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# The Contribution of the Just Policing Ethics of Gerald W. Schlabach to the Social Ethics of War and Peace

Dennis Purificacion

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THE CONTRIBUTION OF  
THE JUST POLICING ETHICS OF GERALD W SCHLABACH  
TO THE SOCIAL ETHICS OF WAR AND PEACE

A thesis by

Dennis Purificacion

Presented to

The Faculty of the

Jesuit School of Theology

of Santa Clara University

in partial fulfillment of the

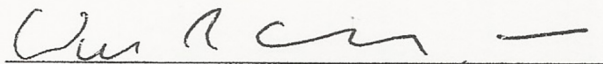
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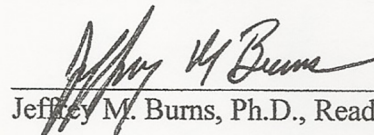
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## ABSTRACT

The following study investigates developments in the Just Policing ethics of Professor Gerald W. Schlabach, so as to contribute to the foundations of a new paradigm of the social ethics of war and peace. Traditional categories of the Just War Doctrine and Pacifism do not necessarily provide an adequate moral framework for critiquing the complexities of modern warfare in the 21st Century and call for a new synthesis. The principles provided by Schlabach in Just Policing provide a hermeneutical key in developing a global social ethics for humanitarian military intervention and even provide ethical foundations for the abolishment of war in the future. The thesis of this study is that Just Policing ethics provides a rapprochement between the Just War tradition and the Pacifist tradition. It breaches a centuries-old impasse between the two positions and contributes to the social ethics of war and peace today. The principles contained in this study help inform U.S. foreign policy and military ethics in the 21st Century. The study examines the early foundations of Just Policing, responses to it, Schlabach's replies as a maturing process, and eventual evolution of Just Policing as a model that can even replace the Just War Doctrine.

## DEDICATION

For her Heart...

...pierced with a sword (Lk. 2:35)...

...yet triumphant (Rev. 21:2).

## ACKNOWLEDGEMENTS

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For my many professors at the Graduate Theological Union, Jesuit School of Theology of SCU, Dominican School of Philosophy and Theology, and the Franciscan School of Theology, thank you! Thank you, Sr. Marianne Farina, C.S.C., Ph.D., for mentioning Just Policing to me. Thank you to Dean Allison Benders, J.D., Ph.D., Deborah Ross, Ph.D., Eduardo C. Fernandez, S.J., S.T.D., (for your smiles, encouragement and training in homiletics), Hung Pham, S.J., S.T.D., Lisa Fullam, D.V.M., Th.D., Thomas J. Massaro, S.J., Ph.D., Bruce H. Lescher, Ph.D., Corinna Gurrero, Ph.D. Thank you, John “Jack” Mitchell, S.J., for your guidance and spiritual direction. Last but not least, I am most humbled, Professor Gerald W. Schlabach, Ph.D., to study Just Policing ethics today! Any errors in this thesis are entirely mine. And I ask your pardon for my shortcomings.

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## INTRODUCTION

### Background to the Just Policing Proposition

The Second Vatican Council, in its Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, proposes, “to outline the true noble nature of peace, to condemn the savagery of war, and earnestly to exhort Christians to cooperate with all in securing a peace based on justice and charity and in promoting the means necessary to attain it, under the help of Christ, author of peace.”<sup>1</sup> Noting new armament developments by modern science that can cause “indiscriminate havoc beyond the bounds of legitimate defense” and citing Pope John XXIII’s Encyclical Letter on Establishing Universal Peace *Pacem in Terris*, Vatican II observes, “All these factors force us to undertake a completely fresh reappraisal of war.”<sup>2</sup> Prior to the Council, a heavy emphasis was placed on Just War thought over principles of nonviolent Pacifism, but today the Council seeks to bring the Church up to date with the modern world through *aggiornamento*.<sup>3</sup> “The hierarchical teaching propounds a just war doctrine but recognizes that pacifism is a legitimate option for individuals within the Church.”<sup>4</sup>

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<sup>1</sup> Second Vatican Council, “Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*),” *Vatican Council II: The Conciliar and Postconciliar Documents, New Revised Edition*. Austin Flannery, O.P., ed. (Collegeville: Liturgical Press, 1975, 1986, 1992, 1996), no. 77.

<sup>2</sup> *Ibid.*, no. 80; cf. also Pope John XXIII, “Encyclical Letter on Establishing Universal Peace (*Pacem in Terris*),” *Catholic Social Thought: The Documentary Heritage*. Thomas A. Shannon and David O’Brien, eds. (Maryknoll, NY: Orbis Books, 1992), pp. 131-161.

<sup>3</sup> Cf. John Mahoney, *The Making of Moral Theology: A Study of the Roman Catholic Tradition* (Oxford: Clarendon Press, 1987), in which Mahoney writes that “the increasing remoteness of his Church from modern life and from modern society led Pope John XXIII to decide that nothing short of a General Council of the whole Roman Catholic Church would be required to bring about his much-quoted *aggiornamento* of the Church, or quite simply to bring the Church up to date” (p. 326).

<sup>4</sup> Charles E. Curran, *The Development of Moral Theology: Five Strands* (Washington, D.C.: Georgetown University Press, 2013), p. 132. Curran also writes in *The Development of Moral Theology: Five Strands*, “In my judgment, there are aspects of both continuity and discontinuity. Vatican II in no way changed or even diminished one of the dogmas or core teachings of the Catholic Church. On the other hand, many other aspects did change” (p. 224).



David Hollenbach, S.J., observes two approaches in the Council's tone to provide a "completely fresh reappraisal of war" today: (a) the "fresh appraisal of war by the Council did lead church teaching to give a *new and stronger support to nonviolent approaches* to the struggle for justice"<sup>5</sup> and (b) at the same time, "It seems clear that the Council did not intend to commit the entire Church to a pacifist position that rejects all use of force as morally unacceptable."<sup>6</sup> However, while principles of nonviolence and elements of Pacifism emerged from the Council, Hollenbach concludes, "Thus, the Council did not abrogate the earlier tradition's commitment to defending innocent people and nations against injustice" and that the Council's "'fresh appraisal of war' does, however, make more evident than has often been the case in the past that the norms of just war are to be interpreted very strictly."<sup>7</sup>

Hollenbach reflects the insights of Lisa Sowle Cahill who evaluates Pacifism and Just War theory in the context of witnessing to the Kingdom of God and the Sermon on the Mount.<sup>8</sup> Cahill writes, "This variety of Roman Catholic pacifism is *an evolution out of and even past just war* theory, but it is still based on an assessment of justice in relation to the common good, and is articulated in terms of criteria or rules."<sup>9</sup> In the final analysis, two emerging positions – seemingly in contradiction with the other – became

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<sup>5</sup> David Hollenbach, S.J., "Commentary on *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World)," *Modern Catholic Social Teaching: Commentaries & Interpretations*, ed. Kenneth R. Himes, O.F.M., et al. (Washington, D.C.: Georgetown University Press, 2005), p. 282; emphasis mine.

<sup>6</sup> John Mahoney, *The Making of Moral Theology: A Study of the Roman Catholic Tradition* (Oxford: Clarendon Press, 1987), p. 282.

<sup>7</sup> *Ibid.*, p. 283.

<sup>8</sup> This S.T.L. thesis builds upon my previous M.A. Theology degree thesis which focuses on the moral theology of the Beatitudes as a way to renew moral theology today. It is noteworthy that my M.A. Theology thesis builds upon Lisa Sowle Cahill's focus on the Sermon on the Mount in moral theology. Cf. Dennis Purificacion, *The Contribution of Saint Augustine, Saint Thomas Aquinas, and Father Servais Pinckaers, O.P., to the Moral Theology of the Beatitudes (Mt. 5:3-12)*. M.A. Thesis (Washington, D.C.: The Catholic University of America, 1999).

<sup>9</sup> Lisa Sowle Cahill, *Love Your Enemies: Discipleship, Pacifism, and Just War Theory* (Minneapolis, MN: Fortress Press, 1994), p. 211; emphasis mine.

more pronounced in an unprecedented manner following Vatican II's call for a fresh appraisal of war: Pacifism and Just War. Eventually, this direction set by the Council during the latter part of the 20<sup>th</sup> Century bore fruit in the context of the U.S. Catholic social ethics of war and peace.

Most notably, in *The Challenge of Peace: God's Promise and Our Response—A Pastoral Letter on War and Peace*, the U.S. Catholic bishops taught both principles of nonviolent Pacifism and the Just War traditions. This document summarizes the post-conciliar development of Catholic social thought on war and peace.<sup>10</sup> In the section entitled, "The Presumption Against War and the Principle of Legitimate Self-Defense," the U.S. Catholic bishops wrote, "We must recognize the reality of the paradox we face as Christians living in the context of the world as it presently exists; we must continue to articulate our belief that love is possible and the only real hope for all human relations, and yet accept that force, even deadly force, is sometimes justified...."<sup>11</sup> Todd D. Whitmore states that the "significance of the document in American Catholic history is unquestioned."<sup>12</sup> Whitmore, in fact, recalls how Cardinal Joseph Bernardin called *The*

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<sup>10</sup> This S.T.L. thesis builds upon my previous Ed.D. dissertation in education administration which uses the work of John Courtney Murray, S.J., in *We Hold These Truths* (Lanham, MD: Rowman & Littlefield Publications, 1960, 2005) as a theoretical framework for analyzing the U.S. Catholic bishops. In this dissertation, one conclusion I reached is that the U.S. Catholic bishops contribute to society by exercising unique moral leadership in the public forum. Cf. Dennis Purificacion, *A Content Analysis of the Educational Reform Discussions of the 104<sup>th</sup> United States Congress in 1995 and Its Comparison with the United States Catholic Conference Document 'Principles for Educational Reform in the United States' (1995)*. Ed.D. Dissertation. (San Francisco, CA: University of San Francisco Institute for Catholic Educational Leadership, 2003).

<sup>11</sup> National Conference of Catholic Bishops, "The Presumption Against War and the Principle of Legitimate Self-Defense," *The Challenge of Peace: God's Promise and Our Response—A Pastoral Letter on War and Peace* (Washington, D.C.: United States Catholic Conference, 1983), no. 78; cf. also U.S. Conference of Catholic Bishops, *The Harvest of Justice is Sown in Peace* (Washington, D.C.: USCCB Publishing, 1994).

<sup>12</sup> Todd D. Whitmore, "The Reception of Catholic Approaches to Peace and War in the United States," *Modern Catholic Social Teaching: Commentaries & Interpretations*, ed. Kenneth R. Himes, O.F.M., et al. (Washington, D.C.: Georgetown University Press, 2005), p. 493.

*Challenge of Peace* “perhaps the most important and timely letter ever to come from the American Hierarchy in its nearly two centuries of existence.”<sup>13</sup> Hence, a decisively unique shift has taken place in Roman Catholic social ethics of war and peace.

In the decades following the Council’s call for a fresh appraisal of war, non-Catholic authors provide further highlights that benefited the conversation. A representative sample of Just War theorists and Pacifists, anticipated here for the purposes of this thesis, is seen for instance in Stanley Hauerwas and John Howard Yoder (among pacifists) and Paul Ramsey and Michael Walzer (among just war theorists).

Among Pacifists, Yoder acknowledges Reinhold Niebuhr’s influence upon contemporary war and peace ethics in the Protestant tradition. Yoder addresses war and peace in the context of a biblical exegesis of Jesus which Yoder calls the “politics of Jesus” in *Christian Attitudes to War, Peace, and Revolution*.<sup>14</sup> Yoder argues that the Just War theory has “failed the historical test”<sup>15</sup> and has been “used most regularly to bless whatever war a nation wanted to make.”<sup>16</sup> Yoder rebuts Niebuhr’s approach that a society of pure love is impossible, “Central to Niebuhr’s rejection of the Jesus of the New Testament as a model for our ethics is his conviction that the ethics of Jesus would be ineffective. But the longer I look at the question of effectiveness, the less I trust the question.”<sup>17</sup> For Yoder, Jesus rejects the violence of his time and thus embodies the model of Pacifism today. Much like Yoder, Hauerwas holds to returning to the source of

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<sup>13</sup> Ibid.

<sup>14</sup> John Howard Yoder, *Christian Attitudes to War, Peace and Revolution*. Theodore J. Koontz and Andy Alexis-Baker, eds. (Grand Rapids, MI: Brazos Press, 2009), p. 309.

<sup>15</sup> Glen H. Stassen and David P. Gushee, *Kingdom Ethics: Following Jesus in Contemporary Context* (Downers Grove, IL: IVP Academic, 2003), p. 168.

<sup>16</sup> Ibid.

<sup>17</sup> John Howard Yoder, *Christian Attitudes to War, Peace and Revolution*. Theodore J. Koontz and Andy Alexis-Baker, eds. (Grand Rapids, MI: Brazos Press, 2009), p. 318.

