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Evolving Christian Attitudes towards Personal and National Self-Defense Commentary: Gun Control Policy and the Second Amendment: Responses

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Evolving Christian Attitudes Towards Personal and National Self-Defense

DAVID B. KOPEL

This Article analyzes the changes in orthodox Christian attitudes towards defensive violence.

While the Article begins in the 19th century and ends in the 21st, most of the Article is about the 20th century. The Article focuses on American Catholicism and on the Vatican, although there is some discussion of American Protestantism.

In the nineteenth and early in the twentieth centuries, the traditional Christian concepts of Just War and of the individual's duty to use force to defend himself and his family remained uncontroversial, as they had been for centuries. Disillusionment over World War I turned many Catholics and Protestants towards pacifism. Without necessarily adopting pacifism as a theory, they adopted pacifism as a practice. World War II and the early Cold War ended the pacifist interlude for all but a few radical pacifists.

Beginning in the 1960s, much of the American Catholic leadership, like the leadership of mainline Protestant churches, turned sharply Left. Although churches did not repudiate their teachings on Just War, many Catholic and mainline Protestant leaders seemed unable to find any circumstances under which American or Western force actually was legitimate. Pacifism and anti-Americanism marched hand in hand. Today, pacifism now has greater respectability within orthodox Christianity than any time in the past 1700 years.

Among the influential thinkers profiled in this Article are all Popes from World War II to the present, Dorothy Day and her Catholic Worker Movement, and the Berrigan Brothers. The Article suggests that some recent trends in pacifist or quasi-pacifist approaches have been unduly influenced by hostility to the United States, and by the use of narrowly-focused emotion rather than the rigorous analysis that has characterized Catholic philosophy.

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Evolving Christian Attitudes Towards Personal and National Self-Defense

DAVID B. KOPEL*

I. INTRODUCTION

Professor Nicholas Johnson's article ably details the profound changes in the attitudes of American Black leadership towards self-defense and the right to arms. Yet the reader is still left somewhat perplexed about why the Black leadership changed so radically and so abruptly. Up to around 1965, the Black leadership's views on the right of armed self-defense were consistent with the American mainstream. A few years later, the leadership had become opposed to firearms and armed self-defense *per se*. What accounts for such an abrupt reversal?

Johnson offers two explanations: the mainstream leadership's backlash against Black radical advocates of aggressive violence, such as the Black Panthers,¹ and the Black mainstream leadership's newfound comfort with state power, as soon as Black politicians became part of the American political establishment.² While these explanations are valid to some extent, they do not tell the whole story. For example, the massive race riots in almost every major American city during 1965–1968 receive only passing attention.³

Johnson does point out the incredible surge in urban violent crime which took place from 1960 to 1970, transforming cities such as New York and Detroit from generally safe areas into dystopias where only in certain zones was it safe to venture out after nightfall, and in some areas it was never really safe to go outside.⁴ However, he argues that there had been previous periods of very high Black-on-Black crime, such as the 1920s, which did not produce demands for gun control from the Black leadership.⁵

Perhaps one difference between 1926 and 1966 was that the middle

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¹ Nicholas J. Johnson, *Firearms Policy and the Black Community: An Assessment of the Modern Orthodoxy*, 45 CONN. L. REV. 1491, 1556 n.406 (2013).

² *Id.* at 1566–67.

³ *See id.* at 1560 (mentioning the urban riots).

⁴ *Id.* at 1579.

⁵ *Id.* at 1582.

class was a much larger fraction of the Black population.⁶ Johnson is too polite to say so, but the crime surge of the 1960s helped make the large and growing Black middle class fearful of the increasingly violent Black underclass. Gun control was one means for the Black leadership to respond to these fears, without saying anything directly critical of the young Black men who were perpetrating firearms crimes in record numbers.

Besides that, the gun control issue, especially in the late 1960s and the 1970s, was a culture war in which urban America attempted to stick its thumb in the eye of rural, white, “retrograde” America, especially the white rural South. As Johnson shows, this culture war stereotype, in which guns are owned only by supposedly backwards whites, is very wrong, but the stereotype was very influential for a while, and still has some influence today.⁷ Given the racial history of the United States, it should hardly be surprising that the Black urban establishment of the late 1960s readily enlisted into the white urban establishment’s new culture war against white southerners.⁸

In this Article, I would like to focus on an additional explanation: religion.

That much of the American Black community is strongly Christian is well-known. The sudden emergence of the Black leadership’s anti-gun orthodoxy did not occur in isolation. Rather, it was simultaneous with an equally sudden shift of the American Catholic and mainline Protestant churches towards pacifism. The precipitating cause of this shift was the Vietnam War, and by the time that war was over, attitudes had hardened into opposition to the Cold War in general.⁹ Anti-communism was replaced by sympathy for communism, and by reflexive anti-Americanism.¹⁰ The religious climate of opposition to the use of American arms abroad, and to the American government’s possession of nuclear weapons, was a breeding ground for opposition to the possession of arms by the American people. The National Coalition to Ban Handguns, America’s first enduring gun prohibition organization, was created in 1974

⁶ See Mary Pattillo, *Black Middle-Class Neighborhoods*, 31 ANN. REV. SOC. 305, 308 (2005) (“Before the post-World War II economic boom, the black middle class was very small. The percentage of blacks in middle-class occupations did not top 10% until 1960.”).

⁷ See Johnson, *supra* note 1, at 1584 (pointing out that black gun ownership rates are higher in rural than in urban areas).

⁸ See Johnson, *supra* note 1, at 1560 (“In the North, urban riots marked a sort of failure of the civil rights leadership to connect to the energy that fueled the violence. This failure to connect made the surviving organizations even more dependent on external (white progressive) sources of funding and support.”).

⁹ See William A. Au, *American Catholics and the Dilemma of War 1960–1980*, 4 U.S. CATH. HISTORIAN 49, 65–67 (1984) (discussing Catholic pacifism, and the “rise of acceptance and prominence within the American Catholic community” during the Vietnam War).

¹⁰ *Id.* at 70.

and given office space belonging to the United Methodist General Board of Church and Society.¹¹ From the beginning of the gun prohibition lobbies to the present, the enduring pillar of their support has been religious “pacifist-aggressives” who seek to use the force of law to impose their morality on everyone.¹²

This Article provides a broader context for Johnson’s history of the Black leadership’s changing orthodoxy: the changes in orthodox Christian attitudes towards defensive violence.

While this Article begins in the nineteenth century and ends in the twenty-first century, most of the Article is about the twentieth century. While this Article examines both mainline Protestantism and Catholicism, the latter receives more attention, partly because, as a unified hierarchical church, it is more straightforward to detail. However, the overall trajectory of the mainline American Protestants on the issue of defensive violence is not greatly different from that of their Catholic brethren. To the extent there are differences, I describe them.

As detailed in Part II, in the nineteenth and early in the twentieth centuries, the traditional Christian concepts of Just War and of the individual’s duty to use force to defend himself and his family remained uncontroversial, as they had been for centuries. Part III describes how disillusionment over World War I turned many Catholics and Protestants towards pacifism. Without necessarily adopting pacifism as a theory, they adopted pacifism as a practice. But as Part IV explains, World War II and the early Cold War ended the pacifist interlude for all but a few radical pacifists.

Part V shows how, beginning in the 1960s and continuing through subsequent decades, much of the American Catholic leadership, like the leadership of mainline Protestant churches, turned sharply left. Although churches did not formally repudiate their teachings on Just War, many Catholic and mainline Protestant leaders seemed unable to find any circumstances under which American or Western force actually was legitimate.¹³ Pacifism and anti-Americanism marched hand in hand. Gun prohibition was part of the parade.

¹¹ ALEXANDER DECONDE, *GUN VIOLENCE IN AMERICA: THE STRUGGLE FOR CONTROL* 197 (2001).

¹² David B. Kopel, *Pacifist-Aggressives vs. the Second Amendment: An Analysis of Modern Philosophies of Compulsory Non-violence*, 3 CHARLESTON L. REV. 1, 7 (2008).

¹³ See GEORGE WEIGEL, *TRANQUILLITAS ORDINIS: THE PRESENT FAILURE AND FUTURE PROMISE OF AMERICAN CATHOLIC THOUGHT ON WAR AND PEACE* 248–52 (1987) (“Calls for unconditional amnesty from the Catholic resistance movement, on the grounds that resisters were only ‘prematurely moral’ on Vietnam, were often based on a sense of the illegitimacy of American governance as revealed by U.S. policy in Vietnam. Here, again, a deterioration in just-war reasoning was compounded by a confused pacifism that did not take seriously the role of law in the creation and maintenance of peace.”).

Part VI tells the story of some of the individuals from the political far left—Dorothy Day and the Berrigan Brothers—who succeeded in bringing their fringe ideas into the Catholic mainstream.

Part VII elucidates the internal contradictions at the Vatican during the reign of Pope John Paul II—the anti-communist Pope who affirmed traditional teachings about self-defense, and whose foreign secretariat endorsed United Nations gun prohibition as well as international terrorists.

The Conclusion considers the present divisions between the leadership and the people on the issue of self-defense—both in the Christian churches, and in the Black community.

II. THE NINETEENTH CENTURY

A. Catholics

During the Middle Ages, many great Catholic scholars articulated a human right and a duty to resist tyranny, by violent means if necessary.¹⁴ During the latter part of the seventeenth century and in the eighteenth century, it was the Calvinists, not the Catholics, who became identified as the exponents of the God-given right to overthrow oppressive governments.¹⁵ Yet, the Calvinists were drawing heavily on Catholic scholars, and it took a long time for the Calvinists to catch up to the Catholics in recognizing the sovereign right of the *people* (not just the intermediate magistrates) to topple an evil government.¹⁶

One of the reasons why Calvinists ended up being identified with revolution theology was that they were so often on the short end of the stick. In France, they were defeated, disarmed, and eventually destroyed.¹⁷

¹⁴ See David B. Kopel, *The Catholic Second Amendment*, 29 *HAMLIN L. REV.* 519, 527–34 (2006) (discussing the Catholic scholars of the Middle ages and their ideas such as Manegold of Lautenbach, Gratian, John of Salisbury, Thomas Aquinas, and others); David B. Kopel, Paul Gallant & Joanne D. Eisen, *The Human Right of Self Defense*, 22 *BYU J. PUB. L.* 43, 63–72 (discussing inter alia Francisco Suárez, Francisco de Victoria, and Canon Law and views on self-defense as a basic right).

¹⁵ See PHILIP BENEDICT, *CHRIST'S CHURCHES PURELY REFORMED: A SOCIAL HISTORY OF CALVINISM* 533–34 (2002) (“We have seen that rebellion and resistance theories came to seem peculiarly characteristic of the Reformed during the later seventeenth and early eighteenth centuries.”); David B. Kopel, *The Scottish and English Religious Roots of the American Right to Arms: Buchanan, Rutherford, Locke, Sidney, and the Duty to Overthrow Tyranny*, 12 *BRIDGES* 291, 291–92 (2005) (“[The Scottish Calvinists] acknowledged that, under certain circumstances, any person might have a right, and even a duty, to use force against a tyrant.”); see also David B. Kopel, *The Calvinist Connection*, *LIBERTY*, Oct. 2008, at 27, 27–31 [hereinafter Kopel, *The Calvinist Connection*] (examining the development of Calvinist resistance and the roots of liberty).

¹⁶ See Kopel, *The Calvinist Connection*, *supra* note 15, at 27–28 (presenting the earlier view that only inferior magistrates, and “not the people themselves,” had the authority to initiate the overthrow of tyrannical rulers).

¹⁷ See BENEDICT, *supra* note 15, at 145–48 (“[E]ven assistance from their fellow Protestants in England could not prevent [the French Reformed] from losing city after city to the combined force of royal and Catholic arms.”).

In the Netherlands, they had to fight for decades to free themselves from Catholic Spain and the Spanish Inquisition, and it took nearly a century for their full independence to be recognized.¹⁸ In England and Scotland, Calvinists had to fight, intermittently, for over a century until their rights were permanently secured in 1688 by the Glorious Revolution.¹⁹

For Catholics, though, the Counter-Reformation was so successful that the practical need for a Catholic revolutionary ideology, and for actual Catholic revolution, was never so great.²⁰ True, there was the Gunpowder Plot in 1605, in which some of England's severely-oppressed Catholics failed in a plan to blow up Parliament and stage a coup.²¹ But in general, Catholicism seemed to rest more securely under the protection of Papist monarchs. The Church's intellectual heritage of support of legitimate revolution was dealt another blow by the trauma of the French Revolution. Although the first stages of the revolution promised greater freedom, the revolution degenerated into anti-Christian tyranny. Like twentieth-century Communist regimes, the French dictatorship attempted to destroy the traditional church, and to set itself up as the new object of worship.²²

In the nineteenth century, the Catholic Church became strongly anti-liberal, and was viewed as a reactionary institution. In some cases, Catholic conservatism was beneficial, as in the Church's visceral distrust of Communism, a philosophy that would eventually lead to the greatest mass murders in history.²³ In other cases, the Church was too slow to recognize progress, taking far too long to embrace the principles of government tolerance for diverse faiths. During the reactionary period, Francisco Suárez and the other great Scholastic liberation theologians were de-emphasized, although they are still studied conscientiously in Spanish-speaking countries.²⁴

¹⁸ See *id.* at 173–74, 177 (discussing the strong repression of heresy and the slow victory of the Reformed church in the Netherlands).

¹⁹ See *id.* at 230–32, 414–16 (mentioning the instability of the Reformed church in England and the conflicts that occurred prior to the Glorious Revolution).

²⁰ *Id.* at 535.

²¹ See David B. Kopel, *Virtue in Equivocation*, NAT'L REV. ONLINE (Nov. 5, 2001, 9:25 AM), <http://davekopel.org/NRO/2001/Virtue-in-Equivocation.htm> (stating how current day England celebrates Guy Fawkes Day to commemorate November 5, 1605 “when the English government foiled a plot by Guy Fawkes and other Catholics to blow up Parliament, kill King James I, and place one of his Catholic relatives on the throne”).

²² Kristen A. Hosack, *Napoleon Bonaparte's Concordat and the French Revolution*, 11 CONSTRUCTING THE PAST 30, 30 (2010) (“The Revolution became much more radical from 1793 to 1794, and the government in power completely abolished Catholicism; the government that followed this period, the Directory, legally separated church and state.”).

²³ See Alessandra Stanley, *Vatican Is Investigating the Inquisition*, in *Secret*, N.Y. TIMES, Oct. 31, 1998, at A3 (discussing the Inquisition, the Catholic “church's centuries-long effort to root out heretics,” which lead to the murder of many).

²⁴ For a discussion of Francisco Suárez and his work, see Kopel, Gallant & Eisen, *supra* note 14, at 70–72.

Some Catholics still embraced revolution. Irish agitation to remove English rule was partly motivated by English suppression of Irish Catholicism.²⁵ After several failed uprisings, the Irish Catholics finally succeeded on Easter 1916, when a group of revolutionaries seized the General Post Office in Dublin.²⁶ Although the Easter Uprising was quickly suppressed, the trials of the revolutionaries, who considered themselves Christian martyrs, aroused public sympathy.²⁷ Irish revolutionaries fought a guerilla war against English occupation that finally resulted in a 1922 compromise by which Ireland was granted independence from the United Kingdom.²⁸

While many Catholics forgot their liberation heritage, the long-established doctrines of Just War and of the personal right to self-defense remained clear. For example, the Church supported wars against Napoleon, until the French dictator came to an accommodation with the Church.²⁹

The right of self-defense remained uncontroversial. A typical exposition was that of the Italian Priest and philosopher Father Antonio Rosmini in 1823:

He who, being able to be the peaceful owner of something—for example, life—aggresses against somebody else’s life in such a way that the person aggressed against cannot defend himself without depriving the aggressor of his life, operates in such a way as to endanger his own life. We can say that

²⁵ See Timothy J. White, *Catholicism and Nationalism in Ireland: From Fusion in the 19th Century to Separation in the 21st Century*, 4 WESTMINSTER PAPERS IN COMMUN & CULTURE 47, 49–50 (2007), available at http://www.westminster.ac.uk/_data/assets/pdf_file/0020/20099/004WPCC-Vol4-No1-Timothy_J_White.pdf (“Nationalists were able to enlist Catholics for their cause since the vast majority of Catholics not only despised the English political domination of their island but also resented the historic British persecution of the Catholic church.”).

²⁶ *The Easter Rising*, BBC, <http://www.bbc.co.uk/history/british/easterrising/insurrection/in03.shtml> (last visited Mar. 2, 2013).

²⁷ See *The Executions*, BBC, www.bbc.co.uk/history/british/easterrising/aftermath/af01.shtml (last visited Apr. 8, 2013) (discussing how the “response of the British government to the Rising” increased public sympathy, which could be seen through “increasing frequency of memorial masses for the executed rebels; the growing sales of photographs of them; the setting up of aid funds for their families; [and] the appearance of songs and ballads celebrating their actions”).

²⁸ The Anglo-Irish Treaty gave Ireland the status of a Dominion within the British Commonwealth (similar to the status of Canada, Australia, or New Zealand). Ireland later withdrew from the Commonwealth, thus ending even nominal ties to English rulers. *The Treaty*, BBC, www.bbc.co.uk/history/british/easterrising/aftermath/af06.shtml (last visited Mar. 2, 2013).

²⁹ Hosack, *supra* note 22, at 30–31 (“Bonaparte recognized that it was important to end the religious conflicts in France and to establish peace within the country; after all, the relationship between the Church and the French state was almost nonexistent when he came to power. . . . However, whereas prior revolutionary leaders and governments were not successful in establishing a long-term, acceptable relationship between the Catholic Church and the French nation, Bonaparte achieved success because of his willingness to cooperate.”).

this aggressor throws his life away himself, and that he expressly surrenders his holy property. Thus he who takes the life of the unjust aggressor as the only way to save his own, takes that life with the express consent of the owner.³⁰

American Catholicism was unashamedly patriotic. The 1884 Conference of Catholic Bishops wrote: “We believe that our country’s heroes were the instruments of the God of Nations in establishing this home of freedom.”³¹ The Bishops promised that Catholic citizens would defend America with “their lives, their fortunes, and their sacred honor.”³²

B. Protestants

American Protestants flourished in the nineteenth century. For the most part, American Protestants reveled in Protestantism’s role as the liberation theology of the American Revolution.³³ By the Age of Jackson, American Protestants saw their nation “as the primary agent of God’s meaningful activity in history.”³⁴

When the Civil War began, churches in the United States of America and in the Confederate States of America encouraged the public to fight for their nation’s cause. Southern Presbyterians, Methodists, and Baptists had already split from their parent denominations over the issue of slavery in 1838, 1844, and 1845, respectively.³⁵ The anti-slavery movement, which had been pacifist in the 1830s, almost unanimously supported President Lincoln’s war policy.³⁶

Long before the outbreak of the war, Southern preachers had been warning their congregations that slaves were Christian brothers and sisters who deserved much better treatment than they received from many slave-

³⁰ Antonio Rosmini Serbati, *Del rispettare le proprietà* (edited by Alberto Mingardi), *ÉLITES*, Nov. 2, 2003, available at http://www.uspupalvisit.org/holy_father_beatification.htm. The original quote is in: *Politica prima. Frammenti della filosofia della politica (1826-1827)* Antonio Rosmini (Autore), M. D’Addio (a cura di). Città Nuova (1 gennaio 2003). Rosmini was beatified in 2007.

³¹ WEIGEL, *supra* note 13, at 51–52.

³² *Id.*

³³ See David B. Kopel, *The Religious Roots of the American Revolution and the Right to Keep and Bear Arms*, 17 J. ON FIREARMS & PUB. POL’Y 167, 167–68 (2005) (“While the Catholic and Anglican Churches were supported by the government, and were inclined to support the state, the American sects [such as Protestantism] were based on dissenting interests.” (internal quotation marks omitted)); David B. Kopel, *The Catechism of the Revolution*, *LIBERTY*, Nov. 2006, at 26, 27 (discussing how Jonathan Mayhew’s sermon that asserted “the principles of political freedom” served as “a premise for the revolution”).

³⁴ NATHAN O. HATCH, *THE SACRED CAUSE OF LIBERTY: REPUBLICAN THOUGHT AND THE MILLENNIUM IN REVOLUTIONARY NEW ENGLAND* 140 (1977) (quoting John E. Smylie, *National Ethos and the Church*, 20 *THEOLOGY TODAY* 314 (1963)).

³⁵ JERALD C. BRAUER, *PROTESTANTISM IN AMERICA: A NARRATIVE HISTORY* 179–82 (1953).

³⁶ *NONVIOLENCE IN AMERICA: A DOCUMENTARY HISTORY* xxviii. (Staughton Lynd, ed., 1966).

owners.³⁷ The South was courting divine chastisement, the preachers predicted, if reform was not forthcoming.

Both sides of the Civil War saw holiness in their cause. Northerners were fighting at first to put down what they considered an illegitimate rebellion, and to prevent the spread of slavery beyond its current borders.³⁸ Southerners thought they were fighting for self-government and against centralizing tyranny.³⁹

As the war dragged on, and Confederate defeats far outnumbered Confederate victories, much of the Southern population lost its faith that God really was on their side.⁴⁰ The consequent loss of morale provides the best explanation for why the South finally collapsed and surrendered.⁴¹

The United States continued its role as the greatest refuge for religious freedom that had ever existed. Small pacifist sects from Europe, such as the Mennonites and the Moravians, found a safe haven in the United States.⁴²

Many new Christian sects sprang up in the United States. Most of

³⁷ Harry S. Stout, *Religion in the Civil War: The Southern Perspective*, NAT'L HUMANITIES CTR., TEACHERSERVE, <http://nationalhumanitiescenter.org/tserve/nineteen/nkeyinfo/cwsouth.htm> (last visited Mar. 11, 2013) ("It was only logical that if the South was commissioned by God to create a Christian nation, its success in the war would depend on God's favor. For some [Southern ministers], this suggested that God's favor could be lost through ill treatment of the slaves or, conversely, won through greater humanitarianism.").

