Belief in War

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War and Peace

Edited by

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Belief in War

MARY ELLEN O’CONNELL

Belief in war dominates our world. From Ukraine to Sudan to America’s ‘war on terror’, extraordinary resources are poured into militaries and arms races. The explanation for why belief in war has become prominent in foreign and security policy in Russia, the United States, China, NATO states and many other places is linked to the influence of Realist political theory. Pope St. John XXIII’s encyclical Pacem in Terris argued for honoring the alternatives to Realism – international law and institutions. It is time for an encyclical that responds directly to Realism and teaches belief in the authentic natural law norms of peace and equality.

The United States fought in Vietnam for eight long years, 1965–1973. It was on the losing side. The U.S. has been on the losing side of every war it has fought since 1945 except the 1991 Gulf War to liberate Kuwait. The Gulf War was also the only war the U.S. has fought since 1945 that complied fully with the United Nations Charter prohibition on the use of force in Article 2(4). Article 2(4) is derived from the ancient Just War prohibition on resort to war and is, therefore, both a legal and moral principle. U.S. wars persistently violate Article 2(4) because by the late 1950s, U.S. policy priorities had moved away from the prohibition, the Charter, and international law to policies reflecting the political theory of Realism. Realism now pervades thinking in the U.S. and among NATO member states. It promotes belief in war regardless of law, morality, and even the likelihood of military success. The Realist belief in war persuaded American policy makers to fight in Vietnam and then to keep fighting long after it was clear the U.S. could not win. The same belief accounts for the
long years of pointless fighting in Afghanistan and Iraq. It helps explain Russia’s invasion of Ukraine, Sudan’s civil war, and so much more.

Unlike the legal and moral prohibition on war, Realist political theory is relatively new. It emerged at the start of World War II, and managed in a few decades to displace international law as the foremost guiding principle of U.S. foreign and security policy. As a result, Realism has exercised extraordinary influence in NATO member states and beyond. To re-order U.S. and allied priorities to again place compliance with international law, cooperation within international organizations, and the moral and ethical principles that underlie each requires understanding how Realism came to have such radical influence on the post-World War II era.

1. The Rise of Realism and Its Impact
As early as 1951, the prominent American diplomat, George Kennan, urged abandoning the “legalistic-moralistic approach” in American foreign policy. He was the architect of post-war U.S. policy toward the Soviet Union. He promoted the nuclear arms race and proxy wars in order to counter the Soviets at every turn. This was the teaching of Realism, which also played a major role in convincing U.S. presidents to go into and stay in Vietnam for so many years. The famous Pentagon Papers written between 1967 and 1969 took up such questions as whether the U.S. could win in Vietnam and predicted the U.S. would lose. Nevertheless, military and political leaders hardly wavered from assuring allies and the American public that the war was going well.

Readers of the Pentagon Papers commonly assume the presidents believed the lies about the progress of the war account and so continued fighting a pointless and brutal conflict. For Leslie Gelb, who oversaw the drafting of the Papers, however, it was not the lies. It was policymakers’ belief in war and refusal—given that belief—to accept the truth. After the U.S. finally withdrew, its leaders never learned the most important lesson of the Vietnam War. They blamed the lies, and because they “never learned that darn lesson about believing our way into these wars, we went into Afghanistan and we went into Iraq.”

U.S. leaders have convinced allies around the world to believe in war, too, and, as a result, to commit vast resources to the preparation for war, including the acquisition of advanced weapons technology from nuclear
weapons to fully autonomous robotic weapons – weapons capable of selecting and killing without human input. The record of failed wars, the threat of mass annihilation from a nuclear attack, and an unknown future with autonomous weapons are not enough, however, to end the Realist belief in war. That will require the emergence of a more persuasive, alternative school of thought. It will require a return to the “legalism-moralism” of international law, multinational institutions, and new commitment to the imperative of peace.

Realism first emerged in Europe in the period between World Wars I and II. Writing in 1939, the British diplomat and academic, E.H. Carr, blamed international law, institutions, and the failure of military readiness for the outbreak of World War II.\textsuperscript{3} He argued instead for reliance on physical force as essential for national security. It is a conclusion drawn from the observations of 17th century British political theorist Thomas Hobbes. Hobbes saw human beings as simply unable to act for the good of others. For him, human beings are “essentially selfish, anti-social, and unable to learn from experience [...] the basis of political obligation is interest pure and simple; the idea of a sense of moral duty rising supreme over desire and passion is a figment of imagination [...].”\textsuperscript{4} He argued law is impossible at the international level because no government exists with coercive power over states. Carr based what he called ‘Realism’ on this dark view of human nature and international relations.