Jesus as the model. In *Against the Nations: War and Survival in a Liberal Society*, Hauerwas rejects violence and writes that “any resort to violence betrays one’s relation to God.”<sup>18</sup> As such, peaceful nonviolence is not an impossible ethic to live today but a calling.

Ramsey, like these sample Pacifists, responds to Reinhold Niebuhr; however, unlike the Pacifists, Ramsey actually builds upon Reinhold Niebuhr’s appeal to love to justify resort to war.<sup>19</sup> In *War and the Christian Conscience: How Shall Modern War Be Conducted Justly?*, Ramsey claims, “The change-over to just-war doctrine and practice was not a ‘fall’ from the original purity of Christian ethics.... The primary motive and foundation for approving Christian participation in warfare was the same as that which before, in a different social context, led Christians out of Christlike love for neighbor....”<sup>20</sup> The emphasis, then, is not the question of presumption against war but rather love of neighbor as the starting point for ethical reflection. Finally, in Walzer’s modern classic *Just and Unjust Wars*, Walzer writes about the “moral reality of war” which is “all those experiences of which moral language is descriptive or within which it

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<sup>18</sup> Stanley Hauerwas, *Against the Nations: War and Survival in a Liberal Society* (Minneapolis, MN: Winston Press, 1985), p. 135.

<sup>19</sup> For example, cf. Reinhold Niebuhr’s, “Must We Do Nothing?” from *War in the Twentieth Century: Sources in Theological Ethics*, ed. Richard B. Miller (Louisville, KY: Westminster/John Knox Press, 1992): “I find it impossible to envisage a society of pure love as long as man remains man” (p. 16) and a “society of pure love is impossible” (p. 15); cf. also George Weigel, *Tranquillitas Ordinis* (New York: Oxford University Press, 1987) in which he claims that the “Church’s most influential teaching centers have, in the main, largely abandoned their heritage” (p. ix); cf. also Nigel Biggar, *In Defence of War* (Oxford: Oxford University Press, 2013) in which Biggar writes, “In the Western world, and probably beyond, one of the oldest traditions of pacifism is Christian. While it has never been dominant in the Christian religion, it has persisted; and while non-religious pacifisms now abound, the Christian version remains important and has seen its influence grow in recent decades. My intention in this opening chapter is to argue against it” (p. 16) and “Now, as for most of my life, it is war that captures my imagination” (p. 1).

<sup>20</sup> Paul Ramsey, *War and the Christian Conscience: How Shall Modern War Be Conducted Justly?* (London: Cambridge University Press, 1961), p. xvii.

is necessarily employed.”<sup>21</sup> From this, he concludes the following about nonviolence, “Nonviolent defense depends upon noncombatant immunity”<sup>22</sup> and that we “must begin by insisting upon the rules of war...”<sup>23</sup> Walzer’s *Just and Unjust Wars* is “arguably one of the first, and by far the most influential, comprehensive non-religious expositions of just war theory.”<sup>24</sup> Whether Pacifist or a proponent of the Just War position, these authors reflect a centuries-old impasse that exists between these two traditions.

In 2002, the Mennonite-Catholic Theological Colloquium met. The MCTC was formed in 2000 to (1) initiate theological conversations between Catholics and Mennonites, a descendent of the Anabaptist tradition and a branch of the historical peace communities and (b) provide analysis and ecumenical dialogue between the Mennonite World Conference and the Pontifical Council for Promoting Christian Unity. One-third of the participants were Catholic, one-third were Mennonites, and one-third were from other traditions. This colloquium served to provide theological convergence between Just War thought and Pacifist thought.

### The Just Policing Proposition as Rapprochement

The following study devotes considerable attention to and systematically investigates the foundational writings and seminal thought of the Just Policing proposal in the work of Professor Gerald W. Schlabach. This study is situated in the wider literature of the social ethics of war and peace and the aspirations to abolishing war in the

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<sup>21</sup> Michael Walzer, *Just and Unjust Wars: A Moral Argument With Historical Illustrations*, 4<sup>th</sup> ed. (New York: Basic Books, 1977, 2006), p. 15.

<sup>22</sup> *Ibid.*, p. 334.

<sup>23</sup> *Ibid.*, p. 335.

<sup>24</sup> Gregory M. Reichberg, Henrik Syse, and Endre Begby, eds. *The Ethics of War: Classic and Contemporary Readings* (Malden, MA: Blackwell Publishing, 2006), p. 642.

twenty-first century. In particular, this research is located within the contemporary literature of the ethics of war and peace that followed the reforms of the Second Vatican Council and its call in *Gaudium et Spes* to “undertake a completely fresh appraisal of war.”<sup>25</sup> The centuries-old impasse between the traditional categories of the Just War tradition and the Pacifist tradition does not necessarily provide the needed moral critiques for the complexities of modern warfare today. Hence, the principles of Just Policing offer a hermeneutical key in moving forward towards a global social ethics for humanitarian military intervention and even provide ethical foundations for the abolition of war and sustainment of international peace in the future.

Furthermore, a comprehensive and thorough examination of the early stages of Just Policing provides not only the needed foundations but also new horizons for theological rapprochement and convergence of the Just War tradition and the Pacifist tradition. Points of commonality, as well as the distinctive features, provide greater insights into how moral theologians and ethicists today can construct and/or contribute to a new paradigm of policing action – both international policing and domestic policing – in understanding warfare strategy.

This thesis explores two major foundational works from Schlabach from 2002 and 2007, respectively. For the purposes of this thesis, I have delimited the investigation to this timeframe on the basis that this timeframe is the heart and opus magnum of the Just Policing proposal. This focus provides breadth of the topic but also the necessary depth.

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<sup>25</sup> *Gaudium et Spes*, no. 80; for some theological and philosophical bases for rapprochement, see for example James M. Gustafson, *Protestant and Roman Catholic Ethics: Prospects for Rapprochement* (Chicago: The University of Chicago Press, 1978): “This is to claim that the task [of rapprochement] undertaken in this book is important; the extent of success in fulfilling it is a matter about which I, indeed, have good reasons to be modest. If its effect is only to stimulate critical rejoinders, or to prompt colleagues to take the discussion a step or two further, I shall be satisfied” (p. ix).

The first major work is *Just Policing: Mennonite-Catholic Theological Colloquium 2002*.<sup>26</sup> The second work is *Just Policing, Not War: An Alternative Response to World Violence*.<sup>27</sup> These two major works summarize Just Policing and its contribution to the justice of war and peace.

### Thesis Statement

Just Policing offers a rapprochement between the Just War tradition and Pacifist thought. Just Policing contributed to the social ethics of war and peace today.

### Methodology

Thomas J. Massaro, S.J., states, “A new orientation suggests that peace be the beginning premise rather than the conclusion of one’s methodology.”<sup>28</sup> He provides a methodological framework for this study. In current rapprochements towards discussions on war and peace in the U.S., Massaro identifies two methods of analysis: (1) The prophetic stance “focuses critically on what kind of people we will become if we continue to act the way we have been.”<sup>29</sup> This was the heart of a moral analysis where the notions of Just Policing and new Just War and Pacifist developments are needed to break an impasse in contemporary discussions. This is significant for this thesis in that

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<sup>26</sup> Cf. Gerald W. Schlabach, “Just Policing: How War Could Cease to be a Church-Dividing Issue,” *Just Policing: Mennonite-Catholic Theological Colloquium 2002*, ed. Ivan J. Kauffman, Bridgefolk Series, no. 2 (Kitchener, Ontario: Pandora Press, 2004), pp. 19-75, and cf. Gerald W. Schlabach, “Just Policing: Response to the Responses,” *Just Policing: Mennonite-Catholic Theological Colloquium 2002*, ed. Ivan J. Kauffman, Bridgefolk Series, no. 2 (Kitchener, Ontario: Pandora Press, 2004), pp. 112-126.

<sup>27</sup> Cf. Gerald W. Schlabach, ed. *Just Policing, Not War: An Alternative Response to World Violence* (Collegeville, MN: Liturgical Press, 2007).

<sup>28</sup> Thomas J. Massaro, S.J., and Thomas A. Shannon, *Catholic Perspectives on Peace and War* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2003), p. 124.

<sup>29</sup> *Ibid.*, p. 131.

an underlying assumption of this thesis is that theological rapprochement and breaking centuries-old impasse *is* possible. (2) Second, Massaro identifies a “substantive analytic orientation” that does not “approach the question from the same stance as the traditional just war theory.”<sup>30</sup> While the traditional Just War and traditional Pacifist approaches were included in this thesis, the orientation of this study approaches the discipline outside these two major approaches. A necessary approach, then, in this thesis includes other variables and factors that lie outside the traditional theological Just War criteria and outside the Pacifist tradition.

### Significance

Peaceful relations among the community of nations remain fragile at the outset of the twenty-first century. Wars, conflicts and rumors of war affect millions of lives, particularly the innocent and little children not interested in violence. By examining the moral categories of war, this thesis contributes to the justice and social ethics of war and peace at the international and national levels. Bishop Robert McEloy of San Diego writes, “For the first sixty years of [the twentieth] century, the question of what role morality plays in the formulation of foreign policy lay at the very heart of international study of foreign relations. But during the past quarter [of the twentieth] century, in contrast, the role of morality in international affairs has been banned to the periphery of the field. ... But if the role of morality in the formulation of foreign policy has come to occupy a periphery place in the field of international relations, it has become an ever

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<sup>30</sup> Ibid., p. 131.



more prominent part of the field of applied ethics.”<sup>31</sup> McElroy continues that we must find ways “in which moral norms can substantially influence foreign-policy decision making.”<sup>32</sup>

The practical importance of this study is significant in the cause of international justice and global stability and peace, particularly for the United Nations and nationally with the United States Congress. Jack Mahoney observes, “The influence of the United States of America on the modern human rights movement is nowhere more evident than in its central contribution to setting up and giving direction to the United Nations Organization, including what emerged as its prominent concern for universal human rights.”<sup>33</sup> As such, the Just Policing proposal has widespread international significance to international law, peace and justice, U.S. military ethics, and views of war and warfare strategy, particularly for the United Nations, for many generations to come.<sup>34</sup>

Secular academics, public policy makers and think tanks will benefit from further reflection on how Just Policing can affect their work and decision making. Just Policing ethics emerges out of a unique Christian heritage and contributes to secular, non-religious social ethics of war and peace. In this regard, William R. O’Neill, S.J., writes, “I question

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<sup>31</sup> Robert W. McElroy, *Morality and American Foreign Policy: The Role of Ethics in International Affairs* (Princeton: Princeton University Press, 1992), pp. 3-4.

<sup>32</sup> *Ibid.*, p. 4.

<sup>33</sup> Jack Mahoney, *The Challenge of Human Rights: Origin, Development, and Significance* (Oxford: Blackwell Publishing, 2007), p. 43; see also Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001) and Jack Donnelly, *Universal Human Rights in Theory and Practice, Third Edition* (Ithaca, NY: Cornell University Press, 2013).

<sup>34</sup> For relevant U.S. military ethicists, see for example Martin L. Cook, *The Moral Warrior: Ethics and Service in the U.S. Military* (Albany: State University of New York Press, 2004) and George R. Lucas, Jr., and W. Rick Rubel, *Ethics and the Military Profession: The Moral Foundations of Leadership, Third Edition* (San Francisco: Learning Solutions, 2010); for examples of secular war ethics approaches, see Nicholas Fotion, *War and Ethics: A New Just War Theory* (New York: Continuum International Publishing Group, 2007) and Terry Nardin, ed., *The Ethics of War and Peace: Religious and Secular Perspectives* (Princeton: Princeton University Press, 1996).

the methodological reduction of the just-war norms to a purely secular doctrine, independent of their origins in Christian tradition.”<sup>35</sup> O’Neill continues, “Christian thinking about just war norms cannot be abstracted from the narratives that hand them on. Consider how the ‘grammar’ of just-war norms is embedded in Christian tradition.”<sup>36</sup> This thesis, then, is significant in addressing the role of religious ethical thought *vis-à-vis* secular ethics and military ethics on Just War and Pacifism today.

Furthermore, this study is situated specifically within contemporary Catholic moral theology literature of war and peace during the time of the Second Vatican Council until the time of Pope Francis.<sup>37</sup> There are two major literature sources emerging today in Catholic moral thought: Just War theorists and Pacifist theorists. On the one hand, Just Policing is significant *vis-à-vis* the principles of Just War and the duty to protect the innocent as an act of charity to neighbor. On the other, it is significant for Pacifist theorists inasmuch as police action and humanitarian assistance are also an act of charity to neighbor. The reflections in this thesis address how Just Policing contributes to internal doctrinal developments within Catholic Christianity to war and peace today.

Finally, there are ecumenical implications of this study for Mennonite-Catholic relations whereby a long-standing impasse between the two religious traditions can be

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<sup>35</sup> William R. O’Neill, S.J., “The Violent Bear It Away: Just War and U.S. Military Policy in the Eyes of Catholic Teaching,” *Faithful Citizenship: Principles and Strategies to Serve the Common Good*, Dennis Hamm, S.J., and Gail S. Risch, eds. *Journal of Religion & Society*, Supplemental Series 4 (2008): 81, <https://dspace2.creighton.edu/xmlui/bitstream/handle/10504/64720/2008-31.pdf?sequence=1> accessed April 24, 2017.