³⁸ See James M. McPherson, *Volunteers in Blue and Grey: Why They Fought*, BRITANNICA BLOG (July 20, 2011), <http://www.britannica.com/blogs/2011/07/volunteers-blue-gray-fought/> ("A 21 year-old Ohio corporal thought 'we may better die . . . than allow the glorious fabric of American Liberty to crumble into the dust and the grand experiment of man's capability to devise laws for his own government be frustrated by the vile hands of infernal rebels' A Massachusetts private told his parents that he considered 'the object of our government as one worth dying to attain—the maintenance of our free institutions which must of necessity result in the freedom of every human being over whom the stars and stripes wave. Who desires peace while such an institution as slavery exists among us?").

³⁹ *Id.* (citing a letter from a Virginia officer who was "certain the Confederacy would win this 'second War for American Independence' because 'Tyranny cannot prosper in the nineteenth century' against 'a people fighting for their liberties'"); see also Stout, *supra* note 37 (asserting that the two fundamental aspects of the Southern perspective were the idea that "the individual state was sovereign, even to the point of secession," and a belief that slavery was "ordained by God").

⁴⁰ RICHARD E. BERINGER ET AL., *WHY THE SOUTH LOST THE CIVIL WAR* 267 (1986) ("As the success of the Confederate arms became more elusive, southerners came to ponder God's role in the war, and they concluded that God was punishing or, at the very least, testing them. In time, Confederates would go further than this, concluding that, since victory depended on God's favor, the deteriorating military situation could mean only that God had not smiled on the cause.").

⁴¹ See Aaron Sheehan-Dean, *Confederate Morale During the Civil War*, ENCYCLOPEDIA VA., http://encyclopediavirginia.org/Confederate_Morale_during_the_Civil_War (last visited Mar. 11, 2013) (noting that by 1865, "Confederate morale had clearly dropped . . . but, in large measure, that drop in morale came because of battlefield losses, not the other way around").

⁴² See AARON SPENCER FOGELMAN, *HOPEFUL JOURNEYS: GERMAN IMMIGRATION, SETTLEMENT, AND POLITICAL CULTURE IN COLONIAL AMERICA 1717–1775*, at 102–05 (1996) (noting that while a few thousand individuals from religious groups like Mennonites and Moravians immigrated to the United States during the eighteenth century, they "accounted for less than 10 percent of the entire German-speaking immigration" during that period).

these sects adhered to traditional Christian doctrine on just war and self-defense.⁴³ Some of the new sects, such as the Jehovah's Witnesses, refused to serve in the military.⁴⁴ Generally, Americans respected the freedom of conscience of the pacifist groups, and enacted laws allowing conscientious objectors to perform alternative service, or to pay for a substitute to serve in their place.

While pacifism remained, as a doctrinal matter, confined to small Protestant denominations, there were some more mainstream Protestants who found the pacifist impulse compelling, at least in certain circumstances.

Consider, for example, Dwight L. Moody, the greatest revival preacher of the nineteenth century.⁴⁵ Moody was passionately opposed to slavery. He founded two boarding schools near his hometown in western Massachusetts, to educate children whose parents could not afford an education at the mainline boarding schools such as Exeter or Andover.⁴⁶ Unlike many boarding schools, the Northfield Seminary for Young Ladies and the Mount Hermon School for Boys were racially integrated in every way, right from the start.⁴⁷ Yet despite Moody's deep commitment to racial equality, he did not enlist in the Civil War because, as he explained, he could not kill a man.⁴⁸

III. THE FIRST WORLD WAR AND ITS AFTERMATH

For Catholics and most Protestants, self-defense remained a well-

⁴³ For example: the Holiness Churches, Disciples of Christ, Church of God (and its various denominations), Latter Day Saints, Seventh Day Adventists, and Christian Scientists.

⁴⁴ See *Sicurella v. United States*, 348 U.S. 385, 386–88, 392 (1955) (reversing the conviction of a young male Jehovah's Witness who refused to serve in the United States military after being denied conscientious objector status).

⁴⁵ Michael S. Hamilton, *Evangelicalism and Revivalism*, in 3 *DICTIONARY OF AMERICAN HISTORY* 263, 265 (Stanley I. Kutler ed., 2003).

⁴⁶ Peter Weis, *History of NMH*, NORTHFIELD MOUNT HERMON, <http://www.nmhschool.org/about-nmh-history> (last visited Mar. 11, 2013) (noting that, for example, Northfield Seminary for Young Ladies and Mount Hermon School for Boys were "schools aimed to educate young people who had limited access to education because they were poor").

⁴⁷ *Id.* ("The schools matriculated students from all races and ethnicities: 16 Native Americans were among the first 100 students of Northfield, and Mount Hermon's first graduates included a former slave.")

⁴⁸ Christian Printing Mission, "Shall I enter the Army?" *Moody said, "No,"* HEARTBEAT OF THE REMNANT, Mar./Apr. 2006, at 22, 23. Moody had not yet become a preacher, so there was no traditional Christian rule against him fighting. Moody's preaching, accompanied by revival hymns written and performed by Ira Sankey, drew gigantic crowds all over the United States. Moody's focus was on drawing people into a personal commitment to Jesus, and into living the Christian virtues. See WILLIAM R. MOODY, *THE LIFE OF DWIGHT L. MOODY* 111–12 (1900) (describing how Moody enticed a group of men opposed to his work to pray with him and in doing so brought them closer to God). Issues such as pacifism played essentially no role in Moody's public preaching. His decision not to fight in the Civil War was a personal one, not one which he sought to impose on American society. *Id.* at 82.

settled issue. The 1905 Catechism of Pope St. Pius X did not need to discuss such an uncontroversial subject in much detail:

1. Q: What does the Fifth Commandment: Thou shalt not kill, forbid?

A: The Fifth Commandment, Thou shalt not kill, forbids us to kill, strike, wound or do any other bodily harm to our neighbor, either of ourselves or by the agency of others; as also to wish him evil, or to offend him by injurious language. In this Commandment God also forbids the taking of one's own life, or suicide.

2. Q: Why is it a grave sin to kill one's neighbour?

A: Because the slayer unjustly invades the right which God alone has over the life of man; because he destroys the security of civil society; and because he deprives his neighbour of life, which is the greatest natural good on earth.

3. Q: Are there cases in which it is lawful to kill?

A: It is lawful to kill when fighting in a just war; when carrying out by order of the Supreme Authority a sentence of death in punishment of a crime; and, finally, in cases of necessary and lawful defense of one's own life against an unjust aggressor.⁴⁹

The First World War began in August 1914.⁵⁰ While the religious establishments in each combatant nation enthusiastically supported the war, the course of the war, and of American participation therein, they set the stage for the pacifist mood of the 1920s and 1930s.

Initially, each side expected to win within a few weeks, thanks to bold offensive plans. The Germans almost knocked France out of the war, but were stopped at the Marne River.⁵¹ Both sides settled in for years of the bloodiest war which the world had yet seen. The war was also one of the stupidest. The Russian commanders were particularly inept, but all sides exhibited great difficulty in adapting to the ways in which warfare had changed.⁵²

⁴⁹ POPE ST. PIUS X, CATECHISM OF POPE PIUS, at x (John Hagan ed., 1910), available at <http://www.ewtn.com/library/catechsm/piusxcat.htm#Commandments>.

⁵⁰ ALBERT E. MCKINLEY, CHARLES A. COULOMB & ARMAND J. GERSON, A SCHOOL HISTORY OF THE GREAT WAR 70, 74 (1918).

⁵¹ See *id.* at 77, 81 (describing German plans to quickly defeat France before she could arm; ultimately the German armies were beaten back).

⁵² See *id.* at 98–99, 107–08 (describing Entente setbacks in 1915, including retreats by the Russians and the massacre of French troops in 1916, as a result of failed tactics.)

Elaborate trench-works were constructed early in World War I.⁵³ The American Civil War had seen the introduction of Gatling guns, primitive hand-cranked predecessors of the machine gun.⁵⁴ By World War I, true automatic machine guns were ubiquitous in the armies of industrial nations.⁵⁵ If machine guns were deployed properly, they could create interlocking fields of fire, so that a charging enemy would be met with machine gun fire at every point in the line of advance. The death toll was enormous.⁵⁶

For the time being, the tactical advantage in warfare swung to the defense—although commanders on both sides insisted on pouring thousands upon thousands of their soldiers lives into “offensives,” which gained a few hundred yards or a few miles of territory.

Both sides looked for technological breakthroughs to end the bloody stalemate. Primitive airplanes and tanks appeared, but it was not until World War II, when the Germans unveiled the *blitzkrieg*, that tanks and planes were exploited in a manner which changed the course of battle.⁵⁷ Both sides in World War I made liberal use of poison gas, but both sides quickly adapted by issuing gas masks.⁵⁸ The chemical warfare made World War I even more horrible, but did not alter the advantage enjoyed by the defense.

Exhausted, by 1917 the Allies were preparing to negotiate a treaty with the Germans which would have ended the war on equal terms, essentially restoring the *status quo ante*.⁵⁹ But the Allies’ need to negotiate was obviated when American President Woodrow Wilson drew the United States into the war.⁶⁰

President Wilson’s 1916 re-election slogan had been, “He kept us out of war.”⁶¹ But a disclaimer should have been included: “Past performance does not guarantee future intentions.” In fact, Wilson was working hard to put the U.S. in the war. International law allowed Britain to attempt a naval blockade of weapons shipments to Germany, but Britain also

⁵³ *Id.* at 82.

⁵⁴ David B. Kopel, Clayton E. Cramer & Scott G. Hatrup, *A Tale of Three Cities: The Right to Bear Arms in State Supreme Courts*, 68 *TEMPLE L. REV.* 1177, 1200 (1995).

⁵⁵ See MCKINLEY, COULOMB & GERSON, *supra* note 50, at 82 (explaining that all sides had adopted trench warfare tactics that included emplacement of machine guns at every turn and corner).

⁵⁶ *THE STORY OF THE GREAT WAR* 405 (Francis J. Reynolds ed., 1920).

⁵⁷ MCKINLEY, COULOMB & GERSON, *supra* note 50, at 109–10 (depicting the tank and airplane as new technology that took on an increasing role as the war continued and implying their role in warfare would likely continue to increase).

⁵⁸ *Id.* at 95.

⁵⁹ *Id.* at 135.

⁶⁰ See *id.* at 132 (detailing President Wilson’s war message to Congress and the official United States declaration of war).

⁶¹ WIKIMEDIA FOUND., *UNITED STATES PRESIDENTIAL ELECTIONS FROM 1789 TO 2008*, at 295.

blockaded food shipments.⁶² The “hunger blockade” was in flagrant violation of international law,⁶³ yet President Wilson uttered no protest, and cooperated with the British blockade—even though America was neutral in the war and Wilson professed to be a great admirer of international law.⁶⁴

President Wilson’s ambassador to England plotted with the British government about how to conduct propaganda in the United States.⁶⁵ Secretary of State William Jennings Bryan, a supporter of the traditional nineteenth-century American policy of staying out of European wars, resigned in protest.⁶⁶

President Wilson authorized continuous provocations against Germany, such as allowing military goods to be shipped to Britain on passenger ships.⁶⁷ These provocations had the desired effect of causing German counter-reactions which inflamed American public opinion. In 1915, the Germans sank the *Lusitania*, a passenger ship which was illegally carrying a huge quantity of arms to the British.⁶⁸ The sinking incensed much of the American public.

By 1917, the hunger blockade had made conditions in Germany desperate.⁶⁹ The Germans attempted a bold stroke which they knew would either knock Britain out of the war, or lead to American entry. The Germans launched unrestricted submarine warfare against all ships bound for Britain.⁷⁰ At the same time, the Germans sent the “Zimmermann Telegram” to the Mexican government, inquiring if the Mexicans might be interested in fighting against the United States, and recapturing the

⁶²*The Blockade of Germany*, NAT’L ARCHIVES, <http://www.nationalarchives.gov.uk/pathways/firstworldwar/spotlights/blockade.htm> (last visited Mar. 13, 2013).

⁶³ See Ralph Raico, *The Politics of Hunger: A Review*, 3 REV. AUSTRIAN. ECON. 253, 254 (1989) (book review) (describing how the British blockade violated international law, including the Declaration of Paris of 1856).

⁶⁴ See Mark Weston Janis, *How “Wilsonian” Was Woodrow Wilson?*, 5 DARTMOUTH L.J. 1, 8–10 (2007) (describing Wilson’s attitudes towards international law and America’s neutrality in the war).

⁶⁵ See Michael Streich, *The Lusitania Sinking and Secretary of State Bryan’s Resignation*, SUITE101.COM (Dec. 25, 2010), <http://suite101.com/article/the-lusitania-sinking-and-secretary-of-state-bryans-resignation-a324611> (listing the U.S. Ambassador to England as one of the Wilson Administration’s pro-British elements).

⁶⁶ See *id.* (explaining Secretary of State Bryan’s views on foreign policy and the circumstances of his resignation due to his refusal to sign a diplomatic note prepared by President Wilson to the German government in the aftermath of the *Lusitania* sinking).

⁶⁷ See Hampton Sides & Anne Goodwin Sides, *Lusitania Rising*, VOGUE (Jan. 29, 2009, 12:00 a.m.), available at <http://www.vogue.com/magazine/article/lusitania-rising/#1> (describing the discovery of American-made ammunition on the *Lusitania*).

⁶⁸ *Id.*

⁶⁹ See *The Blockade of Germany*, *supra* note 62 (describing the effects of the British naval blockade on Germany).

⁷⁰ *Id.*

territories lost in 1848.⁷¹

The German gamble failed. In April 1917, President Wilson asked Congress for a Declaration of War, and received an overwhelming positive vote in Congress.⁷² The President had repeatedly deceived the American people. His greatest allies in the campaign to promote American participation in the war had been the financial interests in the Northeast, which had close ties to British commercial interests.⁷³

Within the United States, 1917–1918 was the all-time nadir of civil liberties. Congress passed a Sedition Act⁷⁴ which was interpreted so as to criminalize any writing which criticized American participation in the war.⁷⁵

The income tax had been authorized by a constitutional amendment passed in 1913.⁷⁶ By 1918, the top tax rate was 77% and even the poorest families were paying 6%.⁷⁷

Big businesses, such as energy companies and railroads, were relieved from the burdens of competition (and consumers were thus denied the benefits of competition) through quasi-fascist industrial cartelization imposed by government regulators.⁷⁸ Meanwhile, President Wilson promised a “war to end all wars.”⁷⁹

In that war, a Christian pacifist became the most popular American military hero between the Civil War and World War II.⁸⁰

A. *Sergeant Alvin York*

Alvin York grew up in the Valley of the Three Forks in the

⁷¹ *American President: Biography of Woodrow Wilson*, MILLER CTR., <http://millercenter.org/president/wilson/essays/biography/print> (last visited Mar. 14, 2013). Mexico lost a war, which it had started in anger over the decision of the United States to admit the independent Republic of Texas as an American state. See K. Jack Bauer, *Mexican War*, TEX. ST. HIST. ASS'N, <http://www.tshaonline.org/handbook/online/articles/qdm02> (last visited Mar. 14, 2013) (describing the conflict between Mexico and the United States from 1846–1848).

⁷² *American President: Biography of Woodrow Wilson*, *supra* note 71.

⁷³ Priscilla Roberts, *Paul D. Cravath, the First World War, and the Anglophile Internationalist Tradition*, 51 AUSTL. J. POL. & HIST. 194, 194 (2005).

⁷⁴ Sedition Act of 1918, ch. 75, 40 Stat. 553–54 (1918) (repealed 1920).

⁷⁵ Geoffrey R. Stone, *Civility and Dissent During Wartime*, 33 HUM. RTS. 2, 4 (2006).

⁷⁶ U.S. CONST. amend. XVI; *16th Amendment to the U.S. Constitution: Federal Income Tax (1913)*, U.S. NEWS, http://www.usnews.com/usnews/documents/docpages/document_page57.htm (last visited Mar. 8, 2013).

⁷⁷ Revenue Act of 1918, ch. 18, 40 Stat. 1057, 1064, 1076 (1918); JEAN ANYON, *RADICAL POSSIBILITIES: PUBLIC POLICY, URBAN EDUCATION, AND A NEW SOCIAL MOVEMENT* 51 (2005).

⁷⁸ See JONAH GOLDBERG, *LIBERAL FASCISM: THE SECRET HISTORY OF THE AMERICAN LEFT FROM MUSSOLINI TO THE POLITICS OF MEANING* 105 (2007) (providing a brief explanation of the background surrounding President Wilson’s regulation of the railways during World War I).

⁷⁹ Richard Bernstein, *Are American Liberals “Nice Fascists”?*, N.Y. TIMES (Jan. 30, 2008), http://www.nytimes.com/2008/01/30/world/americas/30iht-letter.1.9602546.html?_r=0.

⁸⁰ DAVID D. LEE, *SERGEANT YORK: AMERICAN HERO* 68–69 (1985).

Appalachian mountains of Tennessee.⁸¹ His family was large and poor.⁸² They depended on hunting for food, and young Alvin became an early master of the family's hand-made muzzle-loading rifle.⁸³ Because every game animal was needed for meat, Alvin learned how to kill a squirrel or a turkey with a precise shot to the head, saving the body meat for eating.⁸⁴ He was often gone for days on hunting trips.⁸⁵

At age twenty-seven, the rowdy York fell in love with Gracie Williams, the teenage daughter of a deeply religious family.⁸⁶ She insisted that he give up drinking and fighting if he intended to win her.⁸⁷

On January 1, 1915, Alvin York made a personal commitment to Jesus, and joined the Church of Christ in Christian Union.⁸⁸ The church was a fundamentalist sect which had spun off from the Methodists during the Civil War.⁸⁹ The church had few established doctrines, but instead required members to read the Bible, and to draw their own conclusions.⁹⁰ The church did not formally have pacifist doctrines, but one of the reasons for the split from the Methodists was that the Christian Union founders had refused to support Methodist resolutions backing the Union cause during the Civil War.⁹¹

By the time that Alvin York received his draft notice in June 1917, he had read that the Bible said "Thou shalt not kill," and had concluded—as had many other members of his church—that war-fighting was wrong.⁹²

Because York did not belong to a denomination with formal pacifist beliefs, his request for conscientious objector status was denied.⁹³ He was inducted in November 1917.⁹⁴

York quietly went through basic training, and then in the spring of 1918, spoke to an officer about his continuing objection to war.⁹⁵ York's sincerity was obvious and he was taken to see Major George Edward Buxton, the battalion commander, where Buxton and York spent a long night discussing the Bible.⁹⁶ Buxton pointed to Jesus' instruction that the

⁸¹ *Id.* at 1.

⁸² *Id.* at 4.

⁸³ *Id.* at 5.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.* at 1, 8–9.

⁸⁷ *Id.* at 8–9.

⁸⁸ *Id.* at 10

⁸⁹ *Id.*

⁹⁰ *Id.* at 10–11.

⁹¹ *Id.* at 10.

⁹² *Id.* at 17.

⁹³ *Id.*

⁹⁴ *Id.* at 18.

⁹⁵ *Id.* at 19.

⁹⁶ *Id.*

apostles should carry swords (*Luke 22:36*), to Jesus' statement that earthly kingdoms, unlike Jesus' spiritual kingdom, do fight (*John 18:36*), and to the obligation for Christians to give governments the "things that are Caesar's."⁹⁷ Finally, Buxton read to York *Ezekiel 33:1-6*, in which God told the prophet to tell the people to listen for the watchman's trumpet, and to take warning when an armed invader comes.⁹⁸

York was then unsure what to think, so Buxton gave York a ten-day pass to go home and mull things over, and York was promised that if he still objected to war, he would be given a non-combat assignment.⁹⁹

York returned home, carrying his suitcase as he walked the final twelve miles of the trip. At home, York's pastor and congregation urged him to remain an objector, and so did his mother.¹⁰⁰ He went into the mountains alone, where he spent two days and one night praying for guidance.¹⁰¹

York came down from the mountain, and explained to a fellow congregant, "If some feller was to come along and bust into your house and mistreat your wife and murder your children maybe, you'd just stand for it? You wouldn't fight?"¹⁰²

In May 1918, York's unit shipped out to France.¹⁰³ York was convinced, "we were to be peace-makers That was we-uns. We were to help make peace, the only way the Germans would understand."¹⁰⁴

On October 2, 1918, the first battalion of the 308th Infantry Regiment was surrounded by Germans, and isolated from the rest of the American army.¹⁰⁵ York's division was sent to rescue the "Lost Battalion."¹⁰⁶

Leading a patrol on the morning of October 8, York and his men surrounded a German camp, which surrendered after York killed one man.¹⁰⁷ As the Americans were lining up the prisoners, German machine-guns opened fire from the nearby hills, and nine Americans were instantly killed or wounded.¹⁰⁸

A wild gun battle ensued. York began picking off the German machine-guns with his Enfield rifle.¹⁰⁹ Realizing that York was firing from five-round magazines, the Germans commenced a bayonet charge,

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.* at 20.

¹⁰³ *Id.* at 22.

¹⁰⁴ *Id.* (internal quotation marks omitted).

¹⁰⁵ *Id.* at 29.

¹⁰⁶ *Id.* at 29-30.

¹⁰⁷ *Id.* at 34.

¹⁰⁸ *Id.* at 34-35.

