

protection of citizens orders foreign force to be repulsed by the same force, can be obeyed without a wrong desire: and this same can be said of all officials who by right and by order are subject to any pow-ers. But I see not how these men [who defend themselves privately], while not held guilty by law, can be without fault: for the law does not force them to kill, but leaves it in their power. It is free therefore for them to kill no one for those things [life or possessions] which they can lose against their own will, which things therefore they ought not to love. . . . Wherefore again I do not blame the law which permits such aggressors to be slain: but by what reason I can defend those who slay them I do not find. . . . How indeed are they free of sin before Providence, who for those things which ought to be held of less worth are defiled by the killing of a man?

In this passage Augustine acknowledges that there is a difference between killing an unjust aggressor and killing the innocent. The latter act, he says, is “more evidently wrong than the taking of the life of him who so does violence by the one against whom the violence is done.” But this difference in the natural justice of the two cases is quite insufficient to be made the basis for Christian action. Near the beginning of this quotation Augustine leans toward the opinion that the law is not just which grants a wayfarer the right to kill an attacking assailant, and he says that to his way of thinking such an unjust law is no law at all. Here the “just” standard he has in mind can only be a justice radically transformed by supernatural charity; and he seems for a moment to hold open the possibility that the laws of society might be brought to accord with such a principle. At the end, however, Augustine refrains from blaming the law which permits the slaying of unjust aggressors, and reserves his condemnation for anyone, especially any Christian, who avails himself of this right which the law only allows. No disciple of Christ should love life or property, both of which are creaturely goods that may be lost against his will, more than he loves God, and his neighbor in God, who may not be so lost. No Christian should be thus “defiled by the killing of a man.”

What in him, we may ask, would be defiled by the inordinate self-love or “wrong-headed desire” necessarily involved even in killing an unjust man? The answer is stated by Ambrose, with whom Augustine agrees in this as surely, as he agreed with him in justifying public defense, that the wise man “when he meets an armed robber . . . cannot return his blows, lest in defending his life he should stain his love toward his neighbor. The verdict on this is plain and clear in the books of the Gospel. . . . What robber is more hateful than the persecutor who came to kill Christ? But Christ would not be defended by the wounds of the persecutor, for He willed to heal all by his wounds.”

It is clear that supernatural charity is the basis of Augustine’s judgment in the matter of private defense, that he would see this extended quite far into the actual affairs of men, and that his analysis of how hostility is to be met has not shifted over to be based on natural, intrinsic justice alone.

This confirms the conclusion (already reached in our analysis of Augustine’s treatment of justice in the State) that he does not justify Christian participation in warfare on the grounds of intrinsic justice alone. For surely whatever is intrinsically and substantially just the Christian may perform, whether in the matter of public or private defense. If it is not from justice in any adequate ethical sense, the question remains whether instead it is from love that the Christian engages in public defense, just as it is from love that he renounces the same in the private realm. We may not be quite able to attribute to Augustine in describing the relation of the Heavenly City to earthly kingdoms the words of Luther in relating the Two Realms: “In what concerns

to have played a much larger part in later formulations of
the just-war theory (in support of the criterion that a war,
to be justified, has to be publicly declared by the highest
official) than it does in Augustine. While not excluding this
basis in some degree, it seems much more likely that the rea-
son Augustine required declaration of war on the part of
the highest official authority was because the existing political
authority has the responsibility for that combination of
wills or agreement as to goods necessary to the earthly life of
a multitude if it is a people. The king, more than any indi-
vidual or party, could be expected to be the voice of this
alignment of wills, and he is therefore charged with the re-
sponsibility of preserving it. When this condition is ful-
filled, when the highest official authority has initiated a war
and made a judgment as to its necessity for the preservation
of the laws of its peace, the Christian citizen finds himself
called into responsible action because of the alliance of his
will with the will (and love) that constitutes him with the
rest of the multitude a people. It is not that he, not at
least explicitly, makes the ethical judgment that Christian
love requires just this participating action, for it is a very
earthly love that requires it; nor does he—his is even less in
the position to do this than the ruler—make the ethical judg-
ment that intrinsic justice requires it.

The passage from Aquinas is his reply to the question,
whether it is lawful to kill a man in self-defense.

I answer that, Nothing hinders one act from having two
effects, only one of which is intended, while the other is beside
the intention. Now moral acts take their species according to
what is intended, and not according to what is beside the in-
tention, since this is accidental as explained above. Accor-
dingly the act of self-defense may have two effects, one is the
saving of one's life, the other is the slaying of the aggressor.
Therefore this act, since one's intention is to save one's own life,