<sup>36</sup> *Ibid.*, 82.

<sup>37</sup> Cf. for example Pope Francis, “Message for 50<sup>th</sup> Anniversary of the World Day of Peace,” Pontifical Council for Justice and Peace from <http://www.iustitiaetpax.va/content/giustiziaepace/magisterium/wdp/nonviolence--a-style-for-politics-for-peace---message-for-the-50.html> accessed April 20, 2017, and cf. Pope Francis, “Message to the Nonviolence and Peace Conference (11 April 2016),” Pontifical Council for Justice and Peace from <http://www.iustitiaetpax.va/content/giustiziaepace/en/archivio/news/2016/pope-francis--message-to-the-the-nonviolence-and-just-peace-conf.html> accessed April 20, 2017.

bridged and serve as a model between Catholics and branches of Reformed Christianity. The relationship of historical peace ecclesial communities and the institutional Catholic Church will benefit from this study.<sup>38</sup> Moral theologians in the various Christian scholarly community will find this study helpful to their contribution to the ethics of nonviolence, war and peace today. This study will be beneficial for theological and philosophical scholars as well as development and/or revision of official church statements in major churches and ecclesial communities in the immediate future.

### Outline of Thesis

The following thematic sequence: (1) thesis, (2) antithesis, (3) synthesis, (4) maturation, and (5) transformation determines the major themes of this study. Following an Introduction, the thesis then focuses in Chapter One on the initial stages of Just Policing at a watershed conference in 2002, where foundational assumptions and multiple strains of thought are unpacked and summarized throughout the chapter. In Chapter Two, I then highlight counter-arguments from four notable scholars, and this in turn is followed by Schlabach's response to the responses. This type of Hegelian thesis-antithesis-synthesis format of sorts assists in understanding a more comprehensive dynamic of the Just Policing proposal that emerged during its nascent stages. Chapter Three subsequently focuses on the maturation of Just Policing thought since its first formulations and notes significant points of growth and insight. After focusing on the

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<sup>38</sup> See, as examples, Pontifical Council for Justice and Peace, "Nonviolence and Just Peace: Contributing to the Catholic Understanding of and Commitment to Nonviolence (Vatican Conference, Rome, 11-13 April 2016)" from <http://www.iustitiaetpax.va/content/giustiziaepace/en/eventi/convegni-realizzati/2016/nonviolenza-e-pace-giusta--un-contributo-alla-concezione-cattoli.html> accessed April 21, 2017, and Pontifical Council for Promoting Christian Unity, "Called Together to be Peacemakers: Report of the International Dialogue Between the Catholic Church and the Mennonite World Conference, 1998-2003," *Information Service* 2003-II/III, no. 113 (2004): 111-148.

seminal work around the timeframe of 2002 and 2007, this chapter concludes the study and briefly examines potential areas for transforming the Just War tradition and even the Pacifist tradition into *just* Just Policing. The following definition of terms is provided here:

#### Definition of Terms

Humanitarian Military Intervention: Armed international to halt egregious human rights abuses and genocide.<sup>39</sup> It is notable that Lisa Sowle Cahill argues that the Just Peacemaking consensus is weakest around the ethical justification of coercion.<sup>40</sup>

Just Peacemaking: A third paradigm for the ethics of peace and war that emerged in response to World War II and the threat of World War III during the Cold War, Just Peacemaking theory fundamentally assumes the inadequacy of debates between Pacifism and Just War theory and is defined in this study as “a worldwide awareness [to] develop effective war-preventing practices.”<sup>41</sup> During the 1990s, twenty-three Christian ethicists gathered and articulated ten practices for abolishing war. The ten principles of just peacemaking are based on Jesus’ way of peacemaking.

Just Policing: “*Policing* seeks to secure the common good of the very society within which it operates; because it is embedded, indebted, and accountable within that community, according to the rule of law, it has an inherent tendency to minimize recourse to violence.”<sup>42</sup> Based on ecumenical dialogues between the Mennonite World

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<sup>39</sup> Glen H. Stassen, *Just Peacemaking: Ten Practices for Abolishing War* (Westminster: John Knox Press, 1992), p. 26.

<sup>40</sup> Cf. Lisa Sowle Cahill, “Just Peacemaking: Theory, Practice, and Prospects,” *Journal of the Society of Christian Ethics* 23, no. 1 (2003): 195-196, 200-204.

<sup>41</sup> Glen H. Stassen and David P. Gushee, *Kingdom Ethics: Following Jesus in Contemporary Context* (Downers Grove, IL: IVP Academic, 2003), p. 169.

<sup>42</sup> Gerald W. Schlabach, ed. *Just Policing, Not War: An Alternative Response to World Violence* (Collegeville, MN: Liturgical Press, 2007), p. 69.

Conference and the Pontifical Council for Promoting Christian Unity between 1998-2003, the Just Policing proposal converges on the Pacifist and Just War positions and seeks to provide a church-unifying instead of a church dividing approach to the ethics of war and peace. Just Policing should be distinguished from Just War which “may also seek to secure the common good of a society, of course. But because it extends beyond that society through threats to other communities, [Just War] has an inherent tendency to break out of the rule of law.”<sup>43</sup>

Methods of Analysis (Analytic): One of the major “key considerations for a new evaluation of war.”<sup>44</sup> Based on the call of Vatican II’s Pastoral Constitution on the Church in the Modern World, Massaro proposes a two-fold method of analysis for evaluating the morality of warfare that is prophetic and analytic. “In addition to the prophetic dimension there is also a substantive analytic orientation being developed to examine the question of the morality of war in our day. However, this orientation does not approach the question from the same stance as the traditional just war theory. Rather, this analytic orientation looks at [aspects such as] the cost of war and the consequences of war in terms of the psychological, physical, and resource dimensions.”<sup>45</sup>

Methods of Analysis (Prophetic): One of the major “key considerations for a new evaluation of war.”<sup>46</sup> Based on the call of Vatican II’s Pastoral Constitution on the Church in the Modern World, Massaro proposes a two-fold method of analysis for evaluating the morality of warfare that is prophetic and analytic. “Instead of focusing on

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<sup>43</sup> Ibid.

<sup>44</sup> Thomas J. Massaro, S.J., and Thomas A. Shannon, *Catholic Perspectives on Peace and War* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2003), p. 129.

<sup>45</sup> Ibid., p. 132.

<sup>46</sup> Ibid., p. 129.

the specific strategic and defense-oriented concepts that have been so much a part of the just war theory, the new prophetic orientation focuses critically on what kind of people we will become if we continue to act the way we have been.”<sup>47</sup>

Modern Peace Ethics: A recently developed hermeneutical narrative and paradigmatic shift in present-day approaches to war and peace whereby the point of departure is grounded in presumption of peace as opposed to evaluating criteria of the justice of warfare. “A central theme...is that narratives regarding the history of Christian arguments about war and peace are best served by paying close attention to the historical record. Doing justice to the specificity of the discussions of the ethics of war in different thinkers requires carefully considering the historical events to which they responded.... Moreover, a fresh appreciation of the history of Christian reflection on this topic must hold open certain critical questions....”<sup>48</sup>

Pacifism: This approach can be defined with the statement, “There is no warrant to destroy human life.”<sup>49</sup> “Whereas those contributors coming from a just war perspective view forceful military intervention as justified in these cases where just peacemaking practices fail to prevent the outbreak of conflict, pacifist contributors remain reluctant to do so. A similar fault line is evident in recent discussions involving Christian pacifists and other Christians who hold more of a just war perspective in connection with an emerging norm that the United Nations and the World Council of Churches refer to as a ‘responsibility to protect’ (R2P), which is primarily preventive in

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<sup>47</sup> Ibid., p. 139.

<sup>48</sup> Heinz-Gerhard Justenhoven and William A. Barbieri, Jr., eds., *From Just War to Modern Peace Ethics* (Berlin: Walter de Gruyter & Co., 2012), p. 3.

<sup>49</sup> John Howard Yoder, *Christian Attitudes to War, Peace and Revolution*. Theodore J. Koontz and Andy Alexis-Baker, eds. (Grand Rapids, MI: Brazos Press, 2009), p. 29.

orientation, but allows for forceful intervention where genocide, for example, is occurring.”<sup>50</sup>

Peacebuilding: Peacebuilding, as defined by the United Nations, is “aimed at assisting countries emerging from conflict, reducing the risk of relapsing into conflict and at laying the foundations for sustainable peace and development.”<sup>51</sup> In this study, it is similar to *jus post bellum*.

Peacekeeping: The act of assisting countries torn by conflict to create conditions for lasting peace. There are three principles that are “inter-related and mutually reinforcing” that define peacekeeping: (1) consent of the parties to the conflict; (2) impartiality (which is distinct from neutrality or inactivity); (3) non-use of force except in self-defense and defense of the mandate by the international community.<sup>52</sup> “Today's multidimensional peacekeeping operations are called upon not only to maintain peace and security, but also to facilitate political processes, protect civilians, assist in the disarmament, demobilization and reintegration of former combatants; support constitutional processes and the organization of elections, protect and promote human rights and assist in restoring the rule of law and extending legitimate state authority.”<sup>53</sup> In this study, peacekeeping is similar to the category of *jus in bello* actions.

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<sup>50</sup> Mark Allman and Tobias L. Winright, *After the Smoke Clears: The Just War Tradition and Postwar Justice* (Maryknoll, NY: Orbis Books, 2010), 7-8; see also Shirley C. DeWolf, “A Responsibility to Protect: Some Considerations for the Church,” *The Responsibility to Protect: Ethical and Theological Reflections*, eds. Semegnish Asfaw, Guillermo Kerber, and Peter Weiderud (Geneva: World Council of Churches, 2005), pp. 108-113, in which she writes, “It is clear that the responsibility to protect has been at the core of the church’s mission since the beginning of Christendom...however, the practice of the church has not effectively reflected this central mission” (p. 108).

<sup>51</sup> United Nations, “What We Do? Maintain International Peace,” <http://www.un.org/en/sections/what-we-do/maintain-international-peace-and-security/index.html> accessed March 19, 2015.

<sup>52</sup> United Nations, “What is Peacekeeping?” <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml> accessed March 19, 2015.

<sup>53</sup> United Nations, “What We Do? Maintain International Peace,” <http://www.un.org/en/sections/what-we-do/maintain-international-peace-and-security/index.html> accessed March 19, 2015.

Peacemaking: The act of the international community to “practice preventive diplomacy and to employ and support mediation in order to head off potential crises at an early stage.”<sup>54</sup> The act is also extended beyond traditional preventive diplomacy to involve disciplines such as poverty eradication and development, human rights and the rule of law, elections and building of democratic institutions, and small arms control. In this study, it falls in the category of *jus ad bellum*.

Responsibility to Protect (R2P): “R2P consists of three major prongs: the responsibility to prevent; the responsibility to react; and the responsibility to rebuild. From a just war perspective, the responsibility to rebuild corresponds with *jus post bellum*.”<sup>55</sup>

Violence: “Violence as an act can be defined either with reference to the *source* of the violence or with reference to the *recipient* of the violence.”<sup>56</sup> “If an act of violence means to harm or injure a person, then the term *violence* should not be restricted simply to physical or bodily harm. Violence is an attack upon the dignity of the person in his or her psychosomatic wholeness. Disrespect for another person or verbal abuse of another are violent acts.”<sup>57</sup>

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<sup>54</sup> United Nations, “Prevention and Mediation,” <http://www.un.org/undpa/en/diplomacy-mediation> accessed April 20, 2017.

<sup>55</sup> Mark Allman and Tobias L. Winright, *After the Smoke Clears: The Just War Tradition and Postwar Justice* (Maryknoll, NY: Orbis Books, 2010), p. 180; see also Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Malden, MA: Polity Press, 2009).

<sup>56</sup> Duane K. Friesen, *Christian Peacemaking and International Conflict: A Realist Pacifist Perspective* (Scottsdale, PA: Herald Press, 1986), p. 143.

<sup>57</sup> *Ibid.*



## CHAPTER ONE

### JUST POLICING FOUNDATIONS: A WATERSHED MOMENT

Having presented in the Introduction the background and need for this study, in this chapter, I focus considerable attention and analysis on early foundational writings and seminal thought of the original Just Policing proposal, responses to the proposal, and eventual synthesis. First, I systematize and explain Schlabach's vital research paper on the Just Policing proposal. The main part of this first part revolves around a main axis of (a) Just Policing *vis-à-vis* the Just War tradition and (b) Just Policing *vis-à-vis* the Pacifist tradition. Second, I present substantial first reactions to Schlabach's proposal through four scholars. These four scholars and their critical reactions to Schlabach's work comprise an essential part of any Just Policing developments. Third, I summarize Schlabach's synthesis of these main ideas into two notable findings involving a genus-species counter-argument and the notion of vocation in Just Policing. Through an in-depth systematization of Just Policing thought and my extracting of substantial intellectual positions via a thesis, antithesis, and synthesis model, a mature exploration of Just Policing from 2002 will emerge. This chapter, which focuses on the main impetus of Just Policing in 2002, is followed by a chapter on Schlabach's work five years later in 2007.