¹⁰⁹ *Id.* at 35.

figuring that at least one of the Germans could get to York before he could reload.¹¹⁰ York raised his Colt .45 pistol and dropped the charging Germans. York yelled for the Germans to surrender, and their commander ordered a surrender.¹¹¹

Alvin York and the seven remaining able-bodied Americans faced the task of controlling several dozen German prisoners, and getting them through German territory and back to American lines.¹¹² On the march back, York's group ran into two other groups of Germans, and bluffed them into surrendering, too.¹¹³

Returning to American lines, York brought in 128 German enlisted men and 4 officers.¹¹⁴ Almost single-handed, York with his one rifle and one pistol had killed twenty-five Germans, and knocked thirty-five German machine guns out of action.¹¹⁵ Later, Corporal York was promoted to sergeant.¹¹⁶ Marshal Foch of France called York's feat "the greatest thing accomplished by any private soldier of all the armies of Europe."¹¹⁷

Of course the Germans could have defeated York, but their morale was low, and York's was as high as could be.¹¹⁸ He believed that God was with him.¹¹⁹ He later explained: "We know there are miracles, don't we? Well this was one. I was taken care of—it's the only way I can figure it."¹²⁰

Germany surrendered on November 11, 1918,¹²¹ and when Sergeant York's transport ship landed in the United States, he was one of the biggest heroes in the country.¹²² York returned to his hometown in Tennessee, and devoted his life to trying to better his community through education.¹²³ In 1941, the film *Sergeant York*, starring Gary Cooper, opened to nationwide acclaim.¹²⁴ York briefly considered running in the Democratic primary

¹¹⁰ *Id.*

¹¹¹ *Id.* at 35–36.

¹¹² *Id.* at 36.

¹¹³ *Id.* at 37.

¹¹⁴ *Id.* at 38–39.

¹¹⁵ *Id.* at 39.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *See id.* at 46 (postulating that the "exhausted, confused, and frightened" Germans "could not match an inspired marksman").

¹¹⁹ *Id.*

¹²⁰ *Id.* at 47 (internal quotation marks omitted).

¹²¹ Armistice with Germany, Nov. 11, 1918, 2 Bevans 9. An English translation of the Armistice terms is available at <http://www.firstworldwar.com/source/armistice/terms.htm> (last visited May 18, 2013).

¹²² *See LEE, supra* note 80, at 53–59 (describing York's mounting fame—largely attributable to media attention—that preceded his post-war return to America).

¹²³ *See id.* at 75 ("[W]ithin a few months of his return from service, York privately resolved to build a 'great non-sectarian school' in Jamestown . . .").

¹²⁴ *See id.* at 92, 113 (noting the film's successes, which included Gary Cooper winning an Academy Award for his performance).

against his district's incumbent U.S. Representative, Albert Gore.¹²⁵

In the decades following World War I, the United States saw itself changing from a nation of small farmers to a nation of urbanites working for big industries. Alvin York represented the simple, honest, and faithful ideals of the old America. Americans celebrated York as representing the best of what they hoped was still the essence of their national character.

B. *Inter-War Pacifism*

The more that Americans reflected on what was called "The Great War," the more they decided that all the things they liked about Alvin York made them dislike Europe. By the 1930s, much of the American public concluded that American participation in the Great War had been a mistake.¹²⁶ Indeed, Sergeant York himself came to that conclusion.¹²⁷

Americans grew furious at having allowed themselves to be tricked into the war by British business interests. Many Americans decided that from now on, European wars should not be America's business.¹²⁸

In Great Britain, the sacrifices and deaths during the war had been vastly greater than what America had suffered.¹²⁹ Large numbers of American forces had only been in combat for about half a year; the British had fought and bled and died for over four years.¹³⁰

In Great Britain and in the United States, pacifism moved into the mainstream of Christian opinion. The pacifist views were not necessarily absolutist, in the sense of forbidding a husband to protect his wife from a criminal who was trying to rape and kill her. Rather, the pacifism tended to focus on more pragmatic arguments, such as the claim that wars do not solve anything. Regarding the Great War, much of the public agreed that

¹²⁵ *Id.* at 120. Albert Gore would later become the father of future Vice President Albert Gore, Jr. Albert Gore Research Ctr., *Albert Gore, Sr.*, MIDDLE TENN. ST. U., <http://janus.mtsu.edu/gore-sr.shtml> (last visited Mar. 7, 2013).

¹²⁶ See LEE, *supra* note 80, at 100 (noting that many Americans felt disillusioned about their country's participation in the Great War, evidencing a "popular drift toward isolationism").

¹²⁷ See *id.* (quoting York as stating "I can't see that we did any good," with regard to the Great War (internal quotation marks omitted)).

¹²⁸ Sergeant York, for one, stated that—going forward—the United States should let "those fellows fight their own battles and we'll fight ours when the time comes." LEE, *supra* note 80, at 100 (internal quotation marks omitted).

¹²⁹ See, e.g., *WWI Casualty and Death Tables*, PBS, http://www.pbs.org/greatwar/resources/casdeath_pop.html (last visited Mar. 7, 2013) (estimating that the British Empire incurred 908,371 deaths during World War I, compared to the 116,516 deaths incurred by the United States).

¹³⁰ See, e.g., LEONARD P. AYRES, U.S. WAR OFF., *THE WAR WITH GERMANY: A STATISTICAL SUMMARY* 137 (2d ed. 1919) (tallying Great Britain's involvement in World War I as four years and three months, compared to the United States's involvement of one year and seven months).

the War had produced very little for which it had been worth fighting.¹³¹

Much of the Protestant leadership joined the Fellowship of Reconciliation, an ecumenical organization founded to promote Christian pacifism.¹³²

Pacifists also warned that a future war would be so terrible that civilization would be destroyed. Airplanes, poison gas, and other inventions had now made war so dangerous, said the pacifists, that nothing could be worth fighting.¹³³

Harry Emerson Fosdick, a famous liberal Baptist minister of Riverside Church in New York City, announced that he would never again bless a war.¹³⁴ He declared that there could never be a war for democracy, because “[w]hoever wins it . . . there is bound to be less democracy than there was before.”¹³⁵

In 1928, the Kellogg-Briand Pact, which outlawed war (but not military defense against aggression), was signed.¹³⁶ The Pact, produced by American Secretary of State Frank B. Kellogg and French Foreign Minister Aristide Briand, was signed by fifty-nine nations,¹³⁷ almost every sovereign in the world at the time.¹³⁸ The Pact passed the U.S. Senate with only a single negative vote.¹³⁹ Kellogg-Briand had one success: helping to defuse a 1929 Soviet-Chinese dispute over a railroad in Manchuria.¹⁴⁰

The other effect of the Pact was to encourage aggressor nations not to issue formal declarations of war. Thus, there was no declaration of war for

¹³¹ See ROLAND H. BAINTON, CHRISTIAN ATTITUDES TOWARD WAR AND PEACE: A HISTORICAL SURVEY AND CRITICAL RE-EVALUATION 211–12 (Wipf & Stock 2008) (1960) (describing critical reflections that followed the Great War).

¹³² See *id.* at 220 (“[M]inisters . . . enrolled in the Fellowship of Reconciliation to continue their pacifist witness . . .”). The original, English Fellowship was founded in 1914. *Id.* at 207–08.

¹³³ See *id.* at 224–28 (discussing how technological advances in warfare such as submarines and aircraft “precluded humanitarian restraint”).

¹³⁴ *Id.* at 214 (citing HARRY EMERSON FOSDICK, A CHRISTIAN CONSCIENCE ABOUT WAR (1925)).

¹³⁵ Joseph Loconte, *The Phony Charge of Imperialism*, HERITAGE FOUND. (Apr. 10, 2003), <http://www.heritage.org/research/commentary/2003/04/the-phony-charge-of-imperialism> (internal quotation marks omitted).

Fosdick’s reasoning was silly. It was similar to saying “I will not buy a safe to protect my money from a thief, because either way, I’m bound to have less money than I did before.” But if you sacrifice some of your money (or liberties) for a safe (or for national safety), you may still have most of your money (or liberty) left. If you refuse to take action to thwart a thief (or a genocidal tyrant), then you will have *none* of your money (or liberty) left.

¹³⁶ See BAINTON, *supra* note 131, at 214–15 (explaining that many Protestant groups “made plain that they did not propose to outlaw a war of defense”).

¹³⁷ *Id.* at 214.

¹³⁸ *The Kellogg-Briand Pact, 1928*, U.S. DEP’T OF STATE, OFF. OF THE HISTORIAN, <http://history.state.gov/milestones/1921-1936/Kellogg> (last visited Apr. 8, 2013).

¹³⁹ *Id.*

¹⁴⁰ See BRUCE A. ELLEMAN, MODERN CHINESE WARFARE, 1795–1989 187 (2001) (describing how the railroad dispute involved a violation of the Kellogg-Briand Pact, and how the dispute was resolved diplomatically, resulting in a treaty).

Japan's 1931 invasion of Manchuria, Italy's 1935 invasion of Ethiopia, and Germany's 1938 threatened invasion of Austria (which eventually took place peacefully, thanks to the cowardice of the Austrian government and the democracies). Kellogg was awarded a Nobel Peace Prize,¹⁴¹ Briand having already won one.¹⁴²

The Pact helped produce World War II, by encouraging the belief in the mid-1930s that decisive military action against Hitler, while he was still weak, was immoral or illegal.¹⁴³ All fifteen of the original signatory nations ended up fighting in World War II.¹⁴⁴ Technically, the Pact is still in force, serving as a permanent reminder of the folly of believing that pieces of paper will deter aggressive dictatorships.¹⁴⁵

After Hitler took over Germany in 1933, then violated the Versailles Treaty by rebuilding the German army, and then gobbled up Austria in 1938 and Czechoslovakia in 1939, more and more American liberal Protestant thinkers began to pull away from pacifism.¹⁴⁶

By the time that Hitler invaded Poland in September 1939, the ranks of Christian pacifists had greatly declined in England.¹⁴⁷ As one man put it, "I used to be a pacifist. I know now that I would rather go to hell for fighting than have my son brought up to think it was funny to kick a Jew in the stomach."¹⁴⁸

¹⁴¹ U.S. DEPARTMENT OF ST., OFF. OF THE HISTORIAN, *supra* note 138.

¹⁴² *All Nobel Peace Prizes*, NOBELPRIZE.ORG, http://www.nobelprize.org/nobel_prizes/peace/laureates/ (last visited Apr. 8, 2013).

¹⁴³ See WEIGEL, *supra* note 13 at 124 (The Kellogg-Briand Pact "helped create the circumstances in which the West seemed paralyzed in the face of Hitler.").

¹⁴⁴ See Michael J. Glennon, *Why the Security Council Failed*, 82 FOREIGN AFF. 16, 23 (2003) (mentioning that every major country that fought in World War II had committed itself not to resort to war in the Kellogg-Briand Pact).

¹⁴⁵ See *id.* at 24 ("[S]tates have not openly declared that the Kellogg-Briand Pact is no longer good law, but few would seriously contend that it is.").

¹⁴⁶ See WEIGEL, *supra* note 13, at 218 (terming John C. Bennett "a leader in the 1930s break of liberal Protestant social ethicists with pacifism" and noting his underlying rationale that "Hitler was a military threat and had to be resisted militarily"); see also William Henry Chamberlin, *Dangers for the West*, WALL ST. J., Aug. 28, 1958, at 8 (discussing both Hitler's rise to power and his actions in Europe leading up to World War II).

¹⁴⁷ See BAINTON, *supra* note 131, at 218 ("The outbreak of the Second World War in 1939 demanded quick decision by . . . churches as to what should be done and what could be justified. . . . British pacifists were driven to a re-examination of their position, and not a few changed their minds.").

¹⁴⁸ *Id.* (internal quotation marks omitted). The man's comment unintentionally evoked one of the best known passages from Mark Twain's *The Adventures of Huckleberry Finn*. Raised in the slave state of Missouri, Huck was convinced that abolitionists and other people who helped slaves escape would be punished in hell. See MARK TWAIN, *THE ADVENTURES OF HUCKLEBERRY FINN* 167 (Popular Classics Publ'g 2012) (1884) (discussing Huck's belief that "there's One that's always on the lookout" that punishes to "everlasting fire" those that engage in the "miserable doings" of keeping slaves from their masters (internal quotation marks omitted)). At the novel's climactic moral point, Huck decided, "All right, then, I'll go to hell," and helped the slave Jim escape. See *id.* at 168 (internal quotation marks omitted) (describing Huck's internal struggle and ultimate decision not to return Jim to white Miss Watson).

America, though, still had plenty of pacifists. A November 1939 poll of 54,000 Catholic college students asked students what they would do in the event of war: 20% said they would volunteer; 44% said they would not volunteer but would comply with a draft; and 36% said they would claim a conscientious objector exemption.¹⁴⁹

IV. WORLD WAR II

In November 1940, when the Nazis bestrode Europe like a colossus, the American Catholic Bishops renewed their 1884 pledge, and again resolved to “give themselves unstintingly to . . . defense.”¹⁵⁰ The presiding bishop of the American Episcopal Church, Henry St. George Tucker, had argued for American neutrality when the war began in 1939, but by 1941, Tucker and most Episcopalians favored military action against the Fascists.¹⁵¹

Despite the pre-war poll, only 223 American Catholics attempted to claim conscientious objector status; most of those who were granted such status bravely chose to serve as unarmed medical personnel on the front lines.¹⁵² There was broad agreement among Christians that resistance to Hitler, Mussolini, and Tojo was a preeminent example of Just War. The dissenters tended to oppose war in all circumstances.¹⁵³ The Methodists, who had opposed war even in 1939 and 1940,¹⁵⁴ became firm supporters of the American war effort after Pearl Harbor. The 1944 Methodist General Conference declared “God himself has a stake in the struggle,”¹⁵⁵ and announced that Methodist conscientious objectors were wrong as a matter of doctrine.¹⁵⁶

¹⁴⁹ RONALD G. MUSTO, *THE CATHOLIC PEACE TRADITION* 243–44 (1986).

¹⁵⁰ WEIGEL, *supra* note 13, at 51, 57 (internal quotation marks omitted).

¹⁵¹ See DAVID HEIN & GARDINER H. SHATTUCK, JR., *THE EPISCOPALIANS* 117–18 (2004) (“By early 1941, however, when Nazi Germany seemed to be on the brink of victory over England, the majority of Episcopalians realized that they could no longer refuse to help their traditional allies in the British isles.”).

¹⁵² MUSTO, *supra* note 149, at 244.

¹⁵³ See W. Edward Orser, *World War II and the Pacifist Controversy in the Major Protestant Churches*, 14 AM. STUD. 5, 9 (1973), available at <https://journals.ku.edu/index.php/amerstud/article/view/2374/2333> (“The entry of the United States into [World War II] presented pacifists with hard choices. Those who clung to the absolute pacifist position, always a minority in the denominations, were now a small band, but some nevertheless expressed the determination to keep their witness.”).

¹⁵⁴ See *id.* at 16 (“Methodists entered the war committed to the 1940 position that ‘the Methodist Church . . . will not officially endorse, support, or participate in war.’”).

¹⁵⁵ *Id.* at 18 (internal quotation marks omitted).

¹⁵⁶ See Barry Penn-Hollar, *Methodism*, in *ENCYCLOPEDIA OF RELIGION AND WAR* 302, 305 (Gabriel Palmer-Fernandez ed., 2004) (“[The 1944 General Conference of Methodists] continued to offer respect for conscientious objectors but said, ‘We cannot accept their position as the defining position of the Christian church.’”); see also Orser, *supra* note 153, at 17 (noting the General Conference’s stance that they felt “well within the Christian position when [they] assert the necessity of

The Germans had bombed London and other cities indiscriminately whenever they had the power to do so.¹⁵⁷ In violation of the laws of war, the German bombing was not aimed at particular military targets, but was undertaken to terrorize the civilian population.¹⁵⁸

Assisted by amoral scientists such as Werner Heisenberg, the Germans attempted to build an atomic bomb.¹⁵⁹ They also worked on long-range rockets which could strike enemy cities which were—once the Germans lost air superiority—beyond the reach of bombers.¹⁶⁰

Then in August 1945, President Truman ordered the use of the newly-invented atomic bomb against Hiroshima, Japan.¹⁶¹ Ten days beforehand, warning leaflets were dropped on Hiroshima, urging civilians to evacuate.¹⁶² On August 6, 1945, the Hiroshima bomb was dropped, and between 70,000 and 80,000 people were killed instantly.¹⁶³ The Japanese still refused to surrender, and so Truman ordered a bomb dropped on Nagasaki on August 9. Forty thousand were killed immediately at Nagasaki.¹⁶⁴ Among the immediate casualties at Hiroshima and Nagasaki were 10,000 Japanese soldiers. Besides the direct casualties, more people died later from radiation poisoning.¹⁶⁵ The second bomb did bring unconditional surrender.¹⁶⁶

The use of the atomic bombs certainly saved many American lives, and perhaps millions of Japanese lives—compared to the deaths that would

the use of military forces to resist aggression which would overthrow every right which is held sacred by civilized men.” (internal quotation marks omitted).

¹⁵⁷ See James MacDonald, *Nazis Bomb Widely*, N.Y. TIMES, May 11, 1941, at 1 (“Every part of the town”—as opposed to only precise and strategic targets—“felt the crushing weight of Nazi bombs. . . . Two hospitals were bombed. At one of them there were a number of casualties.”).

¹⁵⁸ See *id.* (noting the Nazis’ employment of this “technique” was designed to “frighten” civilians).

¹⁵⁹ See Dave Kopel, *Uncertain Uncertainty: Postmodernism Unravels*, NAT’L REV. ONLINE (Apr. 4, 2002, 8:30 AM), <http://old.nationalreview.com/kopel/kopel040402.asp> (positing that Heisenberg’s decision to aid German development of the atomic bomb was influenced not by questions of morality but by a belief that Nazi victory was inevitable).

¹⁶⁰ See Eike Frenzel, *Operation Pastorius: Hitler’s Unfulfilled Dream of a New York in Flames*, SPIEGEL ONLINE (Sept. 16, 2010, 3:16 PM), <http://www.spiegel.de/international/zeitgeist/operation-pastorius-hitler-s-unfulfilled-dream-of-a-new-york-in-flames-a-716753.html> (discussing Nazi attempts late in World War II to develop a trans-Atlantic rocket capable of striking New York City).

¹⁶¹ *U.S. Drops Atomic Bomb on Nagasaki, Japan*, N.Y. TIMES BLOGS (Aug. 9, 2011) (recounting that the atomic bomb was dropped on the city of Hiroshima on August 6, 1945).

¹⁶² See ROBERT JAY LIFTON, *DEATH IN LIFE: SURVIVORS OF HIROSHIMA* 17 (N.C. Press 1991) (1968) (indicating that American planes dropped warning leaflets on July 27, 1945, warning Hiroshima of imminent destruction, but without any specific reference to the atomic bomb).

¹⁶³ *U.S. Drops Atomic Bomb on Nagasaki, Japan*, *supra* note 161.

¹⁶⁴ *Id.*

¹⁶⁵ Matthew Lippman, *Aerial Attacks on Civilians and the Humanitarian Law of War: Technology and Terror from World War I to Afghanistan*, 33 CAL. W. INT’L L.J. 1, 19 (2002).

¹⁶⁶ ROGER OSBORNE, *CIVILIZATION: A NEW HISTORY OF THE WESTERN WORLD* 456 (2006).

have resulted from a conventional invasion of Japan.¹⁶⁷ By comparison, the American invasion of the small island of Okinawa in the spring of 1945 had resulted in 123,000 deaths of American and Japanese soldiers,¹⁶⁸ and as many as 100,000 civilian deaths.¹⁶⁹

American planners expected that conquering Japan would take three years; “Golden Gate in Forty Eight” was the slogan of American soldiers preparing for the invasion.¹⁷⁰ In anticipation of the invasion, the Japanese had been preparing every Japanese man, woman, and child to fight to the death. The government told the Japanese to sacrifice “One Hundred Million Souls for the Emperor.”¹⁷¹ Given the fanaticism with which the Japanese military fought, even when the war was clearly hopeless, there is good reason to believe that the invasion of Japan would have produced casualties vastly larger than the numbers of casualties that resulted from Hiroshima and Nagasaki.¹⁷²

Some religious ethicists, while supporting the justice of the war, raised questions about the way it had been fought. With the war still in progress, John Ford in 1944 authored a critique of “obliteration bombing.”¹⁷³ When the atomic bombs were used in 1945, Ford wrote well-publicized criticisms.¹⁷⁴

In previous centuries, ethicists had understood that a war could be just and aggressive at the same time—for example, in order to rescue a town or a region conquered by the enemy. One of the hotly-debated issues among the Nuremberg war crimes prosecutors was whether to bring charges that some of the defendants had conspired to start an “aggressive war.”¹⁷⁵ Some of the prosecutors felt it was wrong to bring criminal charges

¹⁶⁷ PAUL FUSSELL, *Thank God for the Atom Bomb*, in *THANK GOD FOR THE ATOM BOMB AND OTHER ESSAYS* 13, 20 (1988) (“[Without the atomic bomb,] not just a staggering number of Americans would have been killed in the invasion.” Moreover, there would have been many more deaths all of East Asia. For example, “Thousands of British assault troops would have been destroyed too, the anticipated casualties from the almost 200,000 men in the six divisions . . . assigned to invade the Malay Peninsula on September 9.”).

¹⁶⁸ *Id.* at 27.

¹⁶⁹ WILLIAM D. HOOVER, *HISTORICAL DICTIONARY OF POSTWAR JAPAN* 239 (2011).

¹⁷⁰ See LLOYD M. WELLS, *FROM ANZIO TO THE ALPS* 146 (2004) (“From somewhere we picked up the slogan, ‘Stay alive ‘til Forty Five’ but on a more cautionary note there was added ‘Golden Gate in Forty Eight,’ an unneeded reminder that when it was all over over here, the Japanese would have to be dealt with over there.”).