As the world emerged from the carnage of 1939–1945, people did not immediately embrace the new school of Realism. Instead, they committed as never before to international law, peace, human rights, prosperity, and an organization that could support these goals: the United Nations. The UN was created to “save succeeding generations from the scourge of war.”\textsuperscript{5} The Charter obligated all members to reject the use of force except in two narrowly defined situations: “if an armed attack occurs” and when expressly authorized by the Security Council. Just a few months after 51 states became founding members of the UN, foreign ministers of the United States, Russia, and the UK met in Moscow and agreed to the establishment of an international agency to oversee both development of peaceful nuclear power and the destruction of all existing nuclear weapons.\textsuperscript{6}

These selfless and courageous commitments soon gave way, however,
to the lure of Realism. By mid-1946, the U.S. had backed away from its agreement to destroy all nuclear weapons. Cold War competition with the Soviets was underway, encouraged by the Realist view that military competition was inevitable among states. International lawyers who were part of the renaissance of law and institutions after the war worked against these trends. Hersch Lauterpacht, originally from Lviv, Ukraine, was one of the most prominent. He had lost his family in the Holocaust. He survived because he left for the UK in the 1920s where he rose to become the Whewell Professor of Public International Law in Cambridge. He was in a position to contribute enormously to the design of the post-war legal order, and, in 1946, he published a passionate defense of that order against the rising Realist challenge. He extolled Hobbes’s contemporary, the 17th century Dutch jurist, diplomat and theologian, Hugo Grotius, the father of international law, for holding beliefs quite opposite to Hobbes. Grotius understood people to be social, other-oriented, and willing to sacrifice self-interest to live in peace. Lauterpacht contrasted Grotius with his own contemporary, Hans Morgenthau, who, like Lauterpacht, had studied with Hans Kelsen, the Austrian giant of international and constitutional law. Morgenthau, however, came to associate himself, like Carr, with Hobbes, rejecting the possibility that law can constrain force at the international level.

Despite Lauterpacht’s brilliance, Morgenthau has had the far greater influence. By 1948, he had published Politics Among Nations, a book still read by every student of international politics in the U.S. In 1949, when the Soviets acquired nuclear weapons, the U.S. followed Carr and Morgenthau, not Lauterpacht. For Realists national leaders have a duty to amass military assets, stay ahead in weapons research, and use of military force to achieve hegemonic status. This duty is higher than complying with the law – even law based on fundamental moral principle. Morgenthau gained some of these insights – certainly the “strong man” model of national leadership – from Carl Schmitt, the pro-Nazi lawyer and academic, who argued in the Interwar period that Germany should not have allowed itself to be dominated by other states through accepting their interpretations of what international law meant and mandated. Political science is dominated today by the view that international law is unimportant in international affairs. Given this influential perspective, international
lawyers have striven to remain relevant by shaping international law to be amenable to national policy rather than adhere to ancient norms.

By 1963, Pope St. John XXIII saw how post-war ideas were developing and published *Pacem in Terris*. The encyclical joins Lauterpacht in attempting to counter the Realist belief in weapons and war that had clearly grown at the expense of the United Nations, arms control, and the law of peace.11 Pope John warned of the “appalling slaughter” that would result from the use of nuclear weapons. Yet, he added a line to the encyclical showing how strong Realism had become by the early 1960s. It even influenced someone devoted to the teaching of Christ. Pope John wrote that “the monstrous power of modern weapons does indeed act as a deterrent [...]”.12 Deterrence, however, is a Realist concept lacking empirical, ethical, and legal support. States cite the need to deter as their primary excuse to retain weapons that can end life on the planet. Possession of weapons allegedly sends the message of “mutually assured destruction” should anyone consider launching a nuclear first strike. Pope Francis, however, “views nuclear deterrence not as a source of peace, but as a destabilizing element in the international system that creates a false sense of security, encourages the proliferation of nuclear weapons, threatens the environment and robs from the poor.”13 He signed the Nuclear Ban Treaty and “categorically condemned the possession of nuclear weapons as morally illicit.”14 It took 60 years and a pope from the Global South to state these truths about deterrence and nuclear weapons. Realism has been the obstacle until now and remains an obstacle to Pope Francis’s call for the elimination of all nuclear weapons.

*Pacem in Terris* also makes clear that war is not a “fit instrument” for the pursuit of justice in the world.15 Yet, by 1983, partly due to the influence of Realism’s belief in war, the American Catholic Bishops embraced a form of unlawful war known as “humanitarian intervention” in their 1983 document, *The Harvest of Justice is Sown in Peace*. A few years later, U.S. President Ronald Reagan introduced the Reagan Doctrine on using military force to install democratic regimes and to punish states that failed to conform to U.S. expectations. Reagan authorized unlawful uses of force in Central America, Grenada, and Libya. To claim the bombing of Libya in 1986, was lawful, the U.S. issued a new interpretation of the UN Charter right of self-defense. Until then, the U.S. and the Soviet Union,
in their constant competition, manipulated the facts surrounding military interventions but left standard interpretations of the law largely intact. With the Soviet Union in decline, the U.S. felt unconstrained in adapting the law to fit policy, an approach once advocated by Carl Schmitt. The U.S. could still claim to honor the law while using force at will. U.S. allies mostly went along.