#### Foundations of Schlabach's Just Policing Proposal (2002)

In 2002, the Mennonite-Catholic Theological Colloquium (MCTC) engaged in a foundational dialogue over the issue of Just Policing. MCTC was formed in 2000 in

order to (1) initiate a “sustained theological conversation” between Mennonites (which find their historical roots in the Anabaptist tradition) and Catholic scholars, and (2) provide background and analysis for international ecumenical dialogue that began with the Mennonite World Conference and the Pontifical Council for Promoting Christian Unity.”<sup>58</sup> This conversation is part of the Bridgefolk Series which is a movement among Mennonites and Catholics who “come together to celebrate each other’s traditions, explore each other’s practices, and honor each other’s contribution to the mission of Christ’s Church.”<sup>59</sup> This document is uniquely foundational in *Just Policing*. It is one of two documents on which my thesis has been narrowed in scope and in its investigation. The first of the two documents contain nuances and foci that form the heart and soul of *Just Policing* without which other conversations about *Just Policing* would not be developed. In his first paper, Schlabach initially proposes the substance of his case. It is then followed by four initial reactors who respond to him. And then Schlabach replies to the four scholars’ responses.

Schlabach’s initial foundational paper is divided into four main parts: (1) a general introduction highlighting historically foundational sources from which *Just Policing* draws its substantial argument; (2) *Policing and the Just War tradition*; (3) *Policing and the Pacifist tradition*; (4) practical application of *Just Policing* in Mennonite and Catholic settings where Schlabach modestly rehearses *Just Policing* in very practical, everyday settings. Ivan J. Kauffman, who edits the papers that appeared in *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, writes in 2004, “A

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<sup>58</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002* (Kitchener, Ontario: Pandora Press, 2004), p. 7.

<sup>59</sup> Bridgefolk, “Home,” [www.bridgefolk.net](http://www.bridgefolk.net) accessed March 19, 2015.

summary of Schlabach's paper was published in *America* (July 7-14, 2003) and a book length set of essays on the topic, authored by both Mennonite and Catholic theologians, is currently underway."<sup>60</sup> The papers at the colloquium in 2002 comprise the main foci of Chapter One and Chapter Two, while the book length set of essays that were eventually published in 2007 are the main foci of Chapter Three.

### Foundational Sources for Early Just Policing

In his general introduction entitled "War: Can We Have It Both Ways?" Schlabach defines the who and what of Just Policing by identifying Roman Catholic sources and historic peace churches sources. He then draws a fine distinction between war and policing. These intellectual foundations provide critical insights into nascent Just Policing thought and the case for later theological convergence beyond a centuries-old impasse.

Two significant points of departure are a church document from the Second Vatican Council and Mennonite theologian John Howard Yoder's *Christian Witness to the State*. Schlabach briefly mentions in passing the contribution of Augustine and Ambrose who rely on Cicero in their social ethics of war and peace, but the significant point of Schlabach's departure lay in both Vatican II and Yoder. This *point d'departu* is a vital theoretical framework in Schlabach's approach that signifies the heart of Just Policing's theoretical framework. Citing Vatican II, Schlabach re-echoes his opening approach from the Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*), "All these considerations compel us to undertake an evaluation of war with an

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<sup>60</sup> Ibid., p. 18.

entirely new attitude.”<sup>61</sup> Here, Schlabach appeals to Vatican II calling for an entirely new attitude – sometimes translated as a fresh approach for the study of war – and he calls for new ways of looking at the ethics of war and peace. Notably absent was the language of Just War.

Moreover, Schlabach simply does not identify the text from the Council but the post-conciliar context that followed Vatican II. “Since the Second Vatican Council, however, the Catholic Church has also given a new level of recognition to vocational pacifism, at least.”<sup>62</sup> Following this observation, Schlabach cites another section of the same Vatican II document where Vatican II praises “those who renounce the use of violence.”<sup>63</sup> Just Policing here finds a credible founding in Vatican II.

Following Vatican II in the post-conciliar period, the U.S. Catholic bishops wrote *The Challenge of Peace* which “explicitly paired the traditions of just war and pacifism or active nonviolence as legitimate responses to war.”<sup>64</sup> Schlabach provides the grounding here of both the Just War tradition and the Pacifist tradition. This foundational text for Schlabach is significant for our purposes on the basis that Schlabach, in Just Policing, bridges the Just War tradition with the Pacifist tradition. He optimistically sees that the

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<sup>61</sup> Second Vatican Council, Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*), no. 80.

<sup>62</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 20.

<sup>63</sup> The full text from *Gaudium et Spes* 78 is cited as follows in Schlabach’s Footnote #3: “[W]e cannot fail to praise those who renounce the use of violence in the vindication of their rights and who resort to methods of defense which are otherwise available to weaker parties too, provided this can be done without injury to the rights and duties of others or of the community itself” (p. 59).

<sup>64</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 20., which cites in Footnote #4 the National Conference of Catholic Bishops, *The Challenge of Peace: God’s Promise and Our Response* (Washington, D.C.: United States Catholic Conference, 1983): “Catholic teaching sees these two distinct moral responses as having a complementary relationship, in the sense that both seek to serve the common good. They differ in their perception of how the common good is to be defended most effectively, but both responses testify to the Christian conviction that peace must be pursued and rights defended within moral restraints and in context of defining other basic human values” (no. 74); cf. also U.S. Conference of Catholic Bishops, *The Harvest of Justice is Sown in Peace* (Washington, D.C.: USCCB Publishing, 1994).

perception and reality of the impasse between the two is a significant contribution of Just Policing. Just as Vatican II acknowledges Pacifist thinking in the moral problem of war and peace, so too the U.S. bishops follow suit and hold that both the Just War tradition and the Pacifist tradition are licit forms of addressing war. Schlabach does not propose an either/or case where one or the other exclusively represents the Christian response to war but makes a compelling both/and case.

It is noteworthy to contrast here the U.S. Catholic bishops' approach sanctioning the paired traditions as legitimate responses with the U.S. Methodist bishops approach. In *Defense of Creation*, Schlabach highlights how the Methodist bishops "made a similar affirmation of both traditions"<sup>65</sup> insofar as each tradition served "as a partial but vital testimony to the requirements of justice and peace."<sup>66</sup> The language of both traditions being partial but vital in *Defense of Creation*, and the language of both traditions being legitimate responses to war in *Challenge of Peace*, provide a united, ecumenical front of two major U.S. denominations essentially speaking similar thoughts. Schlabach, however, is quick to note that historic peace churches with a strong Pacifist tradition such as Mennonites (spiritual descendants from the Anabaptist reform tradition), Church of the Brethren, Brethren in Christ, and Society of Friends are gradually realizing that "they too must 'have it both ways' by acknowledging the need for someone, somewhere, to use potentially lethal violence to preserve order in a fallen world."<sup>67</sup> In fact, Schlabach here

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<sup>65</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 20.

<sup>66</sup> United Methodist Council of Bishops, *In Defense of Creation: The Nuclear Crisis and a Just Peace* (Nashville, TN: Graded Press, 1986), 33, 88.

<sup>67</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, pp. 20-21.

draws on a 16<sup>th</sup> Century theological declaration in which secular rulers are authorized to punish the wicked but protect the good.

In addition to appealing to Vatican II's *Gaudium et Spes* as a critical component of the foundations of Just Policing, Schlabach appeals to Yoder with this opening quote: "Defining effective international government in this way is of course setting an idealistic goal; but it is less than the idea that *military action could be truly an instrument of justice.*"<sup>68</sup> What is significant for our purposes is Schlabach's paradigmatic shift synthesizing both (a) military action in the sense of Just War tradition with (b) military action being a true instrument of justice. Schlabach sees in Yoder a bridge from the historic peace churches to the Roman Catholic Church which he sees has "long been custodian of the Christian tradition of just-war deliberation." In Schlabach's paper alone, Yoder is the most cited theologian with several of Yoder's writings substantiating Schlabach's Just Policing case.<sup>69</sup> Yoder evidently is an impetus for using Reformation authors and sources in Just Policing thought. Just as the U.S. Catholic bishops essentially agree with the U.S. Methodist bishops on using both traditions, Schlabach uses Yoder to

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<sup>68</sup> Ibid., p. 19, as cited in John Howard Yoder, *Christian Witness to the State*, Institute of Mennonite Studies Series, no. 3 (Newton, KS: Faith and Life Press, 1964), p. 47; italicized emphasis mine.

<sup>69</sup> While it is outside the scope of this thesis that concentrates on Just Policing from Gerald W. Schlabach to provide a comprehensive review of John Howard Yoder, it will suffice to note here in this thesis on Schlabach that the following specific works by Yoder were cited as relevant in Schlabach's seminal conference paper: (1) John Howard Yoder, *Christian Witness to the State*, Institute of Mennonite Studies Series, no. 3 (Newton, KS: Faith and Life Press, 1964); (2) John Howard Yoder, ed. and trans., *The Schleithem Confession* (Scottsdale, PA: Herald Press, 1973), art. 6; (3) John Howard Yoder, *The Politics of Jesus*, 2<sup>nd</sup> ed. (Grand Rapids, MI: Eerdmans, 1972, 1994); (4) John Howard Yoder, *When War is Unjust: Being Honest in Just-War Thinking*, rev. ed., with afterword by Drew Christiansen (Maryknoll Books, NY: Orbis Books, 1996); (5) John Howard Yoder, "Peace Without Eschatology?" in *The Royal Priesthood: Essays Ecclesiological and Ecumenical*, ed. by Michael G. Cartwright (Grand Rapids, MI: Eerdmans, 1994); (6) John H[oward] Yoder, "Surrender: A Moral Imperative," *The Review of Politics* 48 (1986), 576-595; (7) John Howard Yoder, *The Original Revolution: Essays on Christian Pacifism*, Christian Peace Shelf (Scottsdale, PA: Herald Press, 1971); (8) John Howard Yoder, "Armaments and Eschatology," *Studies in Christian Ethics* 1, no. 1 (1988): 58; (9) John Howard Yoder, *Christian Attitudes to War, Peace, and Revolution: A Companion to Bainton* (Elkhart, IN: Co-op Bookstore, 1983); (10) John Howard Yoder, "The Biblical Mandate for Evangelical Social Action," in *For the Nations: Essays Public and Evangelical* (Grand Rapids, MI: Eerdmans, 1997), pp. 186-187.

show how proponents of the Just War tradition and proponents of the Pacifist tradition share vital areas of agreement as well. Future analysis of Just Policing ought to inevitably include John Howard Yoder preeminently among the theological foundations without which Just Policing would not exist.

Interestingly, the teacher-student relationship between Yoder and Schlabach, respectively, runs deep on both academic and personal faith levels. “The many references and footnotes to Yoder in this paper only begin to indicate my debt to him, not only with regard to the question of policing but in his theology of Christian pacifism and his analysis of the just-war tradition. I cannot attribute every idea I might owe to Yoder, not only because my reading of him spans 25 years, but because I learned his analysis of the just-war tradition less from his writing than from a doctoral seminar on that topic under his direction at the University of Notre Dame in 1992.”<sup>70</sup> Just Policing is thus more than a mere exercise and rehearsal of academic inquiry for Schlabach but, it must be noted here, emerges from a love for learning and doing theology during doctoral seminars.

The final main thought from the general introduction is Schlabach’s setting the stage for, interestingly, the relationship of Just Policing with Just Peacekeeping. He would have been remiss without addressing Just Peacekeeping. Addressing Just Peacekeeping was not a mere afterthought in Schlabach, but rather from the very outset of his proposal, Schlabach does not neglect to directly engage Glen Stassen’s Just Peacemaking Initiative from the 1990s to make his Just Policing case. While citing three

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<sup>70</sup> From Footnote #9 in Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, pp. 60-61; I wish to acknowledge here that while Yoder’s personal life with his students may have negatively impacted the inner life of the Mennonite community, it is my every intention to be sensitive to and respect the internal workings of the Mennonite community and its treatment of Yoder.

significant ways Just Peacemaking moves the Just Policing thesis forward, Schlabach nevertheless highlights a “particularly fragile” area from the ten practices of the Just Peacemaking Initiative. One main problem for Schlabach in the Just Peacekeeping Initiative is its “assent to a stringent, limited and thus rectified just-war approach— but a just-war approach nonetheless.”<sup>71</sup> This is an important position to take. For Schlabach, this position distances Just Policing from Just Peacemaking.