¹⁷¹ See FUSSELL, *supra* note 167, at 17 (“The Japanese pre-invasion patriotic song, ‘One Hundred Million Souls for the Emperor,’ . . . meant just that. Universal national kamikaze was the point.”).

¹⁷² For a good introduction to the debate, see *id.* at 15–17.

¹⁷³ JOHN T. MCGREEVY, *CATHOLICISM AND AMERICAN FREEDOM: A HISTORY* 227 (2003).

¹⁷⁴ *Id.* at 227–28. There is a large and fascinating body of scholarship on the relationship between atomic weapons and traditional Just War doctrine. The debate is beyond the scope of this Article, however.

¹⁷⁵ HILARY EARL, *THE NUREMBERG SS-EINSATZGRUPPEN TRIAL, 1945–1958: ATROCITY, LAW, AND HISTORY* 88–90 (Cambridge Univ. Press 2009).

regarding the causes of war; these prosecutors favored charges for genocide, or for violations of the laws of war. But they did not think it was right to send the losers to prison because the victors disagreed with the losers' rationale for initiating a war.¹⁷⁶

The prosecutors who did want to bring "aggressive war" charges won the day, and some defendants were convicted of this charge.¹⁷⁷ In the public mind, and in the mind of religious ethicists, the concepts of "just" and "defensive" war began to congeal. Pope Pius XII announced a ban on "wars of aggression."¹⁷⁸

V. THE COLD WAR

A. *John Courtney Murray*

Within the American Catholic community, the Pope's new rule on wars of aggression was little cause for concern. The United States had entered World War II because it was attacked; the United States had entered the Korean War because South Korea was attacked. Around the world, it was the Communists, not the Free World, who tended to start aggressive wars.

For centuries, American Catholics had been working to integrate themselves in the American mainstream while maintaining their Catholic identity. Charles Carroll of Carrollton had been a Catholic signer of the Declaration of Independence, and the heavily-Catholic state of Maryland had fought bravely in the American Revolution.¹⁷⁹ But the mass immigration of very poor Irish Catholics in the 1840s, and of other thoroughly uneducated groups such as Italian Catholics in the late nineteenth century, had made many large American cities dirty, crowded, and dangerous.¹⁸⁰ The Catholic school system strove diligently to educate and Americanize the immigrants, but there was still a significant backlash from much of America's Protestant majority.

Al Smith, the Catholic Governor of New York, had been the

¹⁷⁶ See Steven R. Ratner, *Crimes Against Peace*, CRIMES OF WAR, <http://www.crimesofwar.org/a-z-guide/crimes-against-peace/> (last visited Feb. 28, 2013) (charging Nazis with "crime of starting" a war was controversial and had never been seen as a criminal act).

¹⁷⁷ EARL, *supra* note 175, at 89, 259 (linking crimes against humanity to aggressive war charge).

¹⁷⁸ WEIGEL, *supra* note 13, at 127.

¹⁷⁹ *Charles Carroll of Carrollton*, SOC'Y OF THE DESCENDANTS OF THE SIGNERS OF THE DECLARATION OF INDEPENDENCE (Nov. 30, 2011), <http://www.dsdi1776.com/signers-by-state/charles-carroll-of-carrollton/>; Matthew E. Bunson, *America's Catholic Colony*, CATHOLIC ANSWERS MAG., <http://www.catholic.com/magazine/articles/america's-catholic-colony> (last visited Feb. 27, 2013).

¹⁸⁰ See *Irish*, PEOPLE PLACES & PLANNING IN BOSTON, <http://planningboston.org/people/Irish/> (last visited Feb. 28, 2013) (Irish Catholics immigrated to major cities such as Boston in the 1840s and beyond. Conditions were cheap, crowded and unsanitary. Italian immigrations followed soon after.).

Democratic nominee for President in 1928.¹⁸¹ He had been defeated in a landslide by Herbert Hoover, partly as a result of the hostility of small-town, “dry” Protestant America to the big-city Catholic who wanted to repeal alcohol Prohibition.¹⁸² Not until 1960 did a Catholic again become a serious contender for the Presidency, when Massachusetts Senator John F. Kennedy emerged as the Democratic front-runner.¹⁸³ Some opponents argued that because Kennedy must obey whatever the Pope said, Kennedy would not have the freedom to make decisions in the best interests of the United States.¹⁸⁴

It was time to revisit the role of American Catholics in American public life. In *We Hold These Truths: Catholic Reflections on the American Proposition*, the influential Jesuit theologian John Courtney Murray examined the interplay between Catholic faith and American citizenship.¹⁸⁵ The book was featured on the cover of *Time* magazine in December 1960, as the nation waited for its first Catholic President to take office in January.¹⁸⁶

On the subject of national defense and the use of force, Murray expressed the mainstream of American Catholic thought, which regarded Communism as an extremely dangerous enemy which must be resisted.¹⁸⁷ Murray denounced “pathetic appeals to ‘understand the Russians.’”¹⁸⁸

These appeals were rooted in “the pseudo-morality of secular liberalism, especially of the academic variety.”¹⁸⁹ The false theory was “that knowledge is virtue . . . if only we really could get to understand

¹⁸¹ “*I Will Not Be Influenced in Appointments*”: *Al Smith Accepts the Nomination for President*, HISTORY MATTERS, <http://historymatters.gmu.edu/d/5075> (last visited Feb. 26, 2013).

¹⁸² Robert A. Slayton, *When a Catholic Terrified the Heartland*, N.Y. TIMES BLOGS (Dec. 10, 2011), <http://campaignstops.blogs.nytimes.com/2011/12/10/when-a-catholic-terrified-the-heartland/>.

¹⁸³ *Life of John F. Kennedy*, JOHN F. KENNEDY PRESIDENTIAL LIBR. & MUSEUM, <http://www.jfklibrary.org/JFK/Life-of-John-F-Kennedy.aspx?p=3> (last visited Mar. 28, 2013).

¹⁸⁴ See *Transcript: J.F.K.'s Speech on His Religion*, NPR.ORG (Dec. 5, 2007, 12:48 PM), <http://www.npr.org/templates/story/story.php?storyId=16920600> (“At the time, many Protestants questioned whether Kennedy’s Roman Catholic faith would allow him to make important national decisions as president independent of the church.”). Indeed, one of the most iconic moments of the Kennedy campaign was the speech before the Greater Houston Ministerial Association, where Kennedy articulated, “I [Kennedy] am not the Catholic candidate for President. I am the Democratic Party’s candidate for President, who happens also to be a Catholic.” John F. Kennedy, Presidential Candidate of the United States, Address to the Greater Houston Ministerial Association (Sept. 12, 1960) (transcript available at <http://www.npr.org/templates/story/story.pho?storyId=16920600>).

¹⁸⁵ See generally JOHN COURTNEY MURRAY, *WE HOLD THESE TRUTHS: CATHOLIC REFLECTIONS ON THE AMERICAN PROPOSITION 22* (1960) (introducing the interplay of religions with American citizenship and militarism).

¹⁸⁶ See *John Courtney Murray, Dec. 12, 1960*, TIME.COM (last visited Mar. 6, 2013), <http://www.time.com/time/covers/0,16641,19601212,00.html> (displaying the cover of the December 12, 1960 *Time Magazine*).

¹⁸⁷ MURRAY, *supra* note 185, at 233.

¹⁸⁸ *Id.* at 238.

¹⁸⁹ *Id.* at 293.

everybody, our foreign policy would inevitably be good. The trouble is that the past failures of the political intelligence of secular liberalism, and its demonstrated capacities for misunderstanding, have already pretty much discredited it.”¹⁹⁰

Communism was “a spiritual menace” which had produced “not simply a crisis in history but perhaps the crisis of history.”¹⁹¹ Murray argued that public policy needed a firmer basis in careful reasoning—especially reasoning based on the natural law roots which had long nourished Catholicism, and which had also produced the Declaration of Independence.¹⁹² In contrast, the purely pragmatist approach “bears beneath its pragmatism the American-Protestant taint of pacifism.”¹⁹³

Murray disputed the notion of “relative pacifists” that modern weapons of war had made modern war unthinkable.¹⁹⁴ Further, the “relative pacifists” (as opposed to absolute pacifists) who thought that the United Nations could bring world peace failed to understand that the U.N. “is basically a power-organization. And its decisions, like those rendered by war itself, are natively apt to sanction injustice as well as justice.”¹⁹⁵

Murray repeated Pius XII’s admonition that “law and order have need at times of the powerful arm of force.”¹⁹⁶ As the Pope had told a delegation of visitors from the U.S. House Armed Services Committee in October 1947:

The precept of peace is of divine right. Its purpose is to protect the goods of humanity, inasmuch as they are goods of the Creator. Among these goods there are some of such importance for the human community that their defense against unjust aggression is without doubt fully justified.¹⁹⁷

Murray explained that the Pope’s various statements on war and peace had nowhere forbidden the use of atomic, biological, or chemical weapons.¹⁹⁸

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at 245.

¹⁹² *Id.* at 28.

¹⁹³ *Id.* at 247.

¹⁹⁴ *See id.* at 250 (“The relative pacifists are content to affirm that war has now become an evil that may no longer be justified. . . . Even this position . . . is not to be squared with the public doctrine of the Church.”).

¹⁹⁵ *Id.* at 251.

¹⁹⁶ *Id.* at 258 (internal quotation marks omitted).

¹⁹⁷ *Id.* (quoting Pope Pius VII, Christmas Message (Dec. 24, 1948), AAS 41 (1949)). Likewise, Pius XII’s 1948 Christmas Message declared, “One of the most important good of human societies is that their defense against unjust aggression is fully justified.” JACQUES ELLUL, VIOLENCE: REFLECTIONS FROM A CHRISTIAN PERSPECTIVE 141 (Cecelia Gaul Kings trans., 1969). The 1954 Christmas Eve message linked pacifism to Communist propaganda, and stated that a Catholic citizen of democratic country “cannot invoke his own conscience in order to refuse to serve and fulfill those [military] duties . . . the law imposes.” MUSTO, *supra* note 149, at 185.

¹⁹⁸ MURRAY, *supra* note 185, at 263.

During the 1950s, some West Germans had claimed a right to a conscientious objector status in order to avoid serving in the German military.¹⁹⁹ The number of such potential objectors increased when American nuclear weapons were deployed in West Germany.²⁰⁰ The Pope responded that no Catholic had the right to claim conscientious objector status: the West German government was legitimate, open, and democratic, and was asking its citizens to serve during a period of extreme peril. Pius XII repeated that a citizen's duty of armed service to the state, and a state's right to armed self-defense were traditional Catholic doctrine.²⁰¹

The Pope was working from the premise of the God-given dignity of man, and hence the transcendent necessity of respect for human rights. Thus, summarized Murray:

Pius XII transcended the vulgar pacifism of sentimentalist and materialist inspiration that is so common today. The tradition of reason has always maintained that the highest value in society is the inviolability of the order of rights and justice. . . . Peace itself is the work of justice; and therefore peace is not compatible with impunity for the evil of injustice.²⁰²

In short, Murray explained that Catholic views on the use of force were based on precisely the self-evident natural law truths on which the Declaration of Independence was based. Regarding the use of force, there was nothing in Murray's book which a Calvinist minister from revolutionary New England would have disputed; indeed, the minister would likely have been pleasantly surprised to find a Jesuit writing so many agreeable things.

A few weeks after Murray's book was published, America's first Catholic President was sworn into office. He had run on a platform critiquing the Eisenhower-Nixon administration for insufficient vigor in fighting communism. Speaking as President for the first time, John F. Kennedy told his fellow Americans that:

[T]he same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state, but

¹⁹⁹ Guy F. Hershberger et al., *Conscientious Objection*, GLOBAL ANABAPTIST MENNONITE ENCYCLOPEDIA ONLINE, <http://www.gameo.org/encyclopedia/contents/C6664.html> (last visited Apr. 4, 2013).

²⁰⁰ The Soviet conventional army was far larger than all NATO armies in West Germany, and likely could have won a conventional-only invasion of West Germany. *What if the USSR Had Won the Cold War?*, CHANGING THE TIMES (May 15, 2011, 12:18 PM), http://www.changingthetimes.net/samples/coldwar/what_if_the_ussr_had_won_the_col.htm.

²⁰¹ MURRAY, *supra* note 185, at 264.

²⁰² *Id.* at 261.

from the hand of God. We dare not forget today that we are the heirs of that first revolution. . . . [W]e shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty.²⁰³

Kennedy looked forward to the beginning of world peace and disarmament—on the basis of justice and freedom. Never would the Kennedy administration engage in unilateral disarmament: “We dare not tempt them with weakness. For only when our arms are sufficient beyond doubt can we be certain beyond doubt that they will never be employed.”²⁰⁴

Thomas Merton summed up the standard belief of Catholics and other American Christians: “Western society equals Christendom and Communism equals Antichrist.”²⁰⁵ Thus, mainstream Christians were “ready to declare without hesitation that ‘no price is too high’ to pay for our religious liberty.”²⁰⁶ Catholic prayer books instructed Catholics on their duty to resist communism.²⁰⁷ For instance, during “Prayers After Low Mass,” Catholics prayed for the conversion of Communist Russia.²⁰⁸

B. *Vatican II*

While President Kennedy promoted the New Frontier in America, the new Pope, John XXIII (1958–1963), was bringing change to the Catholic Church. He convened the Second Vatican Council, which met from 1962 through 1965.²⁰⁹

In April 1963, Pope John published *Pacem in Terris*, setting forth new teachings on many social issues, including peace.²¹⁰ Regarding legitimacy of government, *Pacem in Terris* took the same view as the second paragraph of the Declaration of Independence.²¹¹ Governments were

²⁰³ John F. Kennedy, President of the United States, Inaugural Address (Jan. 20, 1961) (transcript available at <http://www.democraticnationalcommittee.org/op/jfk.html#inaugural>).

²⁰⁴ *Id.*

²⁰⁵ THOMAS MERTON, *THE NONVIOLENT ALTERNATIVE* 83 (Farrar, Straus & Giroux, rev. ed. 1980).

²⁰⁶ *Id.*

²⁰⁷ PATRICIA MCNEAL, *HARDER THAN WAR: CATHOLIC PEACEMAKING IN TWENTIETH-CENTURY AMERICA* 74 (1992).

²⁰⁸ *Id.* The conversion prayers ended after Vatican II. *Id.* Low Mass is a shorter and simpler version of the High Mass. The usual Catholic Mass is the High Mass. Adrian Fortescue, *Mass, Chapter and Conventual*, in 9 *THE CATHOLIC ENCYCLOPEDIA: LAPRADE–MASS* 790, 799 (Charles G. Herbermann et al. eds., Encyclopedia Press 1913) (1910).

²⁰⁹ *Id.* at 95.

²¹⁰ JOHN XXIII, *PACEM IN TERRIS: ENCYCLICAL ON ESTABLISHING UNIVERSAL PEACE IN TRUTH, JUSTICE, CHARITY, AND LIBERTY* (1963), available at <http://www.papalencyclicals.net/John23/j23pacem.htm>.

²¹¹ *Id.*; *THE DECLARATION OF INDEPENDENCE* para. 2 (U.S. 1776).

instituted to protect inalienable rights, and governments which failed to do so were not legitimate governments:

It is agreed that in our time the common good is chiefly guaranteed when personal rights and duties are maintained. The chief concern of civil authorities must therefore be to ensure that these rights are acknowledged, respected, coordinated with other rights, defended and promoted, so that in this way each one may more easily carry out his duties. For “to safeguard the inviolable rights of the human person, and to facilitate the fulfillment of his duties, should be the chief duty of every public authority.

This means that, if any government does not acknowledge the rights of man or violates them, it not only fails in its duty, but its orders completely lack juridical force.”²¹²

Pope John restated the progressive version of *Romans* 13 (that Christians are obliged to obey just governments, but not obliged to obey evil ones).²¹³ He quoted Augustine’s observation that oppressive governments are nothing more than a band of robbers.²¹⁴

Pope John denounced the arms race because it impeded economic development and assistance to poor countries. Further, even the testing of atomic weapons might endanger human health.²¹⁵ Accordingly, he thought that the arms race should cease and all nations should participate in mutual disarmament.²¹⁶

Consistent with Pope John’s approach, President Kennedy negotiated a nuclear test ban treaty with the Soviet Union, whereby both nations agreed to a verifiable and mutual halt on atmospheric or underwater nuclear tests.²¹⁷ Underground tests were still allowed, because a ban was harder to verify, and the dangerous dispersal of radiation was much less of a problem for underground tests.²¹⁸

²¹² *Id.* ¶¶ 60–61.

²¹³ *Romans* 13:1–2 (New Revised Standard Version) (“Let every person be subject to the governing authorities; for there is no authority except from God, and those authorities that exist have been instituted by God. Therefore whoever resists authority resists what God has appointed, and those who resist will incur judgment.”).

²¹⁴ THE DECLARATION OF INDEPENDENCE para. 92 (U.S. 1776).

²¹⁵ *Id.*

²¹⁶ *Id.* ¶ 112.

²¹⁷ *Nuclear Test Ban Treaty*, JOHN F. KENNEDY PRESIDENTIAL LIBR. & MUSEUM, <http://www.jfklibrary.org/JFK/JFK-in-History/Nuclear-Test-Ban-Treaty.aspx?p=2#> (last visited March 11, 2013).

²¹⁸ *Id.*

C. Pope Paul VI

Pope John XXIII is often remembered as a liberal Pope, in part because of his overlap—both in name and tenure, with President John F. Kennedy. The next Pope, Paul VI, is often labeled a conservative—but the label stems almost entirely from the Pope’s decision in his 1969 encyclical *Humanae Vitae* not to relax traditional Catholic teachings against abortion or artificial birth control.²¹⁹ On other issues, however, Pope Paul steered the Catholic Church much further to the left than it had ever gone before.

Perhaps the most important product of the Second Vatican Council, which concluded its work in 1965, was the *Pastoral Constitution of the Church in the Modern World*.²²⁰ The document addressed modern social issues, including war, and on that issue, the *Constitution* fit comfortably into well-established Catholic tradition. While the *Pastoral Constitution* deplored the increasing ferocity of modern war, and insisted that no soldier may ever commit atrocities, the document acknowledged that “[s]tate authorities and others who share public responsibility have a duty” to use force when necessary to protect people in their care.²²¹ Consistent with the views of Augustine, Aquinas, and other traditional Catholic scholars, the *Constitution* explained that if soldiers fight not to subjugate other people, but instead for “security and freedom of peoples,” then they “are making a genuine contribution to the establishment of peace.”²²²

²¹⁹ See MCGREEVY, *supra* note 173, at 245 (discussing Pope Paul VI’s views on birth control and abortion).

²²⁰ PAUL VI, GAUDIUM ET SPES: PASTORAL CONSTITUTION OF THE CHURCH IN THE MODERN WORLD (1965), available at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

²²¹ Pope Paul VI, Pastoral Constitution, *Gaudium et Spes* (On the Church in the Modern World) ¶ 79 (Dec. 7, 1965), available at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html [hereinafter *Guardian et Spes*].

²²² *Id.* The *Constitution* went into some detail on the Church’s views on war.

Certainly, war has not been rooted out of human affairs. As long as the danger of war remains and there is no competent and sufficiently powerful authority at the international level, governments cannot be denied the right to legitimate defense once every means of peaceful settlement has been exhausted. State authorities and others who share public responsibility have the duty to conduct such grave matters soberly and to protect the welfare of the people entrusted to their care. But it is one thing to undertake military action for the just defense of the people, and something else again to seek the subjugation of other nations. Nor, by the same token, does the mere fact that war has unhappily begun mean that all is fair between the warring parties.

Those too who devote themselves to the military service of their country should regard themselves as the agents of security and freedom of peoples. As long as they fulfill this role properly, they are making a genuine contribution to the establishment of peace

The document unequivocally denounced the use of weapons of mass destruction against civilian populations—but not the use of nuclear or other weapons in a tactical military setting in which soldiers would be the target.²²³ The *Constitution* urged nations to work towards a reciprocal, verifiable “beginning of disarmament, not unilaterally indeed, but proceeding at an equal pace according to agreement, and backed up by true and workable safeguards.”²²⁴

The focus of the *Pastoral Constitution*’s teaching on arms was on international affairs. Yet the *Constitution* recognized that besides governments, there are “others who share public responsibility . . . to protect the welfare of the people entrusted to their care.”²²⁵ Thus, if a schoolteacher wondered about the legitimacy of using war-like force (such as a deadly weapon) to protect the children in her care, the logic of the *Pastoral Constitution* is that teachers “have the duty” to do so when necessary.²²⁶

On October 4, 1965, Pope Paul became the first Pope to address the United Nations, and his faith in the U.N. might have startled even Eleanor Roosevelt.²²⁷ Not only did he praise the United Nations as a great school for peace, he announced, “No more war, war never again. It is peace, peace which must guide the destinies of peoples and of all mankind.”²²⁸

In 1967, the Pope issued an encyclical which took a very restrictive view of the right of revolution:

The injustice of certain situations cries out for God’s attention. Lacking the bare necessities of life, whole nations are under the thumb of others; they cannot act on their own initiative; they cannot exercise personal responsibility; they cannot work toward a higher degree of cultural refinement or a greater participation in social and public life. They are sorely tempted to redress these insults to their human nature by violent means.

Everyone knows, however, that revolutionary uprisings—except where there is manifest, longstanding tyranny which would do great damage to fundamental personal rights and

Id. The statement about the legitimacy of military service came in response to requests from American bishops, particularly the Archbishop of New Orleans, Philip M. Hannan. WEIGEL, *supra* note 13, at 419 n.125.

²²³ *Gaudium et Spes*, *supra* note 221, at ¶ 80; WEIGEL, *supra* note 13, at 250.