From 1992 to 2003, the U.S. and Britain conducted air strikes over Iraq to enforce a “no-fly zone” on the flimsiest of legal grounds. In 1998, the U.S. bombed Sudan and Afghanistan to deter and disrupt suspected Al Qaeda operations. The target in Sudan was a pharmaceutical factory. In 1999, the U.S. led NATO states in bombing Serbia for 78 days during which 20,000 people died. The U.S. issued no official legal justification. In 2001, the U.S. and UK invaded Afghanistan with little proof that Afghanistan’s Taliban government bore responsibility for Al Qaeda’s terrorist actions in the U.S. on 9/11. The U.S. then declared a “war on terror” that continues to the present moment with drone strikes and commando raids beyond armed conflict hostilities. In 2003, the U.S., U.K., and Australia invaded Iraq on the basis of false evidence and an almost nonexistent legal argument. France has intervened in its former colonies many times on the pretext of an invitation. In 2011, NATO used excessive force in Libya, well beyond a Security Council resolution authorizing the protection of civilians. In 2014, the U.S. and U.K. increased their military presence in Iraq at the government’s invitation to counter ISIS, but then used force in Syria without the government’s consent.

In the same year, Russia occupied Crimea and began assisting armed separatists in eastern Ukraine. Russia parodied Western justifications for using force and faced hardly any consequences for its egregious violation of international law. It then launched a full-scale invasion of Ukraine in 2022. Again, Russia has issued a long list of justifications, all used since the end of the Cold War by the West, including the right of self-defense, humanitarian intervention, and intervention by invitation. Russian officials have cited the West’s unlawful uses of force in Serbia, Iraq, Libya, and Syria as precedents for the invasion. 16 It is little wonder that Pope Francis attempted to remain impartial in the conflict to gain the trust of the parties and bring peace urgently. There is blame all around for the decay in respect for international law and institutions.
2. The Return of Peace as the Purpose of Law

Law exists to constrain violence in human relations. It offers people an alternative to physical force in the settlement of disputes, but law depends on belief to be effective.\(^1\) The first philosophical theories about law linked the concept to humanity’s desire for social peace—for tranquility in order. For the Stoics and other ancient thinkers of the classical world the order observed in nature, as well as divine revelation and the pleasure of beauty all taught the value of a system to support order without violence.\(^18\) It was the Stoic Cicero who introduced a component of transcendent inspiration to natural law methodology. For him, contemplation of the divine—in or apart from nature—leads to insight respecting what it is that morality requires in the form of natural law principles and precepts.\(^19\) This includes the requirement that law made through consent-based methods known as positive law must conform to the natural law.\(^20\) Aquinas generally followed Cicero in the further development of natural law.\(^21\) He understood, as did Cicero, that the regulation of ‘destructive armed conflict’ is ‘one of the primary “law jobs” of the international community.’\(^22\) Cicero, Aquinas, and the later Scholastics all influenced Hugo Grotius, the father of international law, who provided a blueprint for world order in his seminal work, The Law of War and Peace.\(^23\) Grotius’s views are a stark contrast to those of contemporary Hobbes.

The history of law’s origins demonstrates the purpose of law is peace. Law emerged because people are naturally inclined to social life – life in community – and a life that requires order and peace through law, as the Catholic Church has taught since its earliest days.\(^24\) Nevertheless, Hobbes’s views still dominate, making the challenge of our time the same as in the 1960s. How can we promote the law and institutions of peace in the face of militant Realism? The obstacles are greater than at the time of Pacem in Terris, given that so much knowledge of law, in particular natural law, and its role have been lost. The people who survived the experience of the Second World War are passing away. Only one answer to persistent armed force seems to exist – more force.\(^25\) An approach to effectively challenge belief in war was laid out by Lauterpacht in 1946 and still applies. It is education in the true content of law. At the heart of his 1946 article is the statement that all law depends on the theory of natural law and that this must be expressly acknowledged in the case of...
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international law. Lauterpacht took a strong, principled position in support of law because he understood natural law and its moral claim of peace over amassing weapons and promoting war.

Part of the reason for Realism’s triumph has been the suppression of classical natural law in legal discourse. Positive law can be changed to suit national interests. Some scholars in an attempt to save natural law in a time of growing secularization have stripped natural law of its transcendent component. For Daston and Stolleis, the reluctance of scholars to look to “divine edicts,” and other sources of inspiration have led to “a collapse of natural law” into “positive law.” Thus, theories labeled natural law exist but tend to subjective, supporting theorists’ own preferences, including, at times, resort to war. A revival of natural law scholarship is beginning among international legal theorists, which can be the basis of a renaissance in law that finally responds effectively to Realism. The original renaissance was a return to classical Greek and Roman thought. Today’s renaissance be a return to classical natural law thought.

3. Conclusion
Law is an idea like Realism, but, unlike Realism, the idea of law is ancient. It conforms with enduring religious and philosophical principles. Law for the preservation of peace has been suppressed by the idea of Realism and its belief in war for too long. A new encyclical that moves the message of Pacem in Terris forward, responding to the lessons of the last 60 years is needed now. It can more boldly support international law and its natural law precepts, in particular, the prohibition of force. It can restore belief in peace.

Notes
4. Hersch Lauterpacht, The Grotian Tradition in International Law, British Yearbook of
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