Nevertheless, Schlabach identifies three areas in which Just Peacemaking “certainly moves us forward” for our purposes: (1) Christians are creating conditions for the possibility of convergence about war and peace; (2) constructive ways can be developed to deal with remaining differences without suppressing them; (3) and Just Peacemaking raises the question of whether Just Policing is different enough from war “that something *more* like policing (humanitarian military intervention) could possibly constitute a practice for abolishing war.” After addressing Just Policing and Pacifism, Schlabach provides further foundations in the relationship of Just Policing and Just War.

### Policing and the Just War Tradition

In this second of four main sections in Schlabach’s proposal, Schlabach makes what his editor Kauffman calls “the portion of the paper that is in many ways its heart.”<sup>72</sup> Kauffman does not elaborate further on this point about this being the heart of Just Policing, but it is noteworthy that the appellation of this portion of Schlabach’s paper being the heart and central thrust of Just Policing suggests that a stronger case must be presented to proponents of the Just War tradition than to the Pacifist tradition. He does

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<sup>71</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 22.

<sup>72</sup> *Ibid.*, p. 13.



this by maintaining that the Just War tradition “devolves functionally into propaganda.”<sup>73</sup> That is to say, it becomes permissive rather than stringent but gives the pretext and appearance of having been stringent in analysis. Herein lay the heart of Just Policing *vis-à-vis* Just War tradition: The Just War tradition “serves to condone wars by establishing the general principle that wars *can* be just.”<sup>74</sup> The very potential for war to be just is in and of itself troubling for the Just Policing proposal.

To further illustrate Kauffman’s suggestion of this being the heart of the paper, Schlabach appeals to two intellectual mentors, of sorts, to make the heart of his Just Policing point: John Howard Yoder and Karl Barth. To cite Yoder’s words, the Just War tradition “suffers from a kind of slipperiness.”<sup>75</sup> In other words, a different psycho-social dynamic takes place that necessarily distinguishes Just Policing from Just War. Otherwise, without this analysis, Just Policing would simply be part and parcel of the Just War tradition. For Schlabach, the two are distinct, and the case must be made that they are distinct for him.

Moreover and subsequently, Schlabach tells the story of Karl Barth’s lectures that eventually appeared in Volume III/4 of *Church Dogmatics*. The story goes that Barth had publicly condemned war and held that Pacifism was “almost infinitely right,” until the “practically pacifist” and anti-nuclear weapons advocate Barth later allowed for the exception of a war as an act of self-defense!<sup>76</sup> Yoder concludes, “What is significant here is the difference between what Barth said and what the students understood” and how

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<sup>73</sup> Ibid., p. 26.

<sup>74</sup> Ibid.

<sup>75</sup> Cf. Ibid, p. 24, in which Schlabach cites John Howard Yoder, *When War is Unjust: Being Honest in Just War Thinking*, rev. ed. (Maryknoll, NY: Orbis Books, 1996), pp. 50-70.

<sup>76</sup> Ibid., p. 25.

there is a “tendency of theologians’ statements to be misunderstood is part of ‘political reality.’”<sup>77</sup> For Schlabach, one little inch of perceived potentially *can* and does yield a mile of *actual* permissiveness. Just-war criteria, he continues, *should* require “disciplined (even heroic) political action when particular wars fail to meet just-war criteria.”<sup>78</sup>

Otherwise, the current Just War tradition is mere rhetoric or theory.

To Yoder and Barth, Schlabach then adds Alasdair MacIntyre’s thesis on tradition by simply referring his readers to his own Footnote #66: “The notion of and need for socially embodied arguments is a major theme in the work of Catholic philosopher Alasdair MacIntyre, carried through his books....”<sup>79</sup> Schlabach’s Just Policing draws upon MacIntyre’s philosophical hermeneutic here. Socially embodied arguments make sense to Schlabach, and he sees this as an intellectual influence upon the Just Policing proposition.

Furthermore, Schlabach does not fail to recognize the works of his predecessors like Augustine, Luther and Calvin. One finds Schlabach’s initial commentaries on biblical texts, such as those from Romans 13 and 1 Peter 2.<sup>80</sup> He finds no need to

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<sup>77</sup> John Howard Yoder, “Peace Without Eschatology?” in *The Royal Priesthood: Essays Ecclesiological and Ecumenical*, ed. by Michael G. Cartwright (Grand Rapids: MI: Eerdmans, 1994), pp. 166-167.

<sup>78</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 26.

<sup>79</sup> From Footnote #66 in Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 72. Schlabach appeals specifically to these four works from Alasdair MacIntyre: (1) Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 2<sup>nd</sup> ed. (Notre Dame, IN: University of Notre Dame Press, 1984); (2) Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press, 1988); (3) Alasdair MacIntyre, *Three Rival Versions of Moral Enquiry: Encyclopedia, Genealogy, and Tradition*, The Gifford Lectures 1988 (Notre Dame, IN: University of Notre Dame Press, 1990); and (4) Alasdair MacIntyre, “The Privatization of Good: An Inaugural Lecture,” *The Review of Politics* 32 (1990), 344-61, especially pp. 356-61.

<sup>80</sup> “Romans 13,” *Holy Bible: Authorized King James Version* (Fort Worth, TX: Genesis Bible Publishing, 2010) in part reads, “Let every soul be subject unto the higher powers (13:1a). ... Whosoever therefore resisteth the power, resisteth the ordinance of God (13:2a).... For rulers are not a terror to good works, but to the evil (13:3a).... For [the civil leader] is the minister of God to thee for good (13:4a). The civil leader “beareth not the sword in vain: for [the civil leader] is a minister of God, a revenger to execute wrath upon” (13:2b; KJV italicized) those that do evil; see also “1 Peter 2,” *Holy Bible: Authorized King James Version* which reads in Verses 13-14: “Submit yourselves to every ordinance of man for the Lord’s

reiterate classical Just War reasoning from history or cite biblical texts typically used for classical Just War reasoning. Rather, Schlabach's main thrust is to make a compelling distinction. Given Yoder, Barth and MacIntyre above, and nodding his head to the writings of Augustine, Luther and Calvin, Schlabach concludes a major vital point regarding Just Policing *vis-à-vis* the Just War tradition: In sum, non-pacifists either (a) treat the police function as self-evident or (b) argue for legitimacy of the police function; however, in either case, non-pacifists will legitimize warfare and *not* use war for policing. In other words, the "point here is not that there is *complete* discontinuity between the role that civic authorities take in ordering the life of communities through the police function, [but that there is a] role that they play in protecting those communities through military functions."<sup>81</sup> A sharp distinction, though related, between Just Policing and the Just War tradition is crucial to Schlabach's Just Policing ethics.

In fact, Schlabach notes several ways "war takes on a very different psycho-social dynamic from policing."<sup>82</sup> Throughout these several ways, Schlabach notably appeals to Stanley Hauerwas, Tobias Winright, and Drew Christensen, S.J. I will note these authors where relevant in Schlabach's observation. The ways in which military action is psycho-socially different from policing are as follows: (1) war fever is more pronounced in war than policing; (2) military use of the principle of double effect to address noncombatant casualties is not as emphasized in policing; (3) arresting agent and judge are the same in

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sake: whether it be to the king as supreme; or unto governors, as unto them that are sent by him for the punishment of evildoers...."; it is sufficient here for Schlabach to simply acknowledge Romans 13 as an appeal to civil leaders who wield the sword which represents authority from God and that one is called to submit to kings and governors who punish evildoers as is seen in 1 Peter 2:13-14; for a brief writing on violence in the Bible, see John J. Collins, *Does the Bible Justify Violence?* (Minneapolis: Fortress Press, 2004).

<sup>81</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 27.

<sup>82</sup> *Ibid.*, p. 28.

war but not policing; (4) military focuses on greater firepower, while policing focuses on last resort, thus emphasizing just war criteria such as proportionality and noncombatant immunity; (5) military strikes indiscriminately during improbable success situations, minimizing right intention; (6) military is more likely to rule out surrender; and (7) military obscures deeper causes of conflict, while policing engages social fabric of community. Schlabach notes that the list is not exhaustive and subject to counter-evidence; nevertheless, policing cannot serve to justify war. “For the just-war theory to stand any chance of fulfilling its advocates’ best intentions, it must retrace its steps and attend far more closely to the ways in which war is not like policing at all. ‘Just war’ is probably a misnomer for what can only be just policing if it is to establish a real tradition of actually reducing violence....”<sup>83</sup>

### Policing and the Pacifist Tradition

Whereas in the previous section called “Policing and the Just War Tradition” made a case primarily before just-war proponents, this section called “Policing and the Pacifist Tradition” makes a case primarily before Pacifists. In this section, I summarize Schlabach’s case *vis-à-vis* the Pacifist tradition as follows: (1) Mennonites affirm Jeremiah’s model even in a post-9/11 world; (2) Pacifist theologians and ethicists (mainly Mennonite) argue that Mennonites and other Pacifists can acceptably participate in policing in a way that is not war; (3) limited police action “could be imaginable” for Christian Pacifists and nonviolence advocates; (4) and, to the issue of whether a Christian could be a police officer, Schlabach highlights a paradigmatic shift from the principle to

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<sup>83</sup> Ibid., p. 31.

vocational discernment and accountability. These four areas facilitate the Just Policing proposal for the Pacifist tradition.

In the immediate aftermath of the events of 9/11, the Mennonite Central Committee's Executive Committee affirms "the call of Jesus to love enemies and live as peacemakers."<sup>84</sup> The Executive Committee proclaims Jeremiah 29:7 whereby the exiled Israelites in Babylon were exhorted to "seek the welfare of the city."<sup>85</sup> By this is meant being Jesus' followers while seeking to build peaceful institutions wherever one finds oneself. Moreover, in "A Call to Action: Statement and Actions in the Wake of September 11, 2001," the Mennonite Church USA Peace and Justice Committee called on government leaders to address not only the root causes of the problem leading up to the events of 9/11, but for the governments of the world to "use the existing mechanisms of the United Nations Security Council and world court system to deal with the present crisis."<sup>86</sup> Even in the face of global violence, the institutional Mennonite community still held to nonviolent principles and appealed to international solutions to global terrorism.

Schlabach acknowledges the work of several notable Pacifist theologians to strengthen the arguments of his case before Pacifists and nonviolent advocate audiences, particularly as regards the international scope of policing. For instance, Mennonite ethicist Duane K. Friesen encourages a crime framework instead of a war framework for 9/11, while Mennonite peace activist John Paul Lederach appeals to the international community to address root causes and what Lederach calls "domestic and international

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<sup>84</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 32.

<sup>85</sup> Ibid.; "Jeremiah 29:7," *Holy Bible: Authorized King James Version* (Fort Worth, TX: Genesis Bible Publishing, 2010) reads: "And seek the peace of the city whither I have caused you to be carried away captives, and pray unto the Lord for it: for in the peace thereof shall ye have peace."

<sup>86</sup> In Footnote #34 from Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 66.

policing.”<sup>87</sup> Yoder’s student, Tobias Winright, notes that historic peace churches that have opposed Christian participation in war and militaries do not have consensus regarding policing.<sup>88</sup> Hauerwas likewise envisions international policing where killing is truly rare. Interestingly, Schlabach cites Hauerwas in two critical areas when addressing both Just War advocates (as we saw in the previous section “Policing and the Just War Tradition”) and Pacifist advocates (as we see in this section). In a footnote citing Hauerwas a year after 9/11, Schlabach highlights this quote from Hauerwas, “Christian pacifists who are truly committed to Jesus’ nonviolence will not abandon that commitment just because the enemy they are called to love turns out to be a lot nastier than they expected.”<sup>89</sup> As with Yoder, the Pacifist Hauerwas is a vital intellectual influence upon Schlabach. In any case throughout these authors thus far, it is significant for our purposes that the international scope of the Just Policing project is made compelling to Schlabach’s Pacifist audience. The notion of global authority and its policing actions to address violence and terror is made plainly palatable with Mennonites, other Pacifists and nonviolence advocates. Even Mennonite Howard Zehr’s restorative justice model is invoked as a conceptual basis for international conflict management.<sup>90</sup>

Consequently, Schlabach does not leave his readers in the realm of international generalities; rather, he admits that broad appeals to the international system do not immediately clarify the specifics of “who would apprehend the criminals, how they

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<sup>87</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 33.

<sup>88</sup> Tobias Winright, “From Police Officers to Peace Officers,” in *The Wisdom of the Cross: Essays in Honor of John Howard Yoder*, ed. by Stanley Hauerwas, et. al. (Grand Rapids, MI: Eerdmans, 1999), pp. 87-89.

<sup>89</sup> In Footnote #33 from Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 66.

<sup>90</sup> Cf. Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale, PA: Herald Press, 1990).

would operate, and whether the political bodies that conduct international policing would have the support of the pacifist churches.”<sup>91</sup> Evidently, the principle, Schlabach believes, proves sound to the Pacifist position; however, the detailed ethical means to implement the principle of international policing remain unaddressed for the time being. Even Pacifists and nonviolent proponents inevitably must admit to some form of policing action involving force to bring criminals to justice or to an international tribunal.