²²⁴ *Gaudium et Spes*, *supra* note 221, at ¶ 81.

²²⁵ *Id.* ¶ 79.

²²⁶ *Id.*

²²⁷ See Pope Paul VI, Address to the United Nations General Assembly (October 4, 1965), available at <http://www.christusrex.org/www1/pope/UN-1965.html> (stating that this was the first papal address to the United Nations and praising highly the organization).

²²⁸ *Id.*

dangerous harm to the common good of the country— engender new injustices, introduce new inequities, and bring new disasters. The evil situation that exists, and it surely is evil, may not be dealt with in such a way that an even worse situation results.²²⁹

In July 1948, the Communist party had been on the verge of winning the Italian elections.²³⁰ Everyplace Communists had obtained power, free elections had been abolished, and permanent dictatorship imposed. On July 15, 1948, *L'Osservatore Romano* (the Vatican's official newspaper) published a decree excommunicating anyone who advances the materialistic and anti-Christian teachings of communism; a 1949 Papal Bull, the "Decree Against Communism," amplified the point, declaring the defense of Communism resulted in "ipso facto" excommunication.²³¹ The declaration was consistent with the 1937 statement of Pius XI that any form of support for Communism was sinful.²³²

Popes Pius XI and XII obviously looked in horror at the records of Communist governments, which were based on atheistic materialism, and which abolished freedom of religion wherever they ruled. To Pope Paul VI, however, fear of the Communist menace apparently seemed ridiculous. In 1977, he denounced the "absurd cold war."²³³

D. Vietnam

In 1965, *Commonweal*, the leading Catholic magazine addressing social policy, published an article urging preemptive U.S. military action to prevent Communist China from developing nuclear weapons.²³⁴ *Commonweal* was deliberately taking a vanguard position, but the anti-

²²⁹ Pope Paul VI, Encyclical Letter, *Populorum Progressio* (On the Development of Peoples) ¶¶ 30–31 (Mar. 26, 1967), available at http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_26031967_populorum_en.html.

²³⁰ ROBERT A. VENTRESCA, FROM FASCISM TO DEMOCRACY: CULTURE AND POLITICS IN THE ITALIAN ELECTION OF 1948 147 (2004).

²³¹ *Decree Against Communism*, ACADEMIC DICTIONARIES AND ENCYCLOPEDIAS, <http://en.academic.ru/dic.nsf/enwiki/11627235> (last visited May 28, 2013); *Decree Against Communism*, ASSOCIAÇÃO CULTURAL MONTFORT, <http://www.montfort.org.br/old/index.php?artigo=anticomunismo&lang=eng&secao=documentos&subsecao=decretos> (last visited May 23, 2013).

²³² Pius XI, Encyclical Letter, *Divini Redemptoris* (On Atheistic Communism) ¶¶ 57–58 (Mar. 19, 1937), available at http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19031937_divini-redemptoris_en.html.

²³³ WEIGEL, *supra* note 13, at 253 (citing Pope Paul VI, *If You Want Peace, Defend Life, Message for the Celebration of the Day of Peace* (Jan. 1, 1977)), available at http://www.vatican.va/holy_father/paul_vi/messages/peace/documents/hf_p-vi_mes_19761208_x-world-day-for-peace_en.html (internal quotation marks omitted).

²³⁴ *Id.* at 193–94.

Communist premise of the article was shared by all but a small extreme of anti-American Catholics.²³⁵ Likewise, belief in the legitimacy of the use of military force for just purposes was widely-shared.

The Vietnam War, however, changed everything. George Wiegel, today's leading scholar of American Catholic intellectual history, concludes that the *sine qua non* of the massive leftward shift among the Catholic hierarchy in the late 1960s and 1970s was the "traumatizing" effect of the Vietnam war, aggravated by the "perceived inability of classic just-war theory to appropriately analyze or set limits on a bloody, counter-insurgency guerilla war."²³⁶

The American Catholic hierarchy came more and more to resemble a religious version of the New Left, which believed that America was always and everywhere mostly wrong.²³⁷ And nothing could ever be found which justified the use of force by the United States, or by an American ally.

The new hostility to America was buttressed by Bible quotations which were wrenched from context, and which were claimed to pose clear and unequivocal instructions about American foreign policy. For example, Bishop Dozier of Memphis argued that Jesus's teaching that one should walk a second mile with one's adversary meant that the United States must immediately withdraw from Vietnam.²³⁸ Yet one could just as plausibly use the same text to prove that North Vietnam should immediately withdraw from Cambodia. More to the point, a teaching about how Christians should act when forced to carry supplies for Roman soldiers is hardly a precise instruction about when one country should stop helping an ally that is under attack.

Implicitly repudiating centuries of Catholic teaching—including Pius XII's declaration against Catholic refusal to serve in the West German army—the United States Catholic Conference supported test cases brought to the U.S. Supreme Court in which some Catholics claimed conscientious objector status because they did not consider the Vietnam War to be just.²³⁹

In April 1975, the Pol Pot Communist dictatorship, which had just attained power in Cambodia, kidnapped some U.S. civilians on the high seas on the boat *Mayaguez*.²⁴⁰ The kidnapping was a flagrant violation of international laws against piracy. President Gerald Ford sent in a Marine

²³⁵ See *infra* Part V.E (discussing mainstream Catholics' opinions of communist revolutions).

²³⁶ WIEGEL, *supra* note 13, at 244.

²³⁷ *Id.* at 248.

²³⁸ *Id.* at 241.

²³⁹ For cases involving Catholic conscientious objectors and Vietnam War, see, e.g., *Gillette v. United States*, 401 U.S. 437 (1971); *United States v. Ford*, 478 F.2d 169 (1st Cir. 1973).

²⁴⁰ RALPH WETTERHAHN, *THE LAST BATTLE: THE MAYAGUEZ INCIDENT AND THE END OF THE VIETNAM WAR* (2002).

force which rescued the kidnapped civilians.²⁴¹ *Commonweal*, which only eight years before had been ready to consider starting a war with “Red China,” now opposed even the rescue of kidnapped American hostages.²⁴²

E. *The Move to the Left*

The changes in Catholic elite opinion were matched by very similar changes in the mainline Protestant elite. “Mainline” Protestants are the members of the National Council of Churches.²⁴³ Mainline denominations include the United Methodist Church, the Evangelical Lutheran Church in America, the Episcopal Church, the Presbyterian Church (U.S.A.), and the United Church of Christ.²⁴⁴ The mainline denominations have historically been dominant in American Protestantism, but in recent decades their membership has dropped, while membership in more theologically conservative evangelical churches has risen.²⁴⁵

The sharp leftward movement of the Catholic and mainline Protestant church hierarchies were part of a general change in the culture.²⁴⁶ Academia and the media also veered left. The hard left turn provoked a backlash among some intellectuals who were dismayed at the Left’s pervasive anti-American sentiment.²⁴⁷ Some of these intellectuals were traditional liberal Democrats (who favored affirmative and expansive government) and who favored the traditional Roosevelt/Truman/Kennedy policy of willingness to use force to protect American interests.²⁴⁸ These disillusioned Democrats were often called “neo-conservatives,” and most of them eventually drifted into the Republican party.²⁴⁹

The election of Ronald Reagan, himself an ex-Democrat, was one of the great triumphs of the neo-conservative movement.²⁵⁰ The neo-

²⁴¹ WEIGEL, *supra* note 13, at 192; see Jordan J. Paust, *The Seizure and Recovery of the Mayaguez*, 85 Yale L.J. 774, 781 (1976) (discussing the factual background of the incident and the President’s decision to send in the marines).

²⁴² WEIGEL, *supra* note 13, at 192.

²⁴³ Lauren Markoe, *National Council of Churches to Move to D.C.*, HUFFINGTON POST (Feb. 15, 2013, 8:06 AM), http://www.huffingtonpost.com/2013/02/15/national-council-of-churches-move-to-dc_n_2684882.html.

²⁴⁴ Richard Yeakley, *Evangelical Churches Still Growing, Mainline Protestantism in Decline*, HUFFINGTON POST (May 25, 2011, 7:30 PM), http://www.huffingtonpost.com/2011/02/15/report-us-churches-contin_n_823701.html.

²⁴⁵ *Id.*

²⁴⁶ WEIGEL, *supra* note 13, at 204–06.

²⁴⁷ IRVIN KRISTOL, *NEO-CONSERVATISM: THE AUTOBIOGRAPHY OF AN IDEA* (1999).

²⁴⁸ See *infra* note 262.

²⁴⁹ David Hoogland Noon, *Cold War Revival: Neoconservatives and Historical Memory in the War on Terror*, 48 AM. STUD. 75, 79–80 (2007).

²⁵⁰ *Id.* at 89. Most neo-conservatives insist that “the apotheosis of neoconservatism (the alleged inheritor of those ideals) came during the 1980s under Ronald Reagan, who presided over a Republican administration that committed itself . . . to nearly everything the neoconservatives had been urging since the mid-1970s.” *Id.*

conservatives and Reagan recognized that there was an extreme disjunction between the pessimistic, anti-American views of the élites and the views of the masses.²⁵¹ Students (who voted for Reagan at a higher rate than the rest of the population) disagreed with their professors; and people who watched the television news were not nearly as skeptical of Reagan and of American power as were the network news producers, anchors, and reporters.²⁵² Likewise, the great body of church-going American Christians never moved as far left as did the Catholic and mainline Protestant leadership.

The relentless élite rhetoric against American military power was frequently cloaked in the language of pacifism. But pacifist analysis was employed one-sidedly. When communist guerillas sought to shoot their way into power in Central and South America, a typical American Catholic or mainline Protestant response was to applaud their “liberation theology.”²⁵³

Regarding Central America during the 1980s, statements from American Bishops tilted very heavily in favor of the armed Communist dictatorship which had taken over Nicaragua, and its counterpart which was trying to conquer El Salvador.²⁵⁴ Only the intercession of Bishops from Central America brought some balance into the statements of the Americans. The Central American Bishops tended to understand that Communism would destroy the Church as an independent institution, and would not bring social justice.²⁵⁵

Religious support for Communist revolutionaries picked up the name “liberation theology”—an Orwellian term, since no Communist country allowed liberty.²⁵⁶ The consistent pattern in Communist countries was to suppress religious freedom, and to set up the Communist party and its rulers as the *de facto* objects of worship.²⁵⁷ In this regard, the twentieth

²⁵¹ KRISTOL, *supra* note 247.

²⁵² In Reagan’s 1984 election, Ivy League students favored Walter Mondale, whereas college students in general favored Reagan by a large margin. *Ivy Students Favor Mondale*, PRINCETON ALUMNI WEEKLY, Nov. 7, 1984, at 17. At a time when there were only four national news networks (ABC, CBS, NBC, CNN) and when most Americans still watched evening television news, it is easy to infer that Reagan won majority support from television news viewers.

²⁵³ Dana Sawchuk, *The Catholic Church in the Nicaraguan Revolution: A Gramscian Analysis*, 58 SOC. RELIGION 39, 46–47 (1997). “The teachings of liberation theology were evident in mainline American Protestant denominations and were not exclusive to American Catholicism.” WEIGEL, *supra* note 13, at 239.

²⁵⁴ WEIGEL, *supra* note 13, at 296.

²⁵⁵ Sawchuk, *supra* note 253, at 43–44.

²⁵⁶ See Robert J. Araujo, S.J., *Political Theory and Liberation Theology: The Intersection of Unger and Gutiérrez*, 11 J.L. & RELIGION 63, 63 (1995) (sympathetically defining liberation theology as the “cultivation of a dialogue between communitarian theologians and thinkers from liberal (and Christian democratic) political institutions”).

²⁵⁷ *They Are Enemies of Religion Who Hinder Their Peoples from Faith by Resorting to Oppression*, NIGHTMARE OF DISBELIEF BLOG (Apr. 29, 2012), <http://nightmareofdisbelief.wordpress.c>

century Communist government followed the same policies as Hitler, who in his final years sought to eliminate Christianity, and to replace it with a pagan religion in which he was the messiah.²⁵⁸

“Liberation theology” was embraced by mainline American Protestant denominations.²⁵⁹ The mainline Protestant ecumenical organization, the National Council of Churches (“NCC”), became an enthusiastic supporter of Marxist movements and a stern critic of U.S. resistance.²⁶⁰ In 1984, the NCC organized a tour of the Soviet Union for 266 American religious leaders; the tour amounted to a propaganda campaign for appeasement and moral equivalence.²⁶¹

The NCC’s international counterpart, the World Council of Churches (“WCC”),²⁶² was even more radically anti-American. The WCC quite frequently found itself on the same side as Soviet front organizations such as the World Peace Council and the Christian Peace Conference—both of which were directed by an officially atheist totalitarian regime.²⁶³

Meanwhile, the historically pacifist groups moved so far left that, for all practical purposes, they stopped being pacifists. American pacifists had traditionally supported democracy, and had been wary of joining forces with pro-Nazi groups or pro-Communist groups (even though groups agreed with the pacifists in opposing American militarism).²⁶⁴ During and

om/2012/04/29/they-are-enemies-of-religion-who-hinder-their-peoples-from-faith-by-resorting-to-oppression/.

²⁵⁸ Bryan Patterson, *Hitler’s Secret Plan to Take over Christianity*, HERALD SUN (Oct. 25, 2007, 12:39 PM), http://blogs.news.com.au/heraldsun/faithworks/index.php/heraldsun/comments/hitlers_secret_plan_to_take_over_christianity.

²⁵⁹ WEIGEL, *supra* note 13, at 239.

²⁶⁰ JOHN S.A. LOMPERIS & ALAN F.H. WISDOM, STRANGE YOKEFELLOWS: THE NATIONAL COUNCIL OF CHURCHES AND ITS GROWING NON-CHURCH CONSTITUENCY 8, 14 (2006), *available at* <http://www.theird.org/Document.Doc?id=21>.

²⁶¹ RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE: LEGAL PERSPECTIVES 177–78 (Johan D. Van Der Vyver & John Witte, Jr. eds., 1996). Moral equivalence is the claim that democracies are morally equivalent to dictatorships—in particular, that the United States was morally equivalent to the Union of Soviet Socialist Republics. *See* Jeane J. Kirkpatrick, *The Myth of Moral Equivalence*, 15 IMPRIMIS 1 (1986), *available at* <http://www.hillsdale.edu/news/imprimis/archive/issue.asp?year=1986&month=01> (“There was a time when an educated person found it persuasive to see important differences between the conceptions of civilization embodied, for example, in the U.S. Constitution or the British Constitution or the United Nations Charter, on the one hand, and the conception of civilization embodied in the theory and practice of the Soviet Constitution in any of its multiple mutations, on the other.”).

²⁶² The World Council of Churches includes several hundred Protestant and Orthodox denominations and associations. *World Council of Churches (WCC)*, USACHURCHES.ORG, <http://www.usachurches.org/organization/world-council-of-churches.htm> (last visited Feb. 28, 2013).

²⁶³ Mark D. Tooley, *Soviet Ghosts Haunt the World Council of Churches*, FRONTPAGE MAG. (Aug. 25, 2006), <http://archive.frontpagemag.com/readArticle.aspx?ARTID=2890>.

²⁶⁴ *See, e.g.,* David Gordon, *America First: The Anti-War Movement*, Charles Lindbergh and the Second World War, 1940–1941, N.Y. MILITARY AFFAIRS SYMP. FULL TEXT RES. (Sept. 26, 2003), http://bobrowen.com/nymas/americafirst.html#_ednref69 (examining the America First Committee, a domestic pacifist organization against American aid and entry into World War II, and describing that

after Vietnam, the American Friends Service Committee (a nominally Quaker group) and the Fellowship for Reconciliation became apologists for violent totalitarian third world revolutionaries, and they made common cause with pro-totalitarian communist organizations.²⁶⁵ Rather than promoting universal peace, pacifist groups tended to oppose the use of force or purchase of weapons by America and American allies, while finding little if anything to criticize about communist violence and the brutality of communist governments.²⁶⁶

A more traditional pacifist, Jacques Ellul, accused the 1960s pacifists of being highly selective in their attention. “The interesting poor are those whose defense is in reality an attack against Europe, against capitalism, against the U.S.A.”²⁶⁷ The uninteresting poor included Yemenites who were napalmed by the Egyptian air force, South Sudanese slaughtered by the North Sudanese, and many others.²⁶⁸

The same point could be made today. Peruse the website of almost any Christian “peace” group, such as the American Friends Service Committee,²⁶⁹ and compare the obsessive attention to the plight of the Palestinians who live under Israeli rule, with the amount of attention given to the persecution of minority groups in the Arab world by Arab governments. Or the attention given to the Israel’s actions in Lebanon versus the attention given to the neo-colonial actions in Lebanon of Syria and Iran.

Collectively, the National Council of Catholic Bishops did not become as radical as did many of their Protestant counterparts. For example, the Bishop’s 1983 statement “The Challenge of Peace” acknowledged that pacifism is a choice only open to individuals; governments must defend their people by force if necessary.²⁷⁰ The Bishops supported a nuclear

the organization argued that the “French and British colonial empires were not democratic” and that “[n]either members of the German-American Bund nor Communists, anxious to oppose war before June 22, had been welcome”).

²⁶⁵ GUENTER LEWY, *PEACE & REVOLUTION: THE MORAL CRISIS OF AMERICAN PACIFISM* 46–47, 171–73 (1988).

²⁶⁶ *See id.* at 171–72 (highlighting an anti-American statement made by the Fellowship for Reconciliation and arguing the organization adopted “positions and policies fully supportive of the practice of revolutionary violence”).

²⁶⁷ ELLUL, *supra* note 197, at 67.

²⁶⁸ *Id.* Four decades later, the West Sudanese people of Darfur did become what Ellul would call “interesting victims” for the broad public. *See Genocide in Darfur*, UNITED HUM. RTS. COUNCIL, <http://www.unitedhumanrights.org/genocide/genocide-in-sudan.htm> (last visited Feb. 28, 2013) (detailing the recent history of conflict in Sudan).

²⁶⁹ AM. FRIENDS SERV. COMM., <http://afsc.org> (last visited Feb. 28, 2013).

²⁷⁰ *See Nat’l Conf. of Catholic Bishops, Pastoral Letter, The Challenge of Peace: God’s Promise and Our Response* (May 3, 1983), available at <http://old.usccb.org/sdwp/international/TheChallengeofPeace.pdf> (“Catholic teaching begins in every case with a presumption against war and for peaceful settlement of disputes[,]” yet “[e]very nation has a right and duty to defend itself against unjust aggression.”),

freeze, which, while having the appearance of mutuality, would have benefited the U.S.S.R., which is why the Soviets promoted the idea via Communist front groups in the West. In turn, the American Bishops criticized claims that the United States and the U.S.S.R. were morally equivalent.²⁷¹

However, some Bishops did move to the extreme left. For example, Seattle's then-Archbishop Hunthausen announced that "one obvious meaning of the cross is unilateral disarmament."²⁷²

Many Catholic writers began deemphasizing "peace" as it had been understood during most of the church's history—as a well-ordered, peaceful, and just society, that Augustine had called *tranquillitas ordinis*.²⁷³ Instead, the emphasis shifted to the personal experience of peace.²⁷⁴ After all, author Tom Wolfe had dubbed the 1970s "the Me Decade,"²⁷⁵ so it was not surprising that peace would be redefined in self-centered terms. However, the new definition was inconsistent with Catholicism's long-term insistence on understanding the individual in the context of his place within society.

The extreme version of the personal approach was reckless self-indulgence that endangered innocents for the sake of one's perceived purity. For example, in the early 1980s, some bishops claimed that the only moral course of action for the United States to take was unilateral disarmament—even while they acknowledged that such disarmament would make war more likely.²⁷⁶

George Wiegel observed that much of the American Catholic leadership had abandoned the tradition that "moral choice was a function of reason, not sentimentality."²⁷⁷ On public affairs, the American Catholic hierarchy had moved a long way from the devotion to logic which had characterized Catholic scholars such as Augustine, Aquinas, and the Second Scholastics.

The anti-defense rhetoric from the American Catholic leadership and

²⁷¹ WEIGEL, *supra* note 13, at 273 ("[T]he facts d[o] not support the invidious comparisons made at times, . . . between our way of life, in which the most basic human rights are at least recognized if they are not always adequately supported, and those totalitarian and tyrannical regimes in which such rights are either denied or systematically repressed." (internal quotation marks omitted)).

²⁷² *Id.* at 241 (quoting Archbishop Raymond G. Hunthausen, Speech to the Pacific Northwest Synod of the Lutheran Church of America: Faith and Disarmament (June 12, 1981), available at <http://disarmnowplowshares.wordpress.com/2011/03/23/faith-and-disarmament/#more-2275>).

²⁷³ *Id.* at 28–31.

²⁷⁴ *See id.* at 237 ("The most important of these teachings were those that emphasized a personal conversion and/or *shalom* definition of 'peace' (and consequently deemphasized the concept of peace as *tranquillitas ordinis* . . .").

²⁷⁵ TOM WOLFE, *The Me Decade and the Third Great Awakening*, in MAUVE GLOVES & MADMEN, CLUTTER & VINE 126, 132 (1976).

²⁷⁶ WEIGEL, *supra* note 13, at 247.

²⁷⁷ *Id.* at 177.

the mainline Protestant leadership was objectively harmful to world peace, in that it encouraged the Soviet dictatorship to believe that America was weak and irresolute.²⁷⁸ Similar rhetoric from some English churches had helped precipitate World War II by convincing Hitler that the English lacked the will to fight.

Most American Catholic dioceses have a “Peace and Justice” or a “Justice and Peace” office or commission. None has a “Peace, Freedom, and Justice” office.²⁷⁹ The word choice reflects the declining interest of American Catholic leadership in addressing the lack of freedom in totalitarian countries. Likewise, mainline Protestant denominations have various social action organizations; these organizations tend to inhabit the far left of the political spectrum, find many things wrong with American self-defense, and are generally reticent about criticizing totalitarian regimes that are hostile to the United States.

Nevertheless, the position of most “anti-war” American Catholics from the 1960s onward has not been formally pacifist. First of all, with the exception of Plowshares and other small groups,²⁸⁰ which consider the modern church to be corrupt and in need of “restitution,” American Catholics have stayed within the broad confines of Just War teaching.²⁸¹ They have continued to recognize that, at least in theory, some military actions may be morally legitimate.

According to the Just War doctrine, the rules of the doctrine (e.g., use no more force than necessary) are to be determined by the church; the application of the doctrine is up to the people who have been assigned responsibility for the community.²⁸² Thus, whether a threat posed by an adversarial nation is serious enough to require military response is a prudential decision to be made by the king and the national council (or in modern times, by the President and Congress). A theologian might have an opinion on the prudential issue, but his views on the issue are not meant to be treated as authoritative by the laity.

Denver Archbishop Charles Chaput followed the tradition in his 2003 column in the *Denver Catholic Register* in which Chaput made the case against war with Iraq. The column was headlined as “My Opinion,” and Chaput’s text made it clear that Chaput was expressing his personal opinion only. Likewise, the joint 2003 statement of the American Bishops on the impending war in Iraq was careful to acknowledge that people could

²⁷⁸ *Id.* at 210 (“American Catholicism’s elites, by reinforcing Soviet perceptions of Western vacillation and incapacity, had actually become obstacles to change in the U.S.S.R. and in Soviet international policy.”).

²⁷⁹ *Id.* at 254.

²⁸⁰ See *infra* notes 268–71 and accompanying text (discussing the formation and doctrinal beliefs of the Plowshare movement).

²⁸¹ WEIGEL, *supra* note 13, at 169.

²⁸² CATECHISM OF THE CATHOLIC CHURCH ¶¶ 2307–17 (2d ed. 2000).

reasonably disagree about whether this particular war was just.²⁸³

F. *Gun Prohibition*

The substitution of sentiment for serious reasoning has also characterized some of the Catholic hierarchy's statements on firearms. On September 11, 1975, the United States Conference of Catholic Bishops, Committee on Social Development and World Peace published "Handgun Violence: A Threat to Life."²⁸⁴ The document was a "call for effective and courageous action to control handguns, leading to their eventual elimination from our society."²⁸⁵

In 1978, the same committee offered a statement on "Community and Crime." The committee announced:

We support the development of coherent national handgun control policy, [including] a several-day cooling-off period between the sale and possession; a ban on "Saturday Night Specials"; the registration of handguns; the licensing of handgun owners; and more effective controls regulating the manufacture, sale and importation of handguns. We recognize, however, that these individual steps will not completely eliminate the abuse of handguns. We believe that only prohibition of the importation, manufacture, sale, possession and use of handguns (with reasonable exceptions made for the police, military, security guards and pistol clubs where guns would be kept on the premises under secure conditions) will provide a comprehensive response to handgun violence.²⁸⁶

Notably absent from the statement was any serious evaluation of the social science regarding firearms laws and regulations. Nor was there discussion of the harms that would be inflicted on gun owners by the imposition of these laws, or of the harms to society that would result from the elimination of the most effective tool for self-defense in most situations.

²⁸³ "People of good will may differ on how traditional norms apply in this situation. The gravity of the threat and whether force would be preemptive are matters of debate, as are the potential consequences of failing to use military force." Reverend Wilton D. Gregory, *Statement on Iraq*, U.S. CONF. OF CATHOLIC BISHOPS (Feb. 26, 2003), www.usccb.org/sdwp/international/iraqstatement0203.htm.

²⁸⁴ Comm. on Soc. Dev. & World Peace, *Handgun Violence: A Threat to Life*, U.S. CONF. OF CATHOLIC BISHOPS (Sept. 11, 1975), <http://nccbuscc.org/sdwp/national/criminal/handguns.shtml>.

²⁸⁵ *Id.*

²⁸⁶ COMMUNITY AND CRIME: A STATEMENT OF THE COMMITTEE ON SOCIAL DEVELOPMENT AND WORLD PEACE, U.S. CATHOLIC CONFERENCE (1978), available at <http://nccbuscc.org/sdwp/national/criminal/gunsample.shtml>.

The existence of a federal constitutional right to arms,²⁸⁷ as well as a right to arms which is guaranteed by almost all state constitutions,²⁸⁸ likewise played no role in the statement.

A reader of the above documents would never be able to guess that the documents were written by people claiming to speak in the name of a church that has recognized self-defense as an inherent and inalienable natural right. The document disregarded the church's centuries of support for human rights and the dignity of the human person, by refusing to acknowledge the right of self-defense.

To the contrary, the documents simply assumed the validity—without serious inquiry or substantial evidence—of the claims of the gun prohibition lobbies. As on issues of national defense, the statements on personal defense replaced reason with emotion.

As a young man growing up in Poland, Karol Wojtyła (the future Pope John Paul II) enjoyed skiing and handguns.²⁸⁹ As Pope, he has not had much to say about civilian firearms ownership.

But beginning in the late 1990s, other Vatican officials have become increasingly hostile to gun owners. In 1997, Cardinal Roger Etchegaray, the President of Pontifical Council for Justice and Peace, issued a sharp attack on civilian gun possession.²⁹⁰

Over the last three decades, most of the mainline American Protestant church leaders have adopted anti-gun policies similar to those of the Catholic leadership. The issue is a serious one, but the church statements have rarely risen above the level of rephrasing the talking points of the gun prohibition lobbies.

VI. THE HARD LEFT BECOMES MAINSTREAM

A. *The Catholic Worker Movement*

In the United States, the original opponent of Catholic patriotic support of the United States and of national defense was the Catholic Worker Movement. The Movement was founded in 1933 by journalist Dorothy

²⁸⁷ U.S. CONST. amend. II.

²⁸⁸ *The U.S. Constitution and 44 States have Constitutional provisions enumerating the Individual Right to Keep and Bear Arms*, SAF WEBSITE, <http://www.saf.org/constitutions.html> (last visited Mar. 8, 2013).

²⁸⁹ As small children, Karol Wojtyla and his friend Boguslaw Banas played with a revolver which they secretly took from Karol's father, who was a career military man. *Wadowick: World's Spotlight*, N.Y. TIMES (Nov. 1, 1978), at 10 (of supplementary material supplied to news service subscribers).

²⁹⁰ *Vatican: Let's Take on Hand Guns*, ASSOCIATED PRESS NEWS ARCHIVE (Dec. 6, 1997, 10:18 AM), <http://www.apnewsarchive.com/1997/Vatican-Let-s-Take-on-Hand-Guns/id-6aec46306695aa997281a554e218c5dd>.

Day and the French immigrant Peter Maurin.²⁹¹ Day is “the one person most responsible for the shift of American Catholic thought away from the just war doctrine toward pacifism.”²⁹²

Before converting to Catholicism, Day had already joined the circles of the very far Left and became a pacifist.²⁹³ Her best friend left the United States to serve Stalin’s Soviet Union although the friend died not long after arriving in the workers’ paradise.²⁹⁴

The title of Day’s newspaper, *The Catholic Worker*, was directly evocative of the Communist Party’s propaganda newspaper, *The Daily Worker*. As far as we know, however, she did not join the Communist Party; although she very rarely found anything to criticize about Communism, there were ways in which her own doctrine diverged from strict Communism.

The Workers organization founded a string of Worker Houses across the country to provide a haven for poor people.²⁹⁵ Day refused to require that the people who lived there do any work or make any contribution to the maintenance of the place.²⁹⁶ As a result, the occupants included some people who gratefully received temporary assistance, got on their feet, and moved on—and also included many spongers and free-loaders who lived for years on the mail contributions that Day was raising in the name of helping the poor.²⁹⁷

She acknowledged that the freeloaders caused problems, but, as she wrote in an instruction letter to the other Worker Houses, “the more we suffer . . . the more we learn. Infinite patience, suffering is needed. And it is never-ending.”²⁹⁸ Removing the freeloaders would do no good, because “one may as well understand that the new batch will be exactly the same as the last. You cut off the head of the tyrant, and two others spring up.”²⁹⁹

Whatever one thinks about Day’s views, they are not in accordance

²⁹¹ WILLIAM D. MILLER, *A HARSH AND DREADFUL LOVE: DOROTHY DAY AND THE CATHOLIC WORKER MOVEMENT* vii (1973). Except as otherwise noted, the material on the Catholic Worker Movement and Dorothy Day is based on MILLER, *supra*. The conclusions are, of course, my own.

²⁹² MCNEAL, *supra* note 207, at x.

²⁹³ *Id.* at 29.

²⁹⁴ See MILLER, *supra* note 291, at 40–43 (discussing Day’s close friendship with her college-friend, Rayna Simon, who became a Communist and died shortly before entering the Lenin Institute “to be trained as a revolutionary”).

²⁹⁵ Melinda Tuhus, *The View From/A Catholic Worker House; Where Nonviolence and Commitment to the Community Rule*, N.Y. TIMES, Dec. 14, 1997, at 14CN.

²⁹⁶ MILLER, *supra* note 291, at 93.

²⁹⁷ See *id.* (providing a recollection by a founding member of the Workers regarding the first house of hospitality established by Dorothy Day, stating that “[W]e always had a ritual setting one extra plate for whoever came to the Catholic Worker was always invited to stay”); see also *id.* at 106 (stating that some challenged the Worker idea and “wanted to throw out the bums, the deadbeats, the freeloaders, the derelicts, and just use the Catholic Worker as a pure propaganda cell”).

²⁹⁸ *Id.* at 330.

²⁹⁹ *Id.*

with Catholic scriptures. In the book of *Judith* (which is canonical to Catholics), Judith cut off Holofernes's head, and the tyrant's army fled.³⁰⁰ *Judith* showcases the removal of the tyrant's head as an admirable act that had no adverse consequences.³⁰¹

As for the freeloaders, the early Christians faced a similar problem of people exploiting charity. In Paul's *Second Epistle to the Thessalonians*, he wrote, "[I]f any would not work, neither should he eat. For we hear that there are some which walk among you disorderly, working not all, but are busybodies. Now them that are such we command and exhort by our own Lord Jesus Christ, that with quietness they work, and eat their own bread."³⁰² For people who refused to obey the epistle, Christians should "have no company with him," although they should still regard him as a brother and not an enemy.³⁰³

When World War II broke out in Europe, after Britain and France refused to compel Poland to submit to Hitler's demand to cede some Polish territory to Germany, Day's response was powerful: "*The Catholic Worker* views the present conflict as an unjust war. We believe that Hitler is no more personally responsible than is Chamberlin or [French Prime Minister] Daladier or any other leader Let us realize that we are responsible as much as Hitler."³⁰⁴ According to Day, capitalism was the true cause of the war, and everyone who had tolerated the capitalist system was to blame.³⁰⁵

American workingmen were urged not to participate in war industries which shipped supplies to the Allies, because their "fellow workers are now dying for capitalist gain and imperialist ambition in Europe."³⁰⁶

Day's claim that Hitler was not "personally" responsible for starting the war was outrageous, but the claim was typical of the pacifist claim that violent aggressors are not personally culpable. Rather, society is to blame.

As for blaming capitalism, Day overlooked the obvious fact that the political party ruling Germany was the "National Socialist German Workers' Party,"³⁰⁷ and Hitler's economic policies were quite socialist. Although the means of production were nominally left in private hands, the entire economy was controlled by the government for the ostensible good of the nation as a whole, rather than for private gain. "Public need before

³⁰⁰ *Judith* 13:6–8, 14:19, 15:1–3 (Catholic Ed.).

³⁰¹ *Id.* 13:15–16.

³⁰² 2 *Thessalonians* 3:10–12.

³⁰³ *Id.* at 3:10–15.

³⁰⁴ MILLER, *supra* note 291.

³⁰⁵ *Id.*

³⁰⁶ Dorothy Day, *To The Workers*, CATHOLIC WORKER, Oct. 1939, at 1, 3, available at <http://www.catholicworker.org/dorothyday/daytext.cfm?TextID=347>.

³⁰⁷ *The Rise of Adolph Hitler: Nazi Party is Formed*, HISTORY PLACE (1996), <http://historyplace.com/worldwar2/riseofhitler/party.htm>; *The Rise of Adolph Hitler: Hitler Named Chancellor*, HISTORY PLACE (1996), <http://www.historyplace.com/worldwar2/riseofhitler/named.htm>.

private greed,” was a favorite Nazi slogan,³⁰⁸ and *der Führer* frequently denounced capitalism for promoting selfishness.³⁰⁹

Pearl Harbor brought no change in *The Catholic Worker*. The January 1942 issue announced “We Continue Our Christian Pacifist Stance.”³¹⁰ The *Worker* did lose many subscribers during the war years, as people who had liked the paper’s economics decided that they did not like the idea of being ruled by Hitler or Tojo.³¹¹ Some *Catholic Worker* leaders joined the military.³¹²

After World War II ended, *The Catholic Worker* opposed resistance to the Stalin regime. Day urged that the United States submit to the Soviet proposal to surrender what was then America’s nuclear monopoly.³¹³ If the United States did not unilaterally disarm, “we have nothing to look forward to but pulverization.”³¹⁴ She was sure that the Russians would not attack an unarmed people—although the Russians had attacked Latvia, Lithuania, and Estonia in 1939.³¹⁵

The *Catholic Worker* newspaper devoted much more attention to criticism of American militarism than Soviet militarism—even though the Soviet government devoted a much larger share of that nation’s gross national product to military spending, so that even middle-class people in the Soviet Union suffered at a standard of living below that of American poor people.³¹⁶ Day called her theory “distributionist,” but the distributionists paid little attention to the mal-distribution of goods in the Soviet Union.³¹⁷

Day’s pacifism did have one notable exception. She supported Fidel Castro’s revolution in Cuba, and imposition of a Communist dictatorship. In the July–August 1961 *Catholic Worker* (by which time it was quite clear that Castro was violating his promise to allow free elections, and had turned Cuba into a Soviet satellite), Day insisted, “We do believe that it is better to revolt, to fight, as Castro did with his handful of men, than to do

³⁰⁸ *The Progressive Era’s Legacy: FDR’s New Deal*, DISCOVERTHENETWORKS.ORG, <http://www.discoverthenetworks.org/viewSubCategory.asp?id=1228> (last visited Mar. 7, 2013).

³⁰⁹ *Nietzsche and The Nazis: Economic Controls*, STEPHENHICKS.ORG (2010), available at <http://www.stephenhicks.org/tag/nazi-anti-capitalism> (stating that a common Nazi slogan was “The common interest before self interest,” which emphasized that individuals and their property belonged to the German *people* and there was a duty to serve that public interest).

³¹⁰ MILLER, *supra* note 291.

³¹¹ *Id.*

³¹² *Id.*

³¹³ American traitors such as Julius and Ethel Rosenberg had not yet succeeded in transferring the atomic secret to the U.S.S.R. RONALD RADOSH & JOYCE MILTON, *THE ROSENBERG FILE: SECOND EDITION* (2d ed. 1997).

³¹⁴ MILLER, *supra* note 291.

³¹⁵ *Russian Front 1941–1945*, NAVAL HIST., <http://www.naval-history.net/WW2Campaigns/RussianFront.htm> (last updated Sept. 7, 2011).

³¹⁶ WEIGEL, *supra* note 13, at 152.

³¹⁷ MILLER, *supra* note 291.

nothing.”³¹⁸

Day also wrote that Cuban Christians partly deserved the persecution that they were getting from Castro, since they had not helped the poor.³¹⁹

Christian writers such as Day were (and are) extensively publicized by the Castro dictatorship. The writers have been used by Castro’s secret police to convince the Christians who are held as political prisoners that the prisoners are abandoned by their fellow Christians in the West.³²⁰

According to her biography, *A Harsh and Dreadful Love*, “With Dorothy Day and the Catholic Worker, history had already ended. All that was present and what mattered was bringing the spirit into the world.”³²¹

Simply put, Day’s theory is an updated version of the claim from the Dark Ages that Christians should simply resign themselves to suffering and misery, which is supposedly “God’s will.”

The *Catholic Worker* is still published today, and it still follows the editorial policy of its founders—relentless opposition to the United States, to American military power, and to a free economy—and limitless excuses for the opponents of American freedom and power. In late 2012, the United States Conference of Catholic Bishops began an inquiry to consider whether Dorothy Day should be recognized as a saint.³²²

B. *The Berrigan Brothers*

Nourished by the *Catholic Worker*, a more militant anti-American group arose in the Catholic Church in the 1960s.³²³

Daniel and Philip Berrigan could justly claim to have founded the

³¹⁸ GARY DORRIEN, SOCIAL ETHICS IN THE MAKING: INTERPRETING AN AMERICAN TRADITION 373 (2011) (quoting Dorothy Day).

³¹⁹ See Dorothy Day, *About Cuba*, CATHOLIC WORKER, July–Aug. 1961, at 1–2, 7–8, available at <http://www.catholicworker.org/dorothyday/reprint.cfm?TextID=246> (noting that because the place of Catholic Workers was with the poor, they often found themselves on the side of those persecuting the Church).

³²⁰ ARMANDO VALLADARES, AGAINST ALL HOPE: THE PRISON MEMOIRS OF ARMANDO VALLADARES 314–16 (Andrew Hurley trans., 1986).

³²¹ MILLER, *supra* note 291.

³²² *Bishops to Vote on Canonical Step for Dorothy Day Canonization*, U.S. CONF. OF CATHOLIC BISHOPS (Nov. 9, 2012), <http://www.usccb.org/news/2012/12-192.cfm>.

³²³ See MCNEAL, *supra* note 207, at 173 (describing an incident on May 17, 1968 when a group of nine men and women, including Philip and Daniel Berrigan, seized and burned records of the Selective Service Local Board No. 33 in Catonsville, Maryland, and labeling the Catonsville action as “symboliz[ing] the high point of American Catholic resistance to the Vietnam War in the 1960s”); see also WEIGEL, *supra* note 13, at 329 (acknowledging that even “key voices in the American Catholic elite (academic, journalistic, and even episcopal) have virtually abandoned the heritage of *tranquillitas ordinis*: the concept of peace as rightly ordered political community was notably absent from the post-1965 American Catholic debate”).

successor to the Catholic Worker movement.³²⁴ The Berrigan brothers were the most important Catholic anti-war activists during the Vietnam War.³²⁵ Daniel Berrigan was a priest, and his brother Philip was an ex-priest who had been excommunicated for marrying without having been released from his vows to the church.³²⁶ The Berrigans introduced Catholics to New Left ideology and tactics such as burning or pouring blood on the files of local draft boards.³²⁷

For a while, Daniel Berrigan served as a vice chairperson of the Fellowship of Reconciliation.³²⁸ Although the Fellowship had originally been Protestant-only, the ecumenical spirit of the 1960s reduced Protestant/Catholic suspicions, setting the stage for cooperative work in pacifist organizations and other groups.³²⁹

The Berrigans produced scathing denunciations of the United States conduct in Vietnam.³³⁰ They were silent about the frequent atrocities, war crimes, and human rights violations perpetrated by the North Vietnamese dictatorship and their Viet Cong puppets, such as the mass civilian executions at Hue during the Tet Offensive.³³¹ On the whole, the American pacifist community during the Vietnam War was extremely reluctant to criticize Ho Chi Minh's Stalinist dictatorship in North Vietnam. The pacifists scoffed at the "hawks" (supporters of fighting and winning the Vietnam War) who predicted that a "bloodbath" would follow a Communist victory in Southeast Asia.³³² Yet the record was already clear that the Communist conquest of North Vietnam in 1954 had led to more deaths than had the Communist war against French colonialism.³³³

A bloodbath was precisely what ensued in Cambodia, where the

³²⁴ See MCNEAL, *supra* note 207, at 173 (asserting that "Daniel Berrigan and his brother Philip, emerged as the architects of a new political and theological movement," labeled by "[t]he American press . . . the Catholic Left or the New Catholic Left").

³²⁵ *Id.* at 172.

³²⁶ See *id.* at 178–83, 205 (detailing the Berrigan brothers' respective paths to priesthood and Philip Berrigan's marriage to Elizabeth McAlister).

³²⁷ See *id.* at 173, 193 (describing the involvement of the Berrigan brothers in the seizing and burning of government records in Catonsville, Maryland and Philip's involvement pouring blood on selective service files in Baltimore, Maryland).

³²⁸ *Do This*, JCOOPERFORPEACE (Dec. 22, 2012), <http://jcooperforpeace.org/category/sandy-hook/>.

³²⁹ See MCNEAL, *supra* note 207, at 184 (acknowledging that during the 1960s Daniel Berrigan and the director of church relations for the Fellowship of Reconciliation "led Roman Catholic and Protestant retreats for clerics").

³³⁰ See *id.* at 202 (asserting that during 1970 "Daniel Berrigan's writings . . . repeatedly contended that the social institutions in America were corrupt and that idolatry undergirded the value system of America").

³³¹ WEIGEL, *supra* note 13, at 169–70.

³³² See *id.* at 208–09 (describing influences that led to an anti-anticommunism view in the Catholic debate on communism).

³³³ ELLUL, *supra* note 197, at 16.

Khmer Rouge murdered about a third of the population.³³⁴

During the war, many American pacifists worked diligently with Buddhist monks in South Vietnam, to try to find a “third way” for South Vietnam—as a neutral, democratic nation.³³⁵ The American-backed military dictatorship in South Vietnam usually tolerated the Buddhists.