In a similar vein, Schlabach eventually turns to Yoder’s predecessor and mentor, Guy Franklin Hershberger. Hershberger notes that the Society of Friends, also known as Quakers, is more open than Mennonites to Christian participation in an international policing force.<sup>92</sup> This is significant for our purposes on the basis that historic peace churches are more amenable to policing models that provide an ecumenical bridge with not just Pacifists but with Just War proponents, too. This thesis has focused considerable attention on the intellectual foundations – both theological and philosophical – that undergird Just Policing, but perhaps no other seminal author is more relevant to Schlabach’s case than Hershberger who is Yoder’s mentor and teacher. Hershberger, moreover, is foundational for Schlabach’s work insofar as Hershberger answers charges from anti-Pacifist thinkers like Reinhold Niebuhr who holds that Pacifists and nonviolence activists are socially irresponsible. To these claims, Hershberger replies that the “most constructive work which can be done is not to be found in those glamorous and spectacular enterprises associated with urban industry, military service, and the affairs of state, but rather in the quiet and more fundamental task of building the small Christian

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<sup>91</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 33.

<sup>92</sup> Guy Franklin Hershberger, *The Way of the Cross in Human Relations* (Scottsdale, PA: Herald Press, 1958), pp. 178-179.

community.”<sup>93</sup> Nonresistant groups are the “veritable salt of the earth”<sup>94</sup> and are “making a contribution of first-rate importance to modern society.”<sup>95</sup> In other words, Christians have “better things to do.”<sup>96</sup> Citing Romans 13, a biblical passage which we saw Schlabach cite above, Hershberger holds that the state was ordained by God. This is consistent with authors like Calvin who holds that the state exists to punish wickedness and protect the good. In any event, Romans 13 remains a consistent biblical theme to address in Just Policing considerations.

Finally, Schlabach returns (again) to Hershberger’s student, Yoder. Having made an opening for Just Policing *vis-à-vis* the Pacifist tradition whereby Pacifists need not condemn policing in principle, Schlabach highlights how Yoder revisits the question of whether a Christian could serve as a police officer. “The question, May a Christian be a policeman? [sic] is posed in legalistic terms. The answer is to pose the question on the Christian level: Is the Christian *called* to be a policeman? We know that he is called to be an agent of reconciliation.”<sup>97</sup> There is a major paradigmatic shift here. The shift lay in Yoder’s emphasis on vocational discernment, rather than on the issue of whether a Christian can serve as a police officer which occasionally requires use of lethal force. “Long enough we have been told that the position of the conscientious objector is a prophetic one, legitimate but only for the specially called few; in truth we must hold that the nonresistant position is the normal and normative position for every Christian, and it

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<sup>93</sup> Guy Franklin Hershberger, *War, Peace, and Nonresistance*, 3<sup>rd</sup> ed. (Scottsdale, PA: Herald Press, 1969, 1994), pp. 252-253.

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

<sup>97</sup> John Howard Yoder, *Christian Witness to the State*, Institute of Mennonite Studies Series, no. 3 (Newton, KS: Faith and Life Press, 1964), p. 57.



is the use of violence...that requires exceptional justification.”<sup>98</sup> That the nonresistant position is the normal and normative position for every Christian is Yoder’s way to limit violence as part of the witness of not a select prophetic few but the call of every Christian. Violence is the exception, not the norm. Schlabach notes that both Hershberger and Yoder are “right to insist that as a rule Christians *do* have better things to do than police.”<sup>99</sup> And it is precisely in the formulation of vocational discernment and accountability that the Just Policing is able to move forward *vis-à-vis* the Pacifist tradition. “Yoder was proposing that discernment groups and accountability procedures become standard practices so that the Church would not only ‘model’ the kind of community God intends for the world, but would offer ‘a pastoral and prophetic resource to the person with the responsibilities of office.’”<sup>100</sup>

Moreover, those in public office from Pacifist and nonviolence churches would not act autonomously but rather would “listen to the admonition of [their] sisters and brethren regarding the way [they discharge]” public office (e.g., policing, government, etc.).<sup>101</sup> Schlabach’s point is that this approach allows movement toward Just Policing, particularly for historic peace churches that would have otherwise not been involved with the international community. To use Schlabach’s words, the “peoplehood called Church should understand itself to be an *ekklesia* in the original Greek sense with which the church of the Apostles adopted the word: it meant parliament or town meeting, a gathering in which serious business can be done in the name of the kingdom.”<sup>102</sup> The

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<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 40.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

role of the community, by contrast to that of the public servant, is to “simply encourage one to have the nerve to do what one already believes is right”<sup>103</sup> and to “bring to a person’s attention insights he or she would have missed.”<sup>104</sup>

### Practicing for Just Policing

Moving towards theological rapprochement, this section on the practical application of Just Policing to both the Just War tradition and to the Pacifist tradition consists of three main sections: (1) a general practicing for Just Policing via the community policing model; (2) Mennonites practicing for Just Policing by requiring greater political involvement; and (3) Catholics practicing for Just Policing by requiring greater willingness to act counter-culturally. Schlabach clarifies that militarization of police forces “poses real dangers” and his objective is not to justify any nation taking on the role of “policeman of the world.”<sup>105</sup> Rather, both traditions have contributions to make toward Just Policing.<sup>106</sup>

To summarize Schlabach thus far, he reflects, “Looking back, two trends have already brought us to a point from which to envision a way toward further convergence. Coming from a direction that pacifists can recognize and own is the development of nonviolent action. Coming from a direction that non-pacifists can recognize and own is

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<sup>103</sup> Ibid., p. 41.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> David Carroll Cochran in “Policing, War, and Force,” *Catholic Realism and the Abolition of War* (Maryknoll, NY: Orbis Books, 2014), pp. 77-82, concurs with Schlabach about the occasional dangers of policing when Cochran writes, “Policing isn’t always just. Depending on the time, place, and regime, it can be corrupt, ineffective, brutal, or a tool of political repression. But it doesn’t have to be this way. Unlike war, policing can be morally legitimate. When done right, policing is how society upholds the rule of law and maintains public order” (p. 77).

the development of community policing.”<sup>107</sup> A critical summary of this convergence is illustrated in the following visual:



The illustration does not preclude the existence of Catholic Pacifists or Mennonite non-Pacifists, but the Roman Catholic Church and other representatives of the Just War tradition “bear a somewhat greater burden of proof.”<sup>108</sup> Mennonites in turn “bear a somewhat greater burden of charity.”<sup>109</sup> The main point here is that rapprochement is possible where, before, it was not possible. Thus, on the one hand, nonviolence is the main thrust of Pacifist movement towards convergence; on the other hand, community policing is the main thrust of non-Pacifist proponents towards convergence, too.

Therefore, this convergence leads to Schlabach’s appeal to Tobias Winright’s thoughtful insight about policing. Schlabach relies on Winright’s work in this section of his paper, more so than in other sections of his proposal. Schlabach observes, “As Tobias Winright has pointed out, the development of efficacious nonviolent action for political ends in the twentieth century, coupled with a shift among pacifists toward identifying

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<sup>107</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 42.

<sup>108</sup> *Ibid.*, p. 45.

<sup>109</sup> *Ibid.*, p. 46.

their position as Gandhian *nonviolent resistance* rather than Tolstoy's *nonresistance*, has already begun to change the shape of debates about policing."<sup>110</sup> This fundamental shift in Pacifist thought in which nonviolence, rather than nonresistance, takes greater prominence and shows more efficiency, creates the new conditions today that "policing itself can be envisioned in a completely different way."<sup>111</sup> This perennial reorientation bypassed a major impasse hitherto unsurmountable. Just Policing breaks the intellectual mold and provides a theological window of opportunity for new approaches to war and peace. In Footnote #58 from the same citation, Schlabach himself notes that this significant trajectory is seen in Yoder's departure from Hershberger's categorical rejection of Christian involvement with policing at all levels. That the shift has taken place is a fundamental assumption in Just Policing.

Moreover, in the same footnote, Schlabach highlights Drew Christensen's observations from a paper Christensen presented at the International Mennonite-Roman Catholic Dialogue in 2000 and an article in *America* that the "development of politically efficacious nonviolence has also been a factor leading the Roman Catholic magisterium toward an increasingly stringent application of the just-war theory."<sup>112</sup> This magisterial tendency towards restraint, so to speak, is cause for Schlabach to insist that while Mennonite can converge towards greater political involvement, particularly in policing and government affairs, Catholics on their part exercise restraint and a greater

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<sup>110</sup> Ibid., p. 42.

<sup>111</sup> Tobias Winright, "From Police Officers to Peace Officers," in *The Wisdom of the Cross: Essays in Honor of John Howard Yoder*, ed. by Stanley Hauerwas et. al. (Grand Rapids, MI: Eerdmans, 1999), p. 106.

<sup>112</sup> Cf. Footnote #58 in Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 71. Here, Schlabach also refers to Drew Christensen, S.J., "Peacemaking and the Use of Force: Behind the Pope's Stringent Just-War Teaching" *America* (15 May 1999), pp. 13-18, and Drew Christensen, S.J., "What is a Peace Church? A Roman Catholic Perspective," *International Mennonite-Roman Catholic Dialogue* (Karlsruhe, Germany, 2000).

responsibility for counter-cultural witness against wars and military action as needed. In a sense, this *quid-pro-quo*-ish convergence has major ecumenical implications in the Mennonite-Catholic dialogue and through this other historic peace churches. For Schlabach's Just Policing application, the Just War movement among Roman Catholics should practically seek to critically evaluate all wars with a presumption against war. The shift is both an actionable reality and an interior attitudinal one.

Schlabach contributes to the Second Vatican Council's call to review the modern problem of war and peace. Here, the convergence of non-Pacifist actors toward community policing is a major path to fulfilling the mandate of Vatican II to "undertake an evaluation of war with an entirely new attitude," a type of renewing of the ethics of war from a significantly different, albeit related, angle. Community policing refers to a "shift from a military-inspired approach to fighting crime to one that relies on forming partnerships with constituents."<sup>113</sup> This type of policing presumes that communities, whether international or domestic or even local, contain moral structures where violence can truly be a last resort and rare.

John Paul Lederach appears in Just Policing here to the extent that he brings an internationalist perspective to Schlabach's policing proposal. In an age of globalization and a time where terrorism is not confined to one location or conducted by nation states but primarily to non-state actors, Lederach's position strengthens international policing efforts. "Terrorism uses the power of a free and open system for its own benefit making it comparable to a virus which enters a system and uses a host against the host itself," states Lederach, "And you do not fight this kind of enemy by shooting at it. You respond

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<sup>113</sup> Schlabach cites Christopher Freeman Adams, "Fighting Crime by Building Moral Communities," *The Christian Century* 111, no. 27 (5 October 1994): 894.

by strengthening the capacity of the system to prevent the virus and strengthen its immunity.”<sup>114</sup> Here, a we-are-they model is employed in international policing as opposed to an us-versus-them model. Those policing the community are themselves members of the community. It is hard work, preventative in nature, and integrates long-term approaches so that criminals are accountable to international law.

It is noteworthy that another biblical text from the New Testament appeared in Schlabach’s analysis. This is the fourth instance of a bible passage. Thus far, the other three passages he uses up to now are Roman 13, 1 Peter 2, and Jeremiah 29. Identifying these is important for our purposes because it informs us of the use of biblical texts as foundations in Just Policing, as we saw above. When speaking of the framework, Schlabach cites Hebrews 10:24 in which the author of the Letter to the Hebrews calls the hearer to “provoke one another to love and good deeds.”<sup>115</sup> In this context, Schlabach insists that both the Just War and Pacifists traditions can contribute; however, any further convergence requires moving beyond theory and right intentions and moving into the realm of practical applications. These practices are a “firm pastoral commitment to engendering and forming communal practices down to the parish level.”<sup>116</sup> In the Roman Catholic Church, a parish is a “certain community of the Christian faithful stably constituted in a particular church, whose pastoral care is entrusted to a pastor (*parochus*) as its proper pastor (*pastor*) under the authority of the diocesan bishop.”<sup>117</sup> It is in these

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<sup>114</sup> Ivan J. Kauffman, ed., *Just Policing: Menmonite-Catholic Theological Colloquium, 2002*, p. 44.

<sup>115</sup> *Ibid.*, 45 (translation is Schlabach’s); “Hebrews 10:24,” *Holy Bible: Authorized King James Version* (Fort Worth, TX: Genesis Bible Publishing, 2010) reads: “And let us consider one another to provoke unto love and to good works.”

<sup>116</sup> *Ibid.*

<sup>117</sup> *Code of Canon Law*, no. 515

small communities with rich and thick traditions where Just Policing must ultimately find a vibrant home.