In practice, Catholic pacifists in the West did not work for policies that would give South Vietnam a chance to evolve into a neutral democratic state. Rather, the pacifists lobbied for policies that would inevitably lead to the swift conquest of South Vietnam by the North. After American forces withdrew from Vietnam in 1973, the pacifists pushed, successfully, for terminating American military aid to the South in early March 1975.³³⁶ Predictably, the South Vietnamese army ran out of ammunition, and the North conquered the South in April 1975.³³⁷

Within a few months after the North subjugated the South, the “third force” Buddhists were in prison camps. The result was to be expected, since the Communists had wiped out independent Buddhism and Catholicism in the North after the Communists defeated the French colonialists in 1954.³³⁸

As the extremity of human rights violations in Communist Southeast Asia became undeniable, the American pacifist community split. The folksinger Joan Baez organized a 1979 joint letter to the Vietnamese Communist dictatorship, urging the release of prisoners detained because of political or religious views.³³⁹ Among the signers of the letter was Daniel Berrigan.³⁴⁰

The leading pacifist organizations, however, did not join in the letter. For example, the Fellowship of Reconciliation viewed any criticism of the human rights situation in Vietnam as undermining the Fellowship’s

³³⁴ See Zoe Daniel, *Four Face Khmer Rouge Trial*, ABC.NET (June 27, 2011, 8:19 AM), <http://www.abc.net.au/am/content/2011/s3254155.htm> (“About 1.7 million to 2.2 million people were killed so depending on estimates, between a quarter and a third of the Cambodian population were killed under the Khmer Rouge leaders . . .”).

³³⁵ See Charles Chatfield, *Misplaced Crisis*, in *PEACE BETRAYED? ESSAYS ON PACIFISM AND POLITICS* 41, 61 (Michael Cromartie ed., 1990) (describing pacifist Al Hassler’s continued work for the Buddhist “Third Solution” because it represented a course that he believed “came closest to a relative approximation of pacifist ends”).

³³⁶ *Vietnam: The End of the Tunnel (1973–1975)* (PBS television broadcast Oct. 4, 1983), transcript available at http://www.pbs.org/wgbh/amex/vietnam/series/pt_11.html (recounting the Ford Administration’s decision to send a congressional delegation to Vietnam and Cambodia to assess the situation in February and March 1975, which “concluded that South Vietnam had received enough American aid”).

³³⁷ *Id.*

³³⁸ Philip Taylor, *The Goddess, the Ethnologist, the Folklorist and the Cadre: Situating Exegesis of Vietnam’s Folk Religion in Time and Place*, 14 AUSTRALIAN J. ANTHROPOLOGY 383, 387 (2003).

³³⁹ DAVID CAUTE, *THE FELLOW TRAVELERS: INTELLECTUAL FRIENDS OF COMMUNISM* 399 (rev. ed. 1988).

³⁴⁰ *Id.*

lobbying for the normalization of U.S. diplomatic relations with Vietnam.³⁴¹ The American Friends Service Committee said that reports of genocide in Cambodia were “misinformation” created by the American government, with the purpose of undermining “the example of an alternative model of development and social organization.”³⁴²

Willingness to criticize Communist Vietnam did not mean that the Berrigans were becoming any less anti-American. On September 9, 1980, the Berrigans and their followers attacked a U.S. weapons facility and inaugurated the Plowshares movement.³⁴³ They declared: “The prophets Isaiah and Micah summon us to beat swords into plowshares.”³⁴⁴

Plowshares is highly selective in its reading of *Isaiah*. For example, Isaiah prophesied that before swords would be beaten into plowshares, Israel’s enemies would be utterly annihilated, “and the slain of the Lord shall be many.”³⁴⁵ Yet Plowshares is nearly as hostile to Israel as to the United States.

Whatever Jesus said about non-violence was part of a broader teaching about anger, hatred, and self-righteousness. The Berrigan movement displays all three in fulsome quantities. Pacifist Robert Pickus criticized the Berrigan movement for undermining American pacifism by conflating pacifism with “a politics of hate that locates all the world’s evil in the structure of American society and the evil motivations of an American establishment.”³⁴⁶

Thus, Plowshares vandals complain that their rights are violated when they are not allowed to raise legal defenses based on the theory that the United States and Nazi Germany are legal equivalents: American possession of nuclear weapons is equivalent to Nazis murdering millions of Jews, gypsies, and other people.³⁴⁷

Catholic Worker started out on the fringe of American Catholic thought, which in 1933 was vehemently anti-communist. Despite the setback during World War II, the Catholic Worker movement did succeed in moving the Catholic mainstream—especially the intellectual mainstream—closer to the Catholic Worker position. There are plenty of

³⁴¹ MCNEAL, *supra* note 207, at 221–22.

³⁴² Rael Jean Isaac, *The Violent Pacifists*, in PEACE BETRAYED? ESSAYS ON PACIFISM AND POLITICS 163, 166 (Michael Cromartie ed., 1990). After 1979, the AFSC became willing to denounce human rights violations of the Khmer Rouge regime. *Id.*

³⁴³ *Anti-war Activist Philip Berrigan Dies*, USA TODAY, Dec. 7, 2002, http://usatoday30.usatoday.com/news/nation/2002-12-07-obit-berrigan_x.htm.

³⁴⁴ WEIGEL, *supra* note 13, at 167. In context, the statements in *Isaiah* and *Micah* are not commands, but prophecies about what will take place “in the last days.” *Isaiah* 2:2–4; *Micah* 4:1–3.

³⁴⁵ *Isaiah* 66:16.

³⁴⁶ WEIGEL, *supra* note 13, at 170.

³⁴⁷ Brian Poster, *Berrigan Likens US to Nazis*, MILWAUKEE J., Oct. 25, 1973, pt. 1, at 13; Alan J. Craver, *Berrigan Sentenced to 30 Days for Columbia Protest*, BALTIMORE SUN (Sept. 2, 1993), http://articles.baltimoresun.com/1993-09-02/news/1993245020_1_berrigan-sentence-becker.

Catholic churches where the “social concerns” committees raise money for the “peace activists” of Plowshares who specialize in vandalizing their nation’s defense facilities. To see how mainstream the Berrigans have become, consider a 2006 article by James Marsh, then President of the American Catholic Philosophical Association. In the lead article of *Proceedings of the American Catholic Philosophical Association*, Marsh lauds Daniel Berrigan’s play about himself, *The Trial of Catonsville Nine*. Marsh argues that “the American Dream” is “profoundly anti-Christian,” that the modern United States is similar to the Hitler regime, that George Bush is a neo-fascist, and that Catholics should stop singing patriotic American songs, including the national anthem.³⁴⁸

VII. THE PAPACY OF JOHN PAUL II

Pope John Paul II took office in 1978.³⁴⁹ He was the first non-Italian Pope in many centuries, and as a Pope, he was a great symbol of hope to the oppressed people of the Warsaw Pact.

Marxists had long predicted the crisis of capitalism would lead to the system’s collapse due to its internal self-contradictions.³⁵⁰ In 1982, President Ronald Reagan told the British Parliament that “[i]t is the Soviet Union that runs against the tide of history . . . the march of freedom and democracy which will leave Marxism-Leninism on the ash-heap of history as it has left other tyrannies which stifle the freedom and muzzle the self-expression of the people.”³⁵¹

The Soviet Empire was beginning to crack. President Reagan ratcheted the arms race to new heights,³⁵² correctly seeing that capitalist American economy could handle a sharp increase in military spending, but

³⁴⁸ James L. Marsh, *Self-Appropriation and Liberation: Philosophizing in the Light of Catonsville*, 79. PROC. AM. CATH. PHIL. ASS’N 1, 6, 12, 16 (2005) (arguing that the U.S. is wrong to rule by force in the manner of “Alexander or Caesar or Napoleon or Hitler,” the U.S. system of “imperial militarism and violence” is “profoundly anti-Christian”, and that American patriotism has become representative of fascist behavior).

³⁴⁹ *His Holiness John Paul II: Short Biography*, HOLY SEE PRESS OFF., http://www.vatican.va/news_services/press/documentazione/documents/santopadre_biografie/giovanni_paolo_ii_biografia_breve_en.html (last updated June 30, 2005).

³⁵⁰ See KARL MARX & FRIEDRICH ENGELS, *THE COMMUNIST MANIFESTO* 41–42 (D. Ryazanoff ed., Eden Paul & Cedar Paul trans., Russell & Russell 1963) (1848) (predicting that the downfall of the bourgeoisie and the rise of the proletariat are inevitable events in the course of human history).

³⁵¹ President Ronald Reagan, Address to the British Parliament (June 8, 1982), available at <http://millercenter.org/president/speeches/detail/3408>.

³⁵² See Chester Pach, *The Reagan Doctrine: Principle, Pragmatism, and Policy*, 36 PRESIDENTIAL STUD. Q. 75, 80–82 (2006) (chronicling how the Reagan administration established a policy of supporting anti-Communist insurgencies such as increasing aid to Afghanistan to \$650 million); S. Plous, *Perceptual Illusions and Military Realities: The Nuclear Arms Race*, 29 J. CONFLICT RESOL. 363, 375–76 (1985) (finding that Soviet leaders during Reagan’s presidency prioritized maintaining a military superiority over the United States and believed it was US policy to bankrupt the Soviet Union with the arms race).

that the centrally-planned Soviet economy was already close to the breaking point.

Having invaded Afghanistan in 1979, the Soviet military was stuck in a quagmire with little prospect of victory against the heavily-armed population.³⁵³

The Afghanistan resistance allowed the growth of a peaceful social revolutionary movement in Poland, starting in the early 1980s.³⁵⁴ *Solidarnosc* leader Lech Walesa credited the Afghan rebels with creating the essential breathing space for Poland's movement of workers, peasants, and intellectuals. Bogged down in an unwinnable war in Afghanistan, the Soviet army was reluctant to undertake an invasion of Poland to crush *Solidarnosc*.³⁵⁵

Pope John Paul II undoubtedly could have ignited a holy revolution in Poland, had he chosen to do so, but he did not. In 1986, Pope John Paul II reaffirmed the Church's historical teachings on the legitimacy of the use of force as "a last resort" against tyranny.³⁵⁶ He cautioned that revolutions are not ends in themselves, but may lead to totalitarianism if they are not pursued in order to establish justice.³⁵⁷ The Pope's observation was consistent with the historical examples of the French Revolution, the Bolshevik Revolution, and the Cuban Revolution, among others.

He continued:

These principles must be especially applied in the extreme case where there is recourse to armed struggle, which the Church's Magisterium admits as a last resort to put an end to an obvious and prolonged tyranny which is gravely damaging the fundamental rights of individuals and the common good. Nevertheless, the concrete application of this means cannot be contemplated until there has been a very rigorous analysis of the situation. Indeed, because of the continual

³⁵³ See Fred Halliday, *Soviet Foreign Policymaking and the Afghanistan War: From 'Second Mongolia' to 'Bleeding Wound'*, 25 REV. INT'L STUD. 675, 682-84 (1999) (noting that while some Soviet leaders recognized in the early 1980s that expanding communism into Afghanistan was not likely to occur, a change in policy was not able to win approval by the Politburo until 1988).

³⁵⁴ See Edwina Moreton, *The Soviet Union and Poland's Struggle for Self-Control*, INT'L SECURITY, Summer 1982, at 86, 100 (noting that the Soviet Union's failure in its Afghanistan excursion was dividing the world communist camps, and creating an atmosphere where any new military action by the Soviet Union in eastern European countries would further strain support for the U.S.S.R.).

³⁵⁵ See Moreton, *supra* note 354, at 100 ("Coming hard on the heels of the Soviet invasion of Afghanistan, it would also have further tarnished the Soviet Union's image in the non-aligned movement and the third world.").

³⁵⁶ *Instruction on Christian Freedom and Liberation*, CONGREGATION FOR THE DOCTRINE OF THE FAITH, http://www.doctrinafidei.va/documents/rc_con_cfaith_doc_19860322_freedom-liberation_en.html (last visited Mar. 29, 2013).

³⁵⁷ *Id.*

development of the technology of violence and the increasingly serious dangers implied in its recourse, that which today is termed “passive resistance” shows a way more conformable to moral principles and having no less prospects for success.³⁵⁸

Here, the Pope encouraged “passive resistance,” while still recognizing that use of arms could be morally legitimate. In fact, passive resistance did work in much of Eastern Europe. The Communist governments of Poland, Hungary, Czechoslovakia, East Germany, and Bulgaria all collapsed in late 1989.³⁵⁹ The Romanian dictatorship, which had been the worst of the lot, also fell, but only because of a military coup, and it took a period of fighting in Romania before the old regime was defeated.³⁶⁰

The Pope had chosen his words carefully and had avoided the error made by the Eisenhower administration in Eastern Europe. Winning the 1952 U.S. election in which he had promised a “rollback” of Communism,³⁶¹ President Dwight D. Eisenhower’s administration allowed Radio Free Europe to incite revolution in the countries behind the Iron Curtain.³⁶² Yet, when the Hungarian people rose in revolution in 1956,³⁶³ the Eisenhower administration offered them no military support, and the revolution was crushed by the Soviet army.³⁶⁴

On the question of revolution, Catholic doctrine under John Paul II continued to acknowledge that the final decision is for the people, not the church. In *An Introduction to Catholic Social Teaching*, Jesuit Priest Rodger Charles explains that on the extremely serious issue of revolution against tyranny,

³⁵⁸ *Id.*

³⁵⁹ See Rasma Karklins & Roger Petersen, *Decision Calculus of Protestors and Regimes: Eastern Europe 1989*, 55 J. POL. 588, 588 (1993) (describing how the “world was astounded by popular mass protests bringing down the Communist regimes of Eastern Europe” in the fall of 1989).

³⁶⁰ See Monica Ciobanu, *Reconstructing the Role of the Working Class in Communist and Postcommunist Romania*, 22 INT’L J. POL., CULTURE & SOC’Y 315, 315–18 (2009) (“The period that preceded the collapse of the communist regime in Romania in the late 1980s for the industrial working class meant a life of material deprivation, fear, and a sense of total disconnection from the official proletarian ideology propagated by the Romanian Communist Party (RCP).”).

³⁶¹ See David Mayers, *Eisenhower’s Containment Policy and the Major Communist Powers, 1953–1956*, 5 INT’L HIST. REV. 59, 59 (1983) (discussing how Eisenhower’s administration “immediately assumed a militant public stand against communism, and employed the provocative rhetoric of ‘rollback’ and ‘liberation’”).

³⁶² See Johanna Granville, “*Caught With Jam on Our Fingers*”: *Radio Free Europe and the Hungarian Revolution of 1956*, 29 DIPLOMATIC HIST. 811, 811 (2005) (introducing Radio Free Europe as a prime catalyst of the anticommunist revolutions in 1989).

³⁶³ Csaba Bekes, *The 1956 Hungarian Revolution and the Great Powers*, 13 J. COMMUNIST STUD. & TRANSITIONAL POL. 51, 51 n.1 (2007).

³⁶⁴ See *id.* at 56–62 (discussing the political dilemma the Hungarian uprising caused for the Eisenhower administration, as well as the other Western powers, and the United States’ eventual decision not to provide any military aid to Hungary).

It is, of course, not for the Church to encourage, still less initiate, such action and she must always caution in favour of peace; but since the political order has its own autonomy under the natural law and it is for the laity to direct that order, then it is up to their properly informed consciences to decide when it is necessary. Their pastors can counsel them but the decision is not theirs to make.³⁶⁵

A. *John Paul II's Teaching on Self-Defense*

Addressing a group of soldiers, the Pope reaffirmed Augustine's position of *tranquillitas ordinis*—that true peace must include a justly-ordered society, not merely the absence of violence. Further, complete peace on earth was a vain utopian illusion:

Peace, as taught by Sacred Scripture and the experience of men itself, is more than just the absence of war. And the Christian is aware that on earth a human society that is completely and always peaceful is unfortunately a utopia and that the ideologies which present it as easily attainable only nourish vain hopes. The cause of peace will not go forward by denying the possibility and the obligation to defend it.³⁶⁶

In the 1995 *Evangelium Vitae*, Pope John Paul analyzed the paradoxes of self-defense:

[T]o kill a human being, in whom the image of God is present, is a particularly serious sin. *Only God is the master of life!* Yet from the beginning, faced with the many and often tragic cases which occur in the life of individuals and society, Christian reflection has sought a fuller and deeper understanding of what God's commandment prohibits and prescribes. There are in fact situations in which values proposed by God's Law seem to involve a genuine paradox. This happens for example in the case of *legitimate defence*, in which the right to protect one's own life and the duty not to harm someone else's life are difficult to reconcile in practice. Certainly, the intrinsic value of life and the duty to love oneself no less than others are the basis of *a true right to self-defence*. The demanding commandment of love of neighbour, set forth in the Old Testament and confirmed by Jesus, itself presupposes love of oneself as the basis of

³⁶⁵ RODGER CHARLES, AN INTRODUCTION TO CATHOLIC SOCIAL TEACHING 49 (1999).

³⁶⁶ William Saunders, *The Church's 'Just War' Theory (Part 1)*, ARLINGTON CATHOLIC HERALD, (Jan. 1, 1997), <http://www.catholicherald.com/stories/The-Churchs-Just-War-Theory-Part-1,6713>.

comparison: “You shall love your neighbour *as yourself*” (M[ar]k 12:31). Consequently, no one can renounce the right to self-defence out of lack of love for life or for self. This can only be done in virtue of a heroic love which deepens and transfigures the love of self into a radical self-offering, according to the spirit of the Gospel Beatitudes (cf. M[at]t[hew] 5:38–40). The sublime example of this self-offering is the Lord Jesus himself.

Moreover, “legitimate defence can be not only a right but a grave duty for someone responsible for another’s life, the common good of the family or of the State.” Unfortunately it happens that the need to render the aggressor incapable of causing harm sometimes involves taking his life. In this case, the fatal outcome is attributable to the aggressor whose action brought it about, even though he may not be morally responsible because of a lack of the use of reason.³⁶⁷

The Pope’s 1995 statement made essentially the same point that Father Rosmini had in 1823: when an aggressor is killed by someone acting in self-defense, the moral blame lies with the aggressor, not the defendant.

In 1996, the new *Catechism of the Catholic Church* formally adopted the Augustine/Aquinas teachings on Just War and self-defense.³⁶⁸

The legitimate defense of persons and societies is not an exception to the prohibition against the murder of the innocent that constitutes intentional killing. “The act of self-defense can have a double effect: the preservation of one’s own life; and the killing of the aggressor. . . . The one is intended, the other is not.”

. . . .

Love toward oneself remains a fundamental principle of morality. Therefore it is legitimate to insist on respect for one’s own right to life. Someone who defends his life is not guilty of murder even if he is forced to deal his aggressor a lethal blow:

“If a man in self-defense uses more than necessary violence, it will be unlawful: whereas if he repels force with moderation, his defense will be lawful. . . . Nor is it

³⁶⁷ John Paul II, *Evangelium Vitae*, THE HOLY SEE
http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html (last visited Mar. 5, 2013) (emphasis added).

³⁶⁸ CHARLES, *supra* note 365, at 55.

necessary for salvation that a man omit the act of moderate self-defense to avoid killing the other man, since one is bound to take more care of one's own life than of another's."

....

Legitimate defense can be not only a right but a grave duty for one who is responsible for the lives of others. The defense of the common good requires that an unjust aggressor be rendered unable to cause harm. For this reason, those who legitimately hold authority also have the right to use arms to repel aggressors against the civil community entrusted to their responsibility.³⁶⁹

On issues of war and peace involving terrorism, Pope John Paul II acquired a mixed record. The Vatican supported the war in East Timor (in which Catholics fought back against genocide by Muslim Indonesia), supported military action in Bosnia, and also supported the American invasion of Afghanistan in 2001.³⁷⁰

On the other hand, the Vatican opposed the 1991 Gulf War, even though the war was authorized by the United Nations.³⁷¹ The Vatican opposed the liberation of Iraq in 2003, and has been generally critical of Israeli resistance to Palestinian terrorism.³⁷² In light of Saddam Hussein's well-documented record of mass murder and other human rights violations, the 2003 liberation of Iraq could, arguably, be justified in accordance with the Vatican's 1994 statement about the affirmative duty to use force to protect victims of murder by government.³⁷³

Of course to recognize the doctrine of Just War in general does not mean that people will always agree on the justice of a particular war. The Catholic Just War doctrine explicitly states that it is up to the responsible rulers of a community (which, in a democracy, would include the people) to make their own personal decisions about whether or not a particular war is just.

³⁶⁹ CATECHISM OF THE CATHOLIC CHURCH: THE FIFTH COMMANDMENT ¶¶ 2263–65, available at http://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm.

³⁷⁰ See *Vatican Strongly Opposes Iraq War*, FOXNEWS.COM (Mar. 12, 2003), <http://www.foxnews.com/story/2003/03/12/vatican-strongly-opposes-iraq-war/> (discussing how Pope John Paul II has supported "humanitarian intervention to 'disarm the aggressor' in Bosnia and East Timor" and has repeatedly condemned terrorism following the 9/11 attacks).

³⁷¹ Alex Kingsbury, *A Rift over Iraq Between President and Pope*, U.S. NEWS (Apr. 16, 2008), <http://www.usnews.com/news/national/articles/2008/04/16/a-rift-over-iraq-between-president-and-pope>.

³⁷² *Id.*; Sandro Magister, *Vatican Geopolitics, Rome's Opposition to Israel, Point by Point*, CHIESA (June 11, 2003), <http://chiesa.espresso.repubblica.it/articolo/6991?eng=y>.

³⁷³ See THE PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, THE INTERNATIONAL ARMS TRADE: AN ETHICAL REFLECTION 13 (1994) (explaining the duty to intervene in favor of populations who are unable to provide for their own survival).

B. *The International Arms Trade*

As Pope John XXIII was historically linked to President Kennedy,³⁷⁴ Pope John Paul II was linked to Reagan.³⁷⁵ Together, they helped bring down the “Evil Empire.” Like President Reagan, John Paul II was not known as a hands-on administrator. John Paul II was a mystic, and a profoundly effective Pope, but he was not deeply involved in the administration of the worldwide church or, for that matter, the Vatican. Accordingly, for whatever actions the rest of the Vatican administration took on foreign policy, it is not entirely clear that those actions must necessarily have reflected the personal views of John Paul II. On other hand, he was the man in charge, and we do not have evidence that any of his highest Vatican officers went rogue and implemented policies with which they knew he disagreed.

In the Vatican, as in most parishes, the “Justice and Peace” unit is in the hands of the Left.³⁷⁶ In 1994, the Vatican’s Pontifical Council for Justice and Peace published *The International Arms Trade*—which affirmed in theory traditional Catholic teachings about personal and national self-defense, but then undermined those teachings with aggressive support for very repressive gun controls.³⁷⁷

The document recognized that “In a world marked by evil and sin, the right of legitimate defense by armed means exists. This right can become a serious duty for those who are responsible for the lives of others, for the common good of the family or of the civil community.”³⁷⁸ The document noted that “the right” to armed defense “is coupled with the duty to do all possible to reduce to a minimum, and indeed eliminate, the causes of violence.”³⁷⁹

Thus, armed defense was a “right” and a “duty” for families and for

³⁷⁴ See *Pope John XXIII, 1961: July–November*, JOHN F. KENNEDY PRESIDENTIAL LIBR. & MUSEUM, <http://www.jfklibrary.org/Asset-Viewer/Archives/JFKPOF-031-036.aspx> (last visited Mar. 11, 2013) (providing a series of correspondence between the office of President Kennedy and Pope John Paul XXIII).

³⁷⁵ See Carl Bernstein, *The Holy Alliance: Ronald Reagan and John Paul II*, TIME, Feb. 24, 1992, at 28 (discussing the international events that linked President Reagan and Pope John Paul II).

³⁷⁶ See David J. O’Brien, *What Happened to the Catholic Left?*, in WHAT’S LEFT?: LIBERAL AMERICAN CATHOLICS 255, 263 (Mary Jo Weaver ed., 1999) (“The Catholic left in the United States has long drawn on official teachings to argue that struggle for justice and peace is integral to the Church’s life and work. . . . [T]he Catholic left has taken heart from the continuing development of Catholic social teaching, not just at the level of the Vatican but in sister churches in Asia, Africa, . . . Latin America, and in the United States bishops’ pastoral letters of recent years.”).

³⁷⁷ See PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *supra* note 373, at 12, 29 (stating that “[t]he right of legitimate defense . . . can justify the possession or the transfer of arms,” and in contrast, concluding that States should “establish the political and social conditions that will allow for radical reduction of [arms] transfers”).

³⁷⁸ *Id.* at 12.

³⁷⁹ *Id.*

nations. Further, there was a “duty of intervening in favor of populations who are unable to provide for their own survival.”³⁸⁰ When, despite diplomacy, “populations are succumbing to the attacks of an unjust aggressor, [S]tates no longer have a ‘right to indifference.’ It seems clear that their duty is to disarm th[e] aggressor, if all other means have proved ineffective.”³⁸¹

Therefore, “[t]he principles of the sovereignty of states and of non-interference in their internal affairs . . . cannot be a screen behind which torture and murder can be carried out.”³⁸² Notwithstanding the principle of sovereignty, “a way must be found to defend persons, wherever they may be, against an evil of which they are nothing more than the innocent victims.”³⁸³

The 1994 statement provided an extremely broad duty upon nations to invade other nations when the human rights violations are grave and diplomatic means have failed. The 1994 statement was not novel, for it drew on tradition dating back to the Second Scholastics requiring respect for the sovereignty of non-Christian nations, while compelling the use of force to rescue people in those nations from murder by government.³⁸⁴

Yet while straightforwardly affirming self-defense in theory, *The International Arms Trade* took a hard line against the tools of self-defense, with gun control being justified as a means of preventing terrorists and criminal groups from obtaining firearms: “An indispensable measure would be for each State to impose a strict control on the sale of handguns and small arms. Limiting the purchase of such arms would certainly not infringe upon the rights of anyone.”³⁸⁵

Actually, the constitutions of Mexico, Guatemala, Haiti, the United States, and the constitutions of forty-four American states all guarantee a right to arms.³⁸⁶ So a “limit” which was taken to the extreme of

³⁸⁰ *Id.* at 13.

³⁸¹ 6 PASTORAL LETTERS AND STATEMENTS OF THE UNITED STATES CATHOLIC BISHOPS: 1989–1997, at 576 (Patrick W. Carey ed., 1998) (quoting John Paul II).

³⁸² John D. Carlson & Erik C. Owens, *Introduction: Reconsidering Westphalia’s Legacy for Religion and International Politics*, in *THE SACRED AND THE SOVEREIGN: RELIGION AND INTERNATIONAL POLITICS* 1, 9 (John D. Carlson & Erik C. Owens eds., 2003) (quoting John Paul II).

³⁸³ PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *supra* note 373, at 14.

³⁸⁴ See David B. Kopel et al., *The Human Right of Self-Defense*, 22 *BYU J. PUB. L.* 43, 65–72 (2007) (detailing views of Francisco de Victoria and Francisco Suárez).

³⁸⁵ PONTIFICAL COUNCIL FOR PEACE AND JUSTICE, *supra* note 373, at 27.

³⁸⁶ For Mexico, see David B. Kopel, *Mexico, Gun Laws*, in 2 *GUNS IN AMERICAN SOCIETY: AN ENCYCLOPEDIA OF HISTORY, POLITICS, CULTURE AND THE LAW* 402, 402 (Gregg Lee Carter ed., 2002). For Guatemala, see Brian Palmer, *Have Gun, Want to Travel: Do Other Countries Have a Constitutional Right to Bear Arms?*, *SLATE* (Dec. 14, 2010, 4:09 PM), http://www.slate.com/articles/news_and_politics/explainer/2010/12/have_gun_want_to_travel.html (stating that Article 38 of Guatemala’s constitution is as broad as American’s constitutional right to bear arms). For Haiti, see *id.* (stating that Article 268-1 of Haiti’s constitution has a limited right to bear arms in the home). For the United States, see U.S. CONST. amend. II (“[T]he right of the people to keep and bear Arms, shall not be infringed.”). For American state constitutions, see David B. Kopel,

prohibition would certainly infringe on the rights of some people.

In any case, the United States, Guatemala, Haiti, and Mexico easily meet the standard of “strict control”—unless one presumes that “strict control” is a misleading euphemism for “prohibition.” The United States has strict controls on arms exports,³⁸⁷ designed to do the best job possible of ensuring that American exports do not fall into the hands of criminals or terrorists.³⁸⁸ Since the Vatican’s proposal for “strict controls” was made as part of a document on *The International Arms Trade*, it would seem that other nations ought to consider emulating the United States by strengthening their arms export laws.

As for domestic possession of arms—although such possession was not the focus of the Vatican’s document—it should be understood that the United States has strict laws, although not prohibitory ones. If an American wishes to buy a gun from a retailer, the retailer must call the F.B.I. or a state equivalent to obtain permission for the sale.³⁸⁹ No other consumer product in the United States requires government permission for each and every retail transaction. The retailer is required to keep records of the sale for twenty years and the registration records are subject to government inspection.³⁹⁰ The only other consumer products subject to similarly strict registration are prescription drugs.³⁹¹

C. Cardinal Etchegaray

For international evidence of the mainstreaming of Dorothy Day and the Berrigans, one need only look at French Cardinal Roger Etchegaray, who served as the Vice-Dean of the College of the Cardinals, the third-highest official in the Roman Catholic Church.³⁹²

Etchegaray was President of the Pontifical Council for Justice and

What State Constitutions Teach About the Second Amendment,” 29 N. KY. L. REV. 827, 850 (2002).

³⁸⁷ See Adam Entous & Evan Perez, *White House Efforts to Relax Gun Exports Face Resistance*, WALL ST. J., May 2, 2012, at A1 (discussing the various laws regulating exports of guns from the United States).

³⁸⁸ See 22 U.S.C. § 2778(a)(2) (2006) (requiring that when issuing an export license, the decision should consider whether the export of the article “would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements”).

³⁸⁹ *National Instant Criminal Background Check System*, FED. BUREAU OF INVESTIGATION, <http://www.fbi.gov/about-us/cjis/nics> (last visited Mar. 4, 2013).

³⁹⁰ See 27 C.F.R. § 478.129(b) (2003) (requiring that all licensees retain forms for no less than 20 years after the date or sale of a firearm).

³⁹¹ See David B. Kopel, *Treating Guns Like Consumer Products*, 148 U. PA. L. REV. 1213, 1242–43 (2000) (comparing gun laws and other consumer products laws, and arguing that guns are the most severely regulated consumer product).

³⁹² *Etchegaray, Roger*, CATHOLIC NEWS AGENCY, <http://www.catholicnewsagency.com/resources/cardinals/cardinal-bishops/etchegaray-roger/> (last visited Mar. 4, 2013).

Peace (1984–1998) when that Council produced *International Arms Trade* and endorsed gun control.³⁹³ In February 2003, Etchegaray traveled to Baghdad and met with Saddam Hussein.³⁹⁴ Etchegaray and Hussein then conducted a joint press conference and together proclaimed *Salaam* (peace). Etchegaray issued a statement trying to avert the war.³⁹⁵ (Of course Saddam always could have averted the war by going into exile.)

A reasonable person might, in his considered judgment, have had misgivings about the March 2003 invasion of Iraq. But Etchegaray went far beyond attempting to find a diplomatic way to prevent armed conflict. He provided aid, comfort, and diplomatic legitimacy to a genocidal tyrant.³⁹⁶

Having overseen the publication of *The International Arms Trade* in 1994, with its endorsement of gun control as a means of keeping terrorists from obtaining guns, Etchegaray later endorsed the father of modern terrorism. On the day that Israel lifted the siege of Yassir Arafat's compound, and Arafat walked out a free man, a beaming Etchegaray raised Arafat's hand in a gesture of triumph.³⁹⁷ As the Cardinal celebrated Arafat, Arafat's organizations were plotting terrorist attacks on Israeli civilians.³⁹⁸

Historians have written many words arguing over the conduct of the Catholic Church during and before World War II.³⁹⁹ Critics of the Church point to the 1933 concordat between the Church and Hitler: the first diplomatic triumph of the Nazi regime.⁴⁰⁰ Historians debate whether the Church could have done more to stop the Holocaust.⁴⁰¹ Even the critics,

³⁹³ *Id.*

³⁹⁴ Alan Cooperman, *Vatican Weighs in Against War*, WASH. POST, Mar. 6, 2003, at A20.

³⁹⁵ See Cardinal Roger Etchegaray, *Special Envoy of John Paul II in Baghdad*, HOLY SEE (Feb. 16, 2003), available at http://www.vatican.va/holy_father/special_features/peace/documents/peace_20030216_card-etchegaray-iraq_en.html (emphasizing an urgent need for peace and believing that “peace is still possible in Iraq and for Iraq”).

³⁹⁶ See JOHN-PETER PHAM, *HEIRS OF THE FISHERMAN: BEHIND THE SCENES OF PAPAL DEATH AND SUCCESSION* 176 (2004) (“[F]ew papal diplomats would go as far as Cardinal Roger Etchegaray in his slavish accommodation to Iraqi dictator Saddam Hussein on the eve of the Second Gulf War.”).

³⁹⁷ Laura King, *Jubilant Tour for Arafat After Confinement Ends*, LAREDO MORNING TIMES, May 3, 2002, at 17A, available at <http://airwolf.lmtonline.com/news/archive/050302/pagea17.pdf>; *Arafat Leaves His Compound*, USA TODAY, (May 2, 2012), <http://usatoday30.usatoday.com/news/world/2002/05/01/Arafat-release.htm>. The notorious photo can be found at <http://instapundit.com/images/crdnlaraf.jpg> (last visited Mar. 11, 2013).

³⁹⁸ See Shmuel Bar, *Deterrence of Palestinian Terrorism: The Israeli Experience*, in *DETERRING TERRORISM: THEORY AND PRACTICE* 205, 214 (Andreas Wenger & Alex Wilner eds., 2012) (“While the Israeli siege strategy did result in protracted negotiations over the terms for freeing Arafat, it did not produce the deterrent or coercive effect that was intended.”).

³⁹⁹ See, e.g., MICHAEL PHAYER, *THE CATHOLIC CHURCH AND THE HOLOCAUST: 1930–1965* xiii (2000) (questioning whether the Catholic Church should have done more to protect Jewish people).

⁴⁰⁰ ECKHARD BERNSTEIN, *CULTURE AND CUSTOMS OF GERMANY* 87 (2004).

⁴⁰¹ See, e.g., PHAYER, *supra* note 399, at xiii (“No one would accuse the bishops or the pope of murdering Jews, but did they not have the duty or mission to urge Catholics to protect, not harm, Jews?”).

though, must acknowledge that the Vatican was in a precarious position during the war. Tiny Vatican City was surrounded by Fascist Italy, which was allied with Nazi Germany. A bolder policy by the Vatican might have resulted in the Vatican being occupied by Fascist forces.

Today, though, Vatican City is in the middle of the free and democratic nation of Italy. There was no good excuse for the Vatican's most prominent diplomat going out of his way to embrace and defend terrorists.

The best-selling book *Hitler's Pope: The Secret History of Pius XII*, featured an extremely unfair cover photograph. The cover showed Pius XII striding out of a government office building, which was guarded by a German soldier, while another officer saluted Pius XII.⁴⁰² The photograph created an impression of Pius XII actively collaborating with the Nazis because the guard was wearing the curved steel helmet, which most American readers associate with the Nazi *Wehrmacht*.⁴⁰³ In fact, the picture was taken before Hitler came to power and before Eugenio Pacelli became Pope Pius XII. The photo shows Pacelli, who was then a diplomat for the Vatican, leaving a meeting with the *democratic* government of Weimar Germany.⁴⁰⁴ The misleading use of the Pacelli photo was a form of anti-Catholic hate speech.

The photos of Cardinal Etchegaray with Saddam Hussein and Yassir Arafat, however, will deservedly live in infamy because those photos portray knowing collaboration between the Vatican and neo-Nazis. Saddam Hussein led the Ba'ath Party, which was founded in 1943 on explicit Nazi principles.⁴⁰⁵ He paid between \$10,000 and \$25,000 in rewards to families of terrorist suicide bombers in Israel.⁴⁰⁶

Yassir Arafat was the protégé of the Mufti of Jerusalem (Haj Amin Al Husseini), who traveled to Germany during World War II to ask Hitler to invade Palestine and kill all the Jews, who raised an Arab legion to fight for Hitler, and who asked Hitler to extend the Final Solution to North

⁴⁰² JOHN CORNWELL, *HITLER'S POPE: THE SECRET HISTORY OF PIUS XII* (2008); see also Ronald Rychlak, *A Different Read: Vatican Chronicles*, BRILL'S CONTENT (Apr. 2000), <http://www.brillcontent.com/hitler.shtml> (describing the cover photograph).

⁴⁰³ See Rychlak, *supra* note 402 ("Those who do not recognize the differences in uniform details could easily confuse the Weimar soldier with a Nazi soldier because of their distinctive and similar helmets.").

⁴⁰⁴ See *id.* (stating that the picture was taken as Pacelli was leaving a reception for German President Hindenburg in 1927).

⁴⁰⁵ JOSEPH SASSOON, *SADDAM HUSSEIN'S BA'ATH PARTY* 19, 24 (2012); see also George Kerevan, *The Syrian-Iraqi Baath Party and Its Nazi Beginnings*, ERETZISROEL.ORG, www.erezisroel.org/~jkatz/baath.html (last visited Apr. 15, 2013) (describing the Nazi influence on the Baath party).

⁴⁰⁶ *Saddam Rewards Suicide Bombers' Families*, FOXNEWS.COM (Apr. 4, 2002), <http://www.foxnews.com/story/0,2933,49462,00.html>.

Africa.⁴⁰⁷ Arafat always described Hussein as his role model and hero.⁴⁰⁸ In 2001, Arafat's Palestinian Authority published an Arabic edition of Adolf Hitler's *Mein Kampf*, which became an instant bestseller among Palestinians.⁴⁰⁹

Like Dorothy Day and the Berrigans, the Vatican, even under traditionalist Pope John Paul II, sometimes adopted the Berrigan-Day position that the use of violence was wrong when the American military did it, but not so when perpetrated by anti-American tyrants and terrorists.

VIII. AND THE LAITY?

Lutheran theologian Richard John Neuhaus suggested that a loss of faith was the main reason why so many Catholic and mainline Protestant leaders turned their churches into pulpits of the hard left.⁴¹⁰ Not truly believing that the Gospel was true, the leaders sought to make it socially useful.⁴¹¹ Perhaps that is one reason why today pacifism has greater respectability within orthodox Christianity than any time in the past 1700 years.

In *Christian Pacifism in History*, Geoffrey Nuttall offers alternative explanations for the increasing popularity of pacifism among mainline Protestant sects.⁴¹² Some of these trends began in the late nineteenth century, while others are more recent: more careful study paid to the personalities of Jesus and Paul; increasing presence of the traditional pacifist sects in leading universities; a revival of Quaker evangelism from 1895–1905; ecumenical cooperation and dialogue among Protestants, especially in the World Council of Churches; the formation of the Fellowship of Reconciliation pacifist network; and the increased urgency of questions of war because of the two World Wars and the Cold War.⁴¹³

The theories of Nuttall and Neuhaus are not incompatible. Except for the Quakers, the traditional Christian “Peace Churches” such as the Mennonites and Hutterites tended to be radically isolated from the world and from dialogue with other Christians. The ecumenical spirit of the twentieth century provided the small pacifist sects with an unparalleled

⁴⁰⁷ Joseph Farah, *Arafat, The Nazi*, WORLDNETDAILY.COM (Aug. 14, 2002, 1:00 AM), <http://www.wnd.com/2002/08/14876/>; Hal Lindsey, *Arafat's Nazi Connection*, WORLDNET DAILY.COM (Aug. 14, 2002, 1:00AM), http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=28603.

⁴⁰⁸ Lindsey, *supra* note 407.

⁴⁰⁹ Sean O'Neill & John Steele, *Mein Kampf for Sale, in Arabic*, TELEGRAPH (Mar. 19, 2002), www.telegraph.co.uk/news/main.jhtml?xml=%2Fnews%2F2002%2F03%2F19%2Fnmein19.xml.

⁴¹⁰ WEIGEL, *supra* note 13, at 239–40.

⁴¹¹ *Id.* at 239.

⁴¹² GEOFFREY F. NUTTALL, *CHRISTIAN PACIFISM IN HISTORY* 1–3 (Basil Blackwell & Mott 1971) (1958).

⁴¹³ *Id.* at 68–72.

opportunity to present their arguments to mainstream sects.

The twentieth century was by far the bloodiest in human history.⁴¹⁴ While the horrors of the century convinced many people of the urgency of resisting totalitarianism at the earliest stages, some Christians had different responses. Like Erasmus, some twentieth century Christians fixated on the horrors of war, to the point that peace at any price became their rule.

It is important to remember that the Christian churches of today consist of much more than just their high-ranking officials and their hard-left political action committees. The Catholic Church includes many lay Catholics who were never enchanted with Yassir Arafat and who believe that Israelis and Americans and everyone else has a God-given natural right of self-defense—including with handguns in the home.

Never before in American history has there been so much unanimity among the American Catholic hierarchy, mainline Protestant religious leaders, and Jewish religious leaders on political issues—coupled with such widespread dissent among the Catholic, Protestant, and Jewish laity. Both the leadership and the laity reflect legitimate traditions within their own faiths; both the leadership and the laity can be said to constitute elements of the religions' meaning.

In the long run, however, it seems unlikely that the great division between laity and the hierarchy can endure. Either the laity will move left, or the hierarchy will move back toward the center, or perhaps the laity will move to churches more in step with traditional teachings on warfare and self-defense. The decline of the mainline Protestant churches, coupled with the growth of evangelical churches, suggests that the latter development may already be taking place.

And perhaps there is a similar split in the Black community on the gun issue. According to a 2012 Reid/Ipsos poll, 58% of American Blacks have a favorable view of the National Rifle Association (“NRA”).⁴¹⁵ In the same poll, respondents were asked if they favored “more” or “less” gun regulation (with no option for keeping the status quo).⁴¹⁶ A large majority of Blacks preferred “more” to “less.”⁴¹⁷ It is possible, of course, to favor some additional control, while also having a favorable view of the NRA for promoting responsible gun ownership and gun rights in general. (Just as a person could have a generally favorable view of the ACLU, while still favoring some additional restrictions on speech or on reproductive rights.) But simply put, the Congressional Black Caucus (“CBC”), and many other

⁴¹⁴ James F. Hoge, Jr., *The Cruellest Century*, WASH. POST, Nov. 5, 2006, at T6.

⁴¹⁵ IPSOS, GUN RIGHTS/REGULATIONS POLL (2012), available at <http://www.ipsos-na.com/download/pr.aspx?id=11545>.

⁴¹⁶ *Id.*

⁴¹⁷ *See id.* (stating that 76% of blacks preferred more regulation, while only 19% preferred less regulation).

prominent Black political leaders, are nowhere near the center of the Black community on gun issues. Many CBC members vilify the NRA, and never, ever vote on the “pro-gun” side of an issue, even when an issue attracts overwhelming support from the rest of Congress.

So in assessing Johnson’s analysis of Black “orthodoxy” on the firearms policy and self-defense, it is worth remembering that the adherents to that orthodoxy are actually a rather small sect. The Black political elite may be “orthodox” in hostility to the right to use firearms for self-defense, but the Black public is far more diverse.