This transitions policing to the last major general point, before Schlabach articulates specific policing ideas for both the Mennonite tradition and for the Catholic tradition. Schlabach returns a second time to Alasdair MacIntyre’s work on tradition as integral to Just Policing. Schlabach writes, “In order to convince pacifists that the just-war approach offers a legitimate resource for Christians, Catholics will need to embody their ‘proof’ with practices that would transform the just-war tradition back into what it has claimed to be— in effect, just policing.”<sup>118</sup> Catholics have a poor historical track record for showing how the Just War Tradition actually minimizes war and violence before a Pacifist audience but can make that case for convergence by incorporating and even transforming it into “just” Just Policing. Later in Chapter Three, we see this emphasis in tone where Schlabach calls for the transformation of the Just War tradition into Just Policing. For now, it is vital to simply observe the nascent stages of that change – or rather, that recovery – of Just War tradition into “just” Just Policing. Schlabach’s appeal to MacIntyre is situated in the context of ecumenism, “In the context of ecumenical dialogue, proofs embodied in practices are especially necessary if Catholics hope to convince Mennonites of their claims, since Mennonites have sometimes called discipleship the ‘essence of Christianity.’”<sup>119</sup> Thus, the notion of proofs as socially embodied arguments is necessary to advancing Just Policing forward. In the final analysis, Schlabach turns to moral communities with their diverse traditions to apply

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<sup>118</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 46.

<sup>119</sup> As cited in Schlabach’s Footnote #66 from Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, pp. 72-73; original source of quotation is from Harold S. Bender, “The Anabaptist Vision,” *Church History* 13 (March 1944): 3-24.

proofs with practices in the transition to policing. Proofs embodying practices are at the heart and soul of major theological convergence and possibilities of imaging.

Before closing, just as Schlabach offers a modest critique of Catholics (and through them historic churches adhering to the Just War tradition) to embody their proofs with practices, Schlabach also offers a modest critique of Mennonites (and through them historic churches adhering to the Pacifist tradition) to embody their proofs with practices. Mennonites, on their part, “bear a somewhat greater burden of charity.”<sup>120</sup> In other words, since the strength of the Pacifist tradition is to promote radical Christ-like love even when one hopes against hope for reconciliation and healing of human conflicts, Pacifists should lighten their critique of the Catholic historical tendency to use and engage governmental structures. Pacifists are challenged to shy away from perceiving this Catholic Church engagement with state entities as somehow a corruption of the Gospel message, a type of “fall of the Church” or even a type of “Constantinianism.”<sup>121</sup> For Schlabach, a window of opportunity today is open for major theological convergence. Both Mennonites and Catholics can and should embody proofs through practicing Just Policing.

#### *Practicing for Just Policing: Mennonites*

Having addressed Schlabach’s view of practicing socially embodied proofs in general, Schlabach then turns his attention specifically towards the Mennonite context and the Catholic context, respectively. To summarize this section with respect to practicing for Just Policing in a Mennonite context, there are three concrete measures that

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<sup>120</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 46.

<sup>121</sup> *Ibid.*, p. 47.



are proposed and, in some cases, revisited. The first is the inevitable phenomenon of the institutionalization of Mennonite initiatives into the wider civil and governmental area. The second is application of the Jeremianic model for critical engagement with the state. And the third is the use of Yoder's call for accountability groups within the circles of those would wield some degree of power and influence in society. Following these three practices for the Mennonite community, Schlabach interestingly closes this section by raising the issue of developing practices that will "transform just war into just policing."<sup>122</sup> The raising of this transformation of Just War into Just Policing provides his transition to addressing practicing for Just Policing in a Catholic context.

Regardless of how one approaches the issue of the application of Just Policing, it is evident that the Mennonite community brings a strong reputation of serving those less fortunate around the world. This is done with the view of addressing systemic causes and the lack of social justice. They focus not only on safe countries but also countries that are perceived as hostile to world security. Citing his own article which was published in a book with Stanley Hauerwas as editor in 1999 called *The Wisdom of the Cross: Essays in Honor of John Howard Yoder*, Schlabach recalls how he addressed the broader theological discussion of the question of the legitimacy of governance for Christians.<sup>123</sup> Schlabach then incorporates his previous work here in 2002, whereby he asks the perennial question for Christians with few caveats against participating in the state and therefore the government and military. "Are you willing to help implement the changes

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<sup>122</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 49.

<sup>123</sup> Gerald W. Schlabach, "Deuteronomic or Constantinian: What is the Most Basic Problem for Christian Social Ethics?" in *The Wisdom of the Cross: Essays in Honor of John Howard Yoder*, ed. by Stanley Hauerwas, et. al. (Grand Rapids, MI: Eerdmans, 1999), pp. 449-71.

for which you have called? Why then is governance not legitimate for Christians?”<sup>124</sup>

Schlabach’s major application point here raises the all-important question in the Mennonite context *vis-à-vis* Just Policing about the extent to which Mennonites and Christians in general can serve in governmental roles such as health care, welfare, the United Nations, and most especially in law enforcement whether domestic or international. Mennonites and Christians with reservations about such governmental entities historically tend to be apprehensive on the basis of the violence and war-sanctioning capacities of such authorities. However, if Schlabach’s case is compelling enough to argue that Christians may indeed legitimately participate in such governmental bodies, then it is logical that an opening is made possible regarding Just Policing. He identifies a core problem and proposes concrete measures to surmount those hindrances thus making Just Policing an acceptable form of social ethics for not just Mennonites and other Christian with scruples about governmental violence and resorting to military and war, but to the entire Pacifist tradition itself. Having conceived an opening and convergence, Schlabach consequently turns to the Mennonite notion of Jeremiah’s exiles to solidify his Just Policing case.

The Prophet Jeremiah’s call is to “seek the *shalom* of the city.”<sup>125</sup> This biblical reference, a critical one for Just Policing as we saw, is used by the Mennonite Central Committee for an official statement following the events of 9/11 in New York and Washington, D.C. While in exile following the destruction of the First Temple in Jerusalem, the people during Jeremiah’s time still sought the *shalom* – the peace and well-being – of the new city of Babylon in which they found themselves. The main idea

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<sup>124</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 47.

<sup>125</sup> *Ibid.*, p. 48.

here is that the exilic residents are to remember that their first loyalty was to God and God's covenant people, even though they are called to serve the foreign city and seek its *shalom*. Some of the exiles are publicly appointed officials in their newly adopted city and know they had to not lose their covenant with God. This model provides a similar structure whereby Mennonites, Christians with reservations about the violence-prone tendency of the modern state, and proponents of the Pacifist tradition in general could in good conscience hold public office and serve in governmental capacities without compromising their integrity. Schlabach argues, "What Mennonites must show in practice, in order to socially embody *their* arguments, is whether and how the Jeremianic model provides a convincing response to the legitimate challenge of governance. Some of Jeremiah's exiles were civil officials, after all."<sup>126</sup> To use the words of Yoder, which Schlabach cites as the origin of this thought, Yoder uses the "Jeremianic" model for "being a diaspora people that needs neither territory to maintain its identity nor control of state to render its service 'for the nations.'"<sup>127</sup> This rapprochement of Jeremiah's model for the nation from Just Policing thought concretely engages Christians within the Pacifist tradition.

### *Practicing for Just Policing: Catholic*

There are four main constituents and two methodological approaches for Catholics to socially embody their arguments with proofs. The four groups are the bishops, theologians, laity, and institutions like the parish and education infrastructures.

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<sup>126</sup> Ibid.

<sup>127</sup> Schlabach cites John Howard Yoder's *For the Nations: Essays Public and Evangelical* (Grand Rapids, MI: Eerdmans, 1997), pp. 1-4, 41-42, 51-78 in his Footnote #68.

The two methodological applications are the transnational peacekeeping realism and an ideal prophetic stance. “The basic proposal is quite simple: The Catholic Church needs practices that are church-wide and parish-deep enough that they correspond with the magisterium’s teaching that the just-war tradition begins with strong presumption against violence, allows wars only as an exception, and does so only in last resort.”<sup>128</sup> Schlabach seeks a cultural transformation with both universal breadth and particular depth. These can be applied, respectively, to a global setting and the parish setting which is the basic ecclesial juridical unit of Catholic life. If this cultural transformation were to take place among Catholic circles, Schlabach foresees, “Mennonites and other historic peace churches might still not sign on, but they would find the tradition far less objectionable.”<sup>129</sup> It is in this context that Schlabach introduces the proposal not for Just War to transform with and coexist alongside Just Policing but actually to *displace* Just War with Just Policing.<sup>130</sup> Schlabach’s proposal contains three fundamental assumptions relative to practicing Just Policing in a Catholic context: (a) That the Just War tradition begins with a strong presumption against violence, (b) wars are only allowed as exceptions, and (c) war is a last resort. Given these, Schlabach turns his attention to the four main Catholic groups.

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<sup>128</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 50

<sup>129</sup> *Ibid.*, p. 49.

<sup>130</sup> Cf. Schlabach’s Footnote #71 in which he briefly acknowledges Todd Whitmore for helping him formulate many of his own Just Policing ideas: “I wish to thank Professor Todd Whitmore of the University of Notre Dame for stimulating many of the proposals that follow by sharing in personal conversation some of his own ideas for a far more thorough study of what the Roman Catholic Church must do to operationalize the just-war theory. Dr. Whitmore should not be assumed to concur with all the particulars of my own proposals, of course, particularly since our conversation took place a few years ago” from Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium, 2002*, p. 73.

## The Role of Bishops

Schlabach highlights a case from a split and divided U.S. body of Catholic bishops during the time of the first Gulf War in 1991 to illustrate how to practice Just Policing among the bishops of the United States. John Roach, then-archbishop of Minneapolis-St. Paul, served as chairman of the U.S. Conference of Catholic Bishops (USCCB) international policy committee. At the time, Roach observed a lack of a “sufficiently clear consensus”<sup>131</sup> among the Catholic bishops to declare the war unjust. This is precisely Schlabach’s first of three main points about the bishops: Instead of the *de facto* default position being one of where the argument from prudential judgment is used in U.S. Catholic social teaching thereby deferring the moral argument to national policymakers, the collective default position rather should be one where “it only seems fair to expect that [the USCCB] will oppose the war unless arguments in favor of its justice are overwhelming.”<sup>132</sup> The standing environment among the bishops, Schlabach maintains, should be one of opposition to war at the outset rather than permissiveness.

Schlabach, interestingly, did not cite that the USCCB document *Challenge of Peace*, which was promulgated in 1983, was only several years old when the USCCB in 1990 was discussing and debating what eventually became the first Gulf War of 1991. Nevertheless, Schlabach’s argument is a paradigmatic shift from current practice of using a check list to approve or disapprove war abroad. Instead of an appeal to (a) the argument of prudential judgments and (b) the position that reasonable people may differ, the major shift here is to underscore the presumption against violence. The presumption

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<sup>131</sup> John Dart, “U.S. Bishops Split on War’s Morality,” *Los Angeles Times* (26 February 1991): A-11.

<sup>132</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 50.

against violence means that in all cases, the starting position in policing is always and everywhere against war and state-sanctioned violence. He carries his argument to its logical and theological conclusion, “Thus the ‘presumption against violence’ would coincide with the ‘presumption of truth’ to be accorded the magisterium...”<sup>133</sup> He makes this compelling case because, when time came to bring Just War criteria to the national public forum in 1991, Schlabach simply highlighted the phenomenon of a divided house of bishops which – through this division – faltered in their task and, in a certain sense, lost their national credibility in their moral evaluation of war thereafter. “This...meant that as a body they had in effect deferred to the judgment of government policymakers.”<sup>134</sup> Just War tradition in this context of the Gulf War of 1991 did not serve to limit war but instead ironically served as a rationale for the U.S. to enter into war.

The very fact that the USCCB was divided was sufficient reason for U.S. national leadership to make the judgment about the war’s morality. U.S. national leadership assumed the mantle of the war’s morality and ethics rather than the bishops. Policing, if based on the presumption against violence and thus the presumption of truth, were to be practiced by the USCCB, then it would mean that opposition is the starting point, and the burden of proof is placed upon the need for war instead of the need against war. In the final analysis, Schlabach translates these presumptions against violence and of truth into what he calls communal selective conscientious objection. Communal selective conscientious objection, by contrast with individual selective conscientious objection, means that the USCCB, as a body, would begin as conscientious objectors in a common

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<sup>133</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 50.

<sup>134</sup> *Ibid.*, p. 74, specifically Footnote #72.

voice from the outset. A united voice against war would carry more weight than a single bishop's voice against war. Communal conscientious objection is, in Schlabach's Just Policing thought, the rule rather than the exception.

### Theologians and Advisors

Schlabach originally subtitles this section "Advisors" instead of "Theologians and Advisors" as I have subtitled this part of this thesis, but the substance of this section focuses on theologians as advisors to both the bishops and to political commentators in the court of public opinion. I subtitle this section "Theologians and Advisors" so as to identify the specific practical role that Catholic moral theologians can contribute to Just Policing in the future. In this section, he advances one major point about the vital role of theological advisors for bishops, the state and media. Having previously made the case for the presumption against violence in his call for bishops to embody proofs toward policing, Schlabach then insightfully identifies a "less formal and more cultural presumption" among Roman Catholic theologians to make concessions and compromise theological integrity in order to maintain regular access with public opinion.<sup>135</sup> He observes that after the Administration decided to enter into war during the 1990-1991 debates about waging Just War in the Persian Gulf, theologians who critically insisted that the *jus ad bellum* criteria of the Just War tradition were not met tended to accept the Administration's decision to enter war as though the *jus ad bellum* criteria had been met. He claims that moral theologians made this concession in order to "stay in the loop" and maintain access they needed to comment on *jus in bello* issues.<sup>136</sup> Schlabach frowns on

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<sup>135</sup> Ibid., p. 50.

<sup>136</sup> Ibid., p. 51.

such efforts as a way of undermining the presumption against violence and would have rather favored moral theologians who publicly opposed the war altogether instead of seeing these theologians comment on *jus in bello* issues.

In this regard, Schlabach states in an important footnote, “I recall Fr. Bryan Hehir posing the rhetorical question about whether to make such a tactical shift in a lecture at the University of Notre Dame at the time of the first Persian Gulf War. Corroborating this recollection is the article he soon wrote soon after the war began: ‘The Moral Calculus of War,’ [from] *Commonweal*. The article charts his moral deliberation step-by-step, as the public debate shifted from *why* to *when* to *how* questions.”<sup>137</sup> In other words, the why questions were the *jus ad bellum* discussions taking place in the United States among ethicists, but then the moral calculus shifted to the when and how of *jus in bello* following the Administration’s resolve to enter into formal war. Schlabach applies Hehir’s insights to how theologians not only can but should posture themselves in policing. As an alternative to the so-called staying in the loop approach, Schlabach urges theologians to oppose unjust war. In a certain sense, this is similar to the approach he counsels for the USCCB whereby opposition is the starting point. In cases where war is being waged, Schlabach sees that it is “more efficacious”<sup>138</sup> to mobilize for Christian opposition to war rather than feeding the war effort.

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<sup>137</sup> Ibid. p. 74, specifically Footnote #73; also note that Schlabach is referring to Bryan Hehir, “The Moral Calculus of War,” *Commonweal* 118, no. 4 (22 February 1991): 125-126.

<sup>138</sup> Ibid., p. 51.



## Laity

This is comparatively the shortest commentary on the four Catholic constituents, yet it is deeply influenced with Yoder's theological framework. Citing Yoder's *Christian Witness to the State* again, Schlabach highlights Yoder's simple call to Catholics and others to accountability and specifically accountability to their own moral principles by arguing that military participation should be as rare as conscientious objection is rare today. Lay participation in the military "should require exceptional justification."<sup>139</sup> Schlabach follows a consistent thread of thought throughout this section on practicing Just Policing for Catholics; just as he insisted on the presumption against violence by bishops and theologians, so too he calls on laity to set the presumption against war as a "default mode"<sup>140</sup> of Catholic laity where laity practice active nonviolence instead of the "uncritical acceptance of the state's summons to war."<sup>141</sup>

Schlabach unpacks this further in the section on "Parishes, Colleges and Universities" that follows. For now, Schlabach rightly identifies Catholic educational institutions as vehicles for this paradigm shift in attitude and practice. These educational venues are both formal and informal; that is to say, they are part of the Church's wide array of formal education systems from grade school to graduate school as well as informal educational venues in casual conversations or faith formation settings. Both the theory and practice of active nonviolence are needed in such lay formation plans. Schlabach identifies three specific virtues to practice and apply in lay formation programs – courage, patience and love – rather than warrior virtues and the warfare cultural ethos.

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<sup>139</sup> Ibid.

<sup>140</sup> Ibid., p. 51.

<sup>141</sup> Ibid.

## Parishes, Colleges and Universities

For the fourth constituent consisting of the Catholic educational infrastructure, Schlabach first turns his attention to Catholic youth interested in military service. Here, he mentions three specific qualities to foster in youth: justice advocacy, conflict resolution, and nonviolent peace forces. These qualities would be favored over youth's desire for adventure. In order to develop a cultural shift among Catholics, it is imperative that their energies not be suppressed and eliminated but rather redirected and even amended.

Next, Schlabach returns to the concept of Mennonite accountability structures and even Catholic religious discernment to those who then enter military service and/or international policing. Those entering these services should be tested for vocational patterns such as requiring "to know well" just-war theory criteria.<sup>142</sup> But it is noteworthy to mention Schlabach's motive in requiring youth entering service to know Just War criteria. Such a process in discerning and testing through a Catholic accountability process would allow a Catholic member in the armed services and/or international policing forces to resist orders that contravene Just War criteria. Augustine's insistence on right intentions of love of enemy is cited as a foundational part of this accountability and discernment stage. Those serving should do so without regard for revenge, as Augustine urges, and those manifesting inclinations toward revenge would be forbidden from serving in such a global role.

Finally, Schlabach turns his attention to Reserve Officer Training Corps (ROTC) programs in Catholic colleges and universities across the United States. Here, a two-fold

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<sup>142</sup> Ibid., p. 52.

application is proposed whereby short-term goals and long-term goals are measurable and realistic. On the one hand, campus ROTC curricula would be developed over a short-term period that would incorporate the training mentioned above for youth; on the other hand, these institutions would become leading think tanks in the country. This means that ROTC curricula would contain the substance of Just Policing and taught accordingly alongside the Just War tradition.

Over the long-haul, Schlabach sees that these ROTC centers can turn into intellectual think tanks toward a Just Policing culture. He says that Catholic campuses with ROTC programs would become leading think tanks “for transarmanent to nonviolent civilian-based defense in the long run.”<sup>143</sup> In other words, the gradual transition to Just Policing would not preclude the use of a civilian defense force using principles of nonviolence as types of “soldiers-then-international police.”<sup>144</sup> He closes with a consistent thread running through these four constituents: Just as bishops, theologians, and laity would be called to resist unjust war structures, so too if any governments object to training such officers for the service, Schlabach would not rule out institutional conscientious objection.

In all four cases, it is noteworthy that this principle of conscientious objection – regardless of its form – emerges as a prominent proof of practicing for Just Policing. Having addressed these four constituents, Schlabach then turns his attention toward the arena of international peacekeeping and to the arena of counter-cultural prophetic witness.

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<sup>143</sup> Ibid.

<sup>144</sup> Ibid., pp. 52-53.

## Transnationality

In the arena of international peacemaking, Schlabach develops his proposal at the global level by focusing on the defense of human rights as his point of departure. With the outlook towards of defending human rights of entire populations, it is in this vital framework that he refers to national defense and returns to the transarmament. Schlabach proposes, “[T]he Church should explore doing nothing less than developing a transnational, nonviolent army, or peace force of its own. The Church should never have forgotten to recognize itself as history’s archetypical transnational society, together with Diaspora Judaism, and in keeping with the teaching of early Church Fathers.”<sup>145</sup> From the bishops, theologians, laity, and educational infrastructures, Schlabach then focuses his attention on the universal Catholic Church around the world. A transnational peace force of the Church would be a nonviolent army. Church peace forces that are global in scope and nonviolent in magnitude would be consistent with patristic sources. In this context, Schlabach remains rooted in the Christian tradition. Along with specific patristic texts, he cites authors such as Clement of Alexandria, Tertullian, Pontius the Deacon, Gregory Nazianzen who recounts the interrogation of Basil the Great, and Augustine.<sup>146</sup> While it is outside the scope of this thesis, it would be worthwhile to conduct a further in-depth study of Schlabach’s use of patristic authors and flesh out their thought and direct relevance for Just Policing, Pacifism and Just War. These authors are historically crucial to understanding the foundations of the Just Policing proposal as they are Schlabach’s own grounding of Just Policing within the Christian tradition.

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<sup>145</sup> Ibid., p. 53.

<sup>146</sup> Cf. Ibid., p. 74.

Additionally, Schlabach returns to Vatican II but this time, instead of citing the Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, he cites the Dogmatic Constitution on the Church *Lumen Gentium* in which the transnational Church is described as a pilgrim People of God. This model of the Church as pilgrim People of God serves as a means by which Catholics practicing policing will have “renounced direct political control, [and where] there is conceptual space for launching nonviolent army, or peace force for that transnational nation which is the Church.”<sup>147</sup> The emphasis on principle of nonviolence is what defines this transnational ecclesial policing peace force. He envisions the “nonviolent defense of peoples.”<sup>148</sup> Absolutely critical in this observation is the principle of nonviolence, but it is nonviolence practiced at a global scale.

### Prophecy

“Admittedly,” argues Schlabach, “these proposals [i.e., for bishops, theological advisors, laity, and parishes and educational infrastructures] assume and add up to a thorough cultural transformation within the Roman Catholic Church.”<sup>149</sup> Here, Schlabach develops the idea that Catholics who are familiar with the institutionalization of such practices will need to remain vigilant in being “uncomfortably counter-cultural.”<sup>150</sup> He cites Pope John Paul II’s position on the so-called modern culture of death phenomenon preoccupied with violent proclivities, individually and systemically,

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<sup>147</sup> Ibid., p. 53.

<sup>148</sup> Ibid.

<sup>149</sup> Ibid., p. 54.

<sup>150</sup> Ibid.

and affixed to end of life cares.<sup>151</sup> There are times when Christians are not culturally accepted, he observes, and it is in such circumstances that a more prophetic position needs to be taken. Schlabach, in the final analysis, returns to the Mennonite context and closes that not just Catholics but Mennonites “have gifts to share”<sup>152</sup> in being counter-cultural and taking prophetic stances against the status quo. It is the status quo that Schlabach seeks to transform— and even displace.

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<sup>151</sup> Cf. *Ibid.*

<sup>152</sup> *Ibid.*

## CHAPTER TWO

### INITIAL & FURTHER RESPONSES TO THE JUST POLICING PROPOSAL

#### (ANTI-THESIS, SYNTHESIS & MATURATION)

As seen in the previous Chapter One, the Just Policing proposal attempts to bridge the centuries-old divide between Just Warriors and Pacifists. In this Chapter Two, I examine the aftermath of the proposal. After Schlabach presents his case of how war would cease to be a church-dividing issue through the Just Policing proposal, four scholars with distinguished theological credentials reply to the proposal. These four scholars offer initial and further responses to Just Policing. In this chapter, I delimit the replies to the initial proposal based on the fact that the articles of the four scholars are a historically substantial addition during the watershed 2002 colloquium.

In this chapter, the reactions to Schlabach's proposal are thoroughly examined to provide a comprehensive snapshot and greater clarity into the foundations of Just Policing. Notably, Joseph Capizzi's response to Gerald W. Schlabach appears before the other three. Capizzi is referred to as the *initial* response, while the other three authors are referred to as *further* responses. These are important distinctions. The other three responders – J. Denny Weaver, Ivan J. Kauffman, and Stanley Hauerwas – thus had the tactical advantage of reviewing both Schlabach's proposal and Capizzi's initial response to the proposal. Eventually, after the four scholars respond to Schlabach, Schlabach in the final analysis replies to the four scholars' reactions to his Just Policing proposal thus offering a more mature reflection on his original proposal.

For the purposes of this chapter, instead of a mere presentation of the four responses in their sequential order, this thesis rather provides Schlabach's immediate

response to the initial and further responses in order to provide fresh perspectives of the proposal, counterproposal, and eventual synthesis. Interestingly, Schlabach himself expresses in the end his modest satisfaction in his “Response to the Responses” that the four responses “surveyed the logical possibilities quite well.”<sup>153</sup> Kauffman and Hauerwas “expressed essential support for my ‘Just Policing’ proposals, but from distinct-though-complementary angles— Kauffman as more the political commentator and Hauerwas as more philosophical.”<sup>154</sup> In Chapter One, we saw that Schlabach relies heavily upon Hauerwas’ Pacifist thoughts, so the philosophical nod, so to speak, from Hauerwas to the Just Policing proposal carried significant theological weight and philosophical validation for his proposal. Hence, the substance of Schlabach’s “Response to the Responses” would be focused neither against Hauerwas nor against Kauffman; rather, the heart of Schlabach’s responses in the final analysis was directed against the other two authors, Capizzi and Weaver. Capizzi reflects the Just War angle, while Weaver responds from the Pacifist angle. Schlabach readily admits that “[a]t one level, this spread of responses confirms that claim of Capizzi’s title: ‘War remains a church-dividing issue.’”<sup>155</sup>

My chapter here for this thesis is divided into four main parts. These four parts reflect the two thematic points of contention with Schlabach in Capizzi and Weaver as well as the two substantial points of agreement with Schlabach in Kauffman and Hauerwas: (1) Genus v. Species (Capizzi); (2) Principled Pacifist v. Almost Pacifist (Weaver); Third Way (Kauffman); and Paul Ramsey’s Mistake (Hauerwas).

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<sup>153</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 112.

<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid.*



## Genus v. Species

The first notable response to Schlabach’s proposal in Capizzi is the title of the articles for both authors. On the one hand, Schlabach’s proposal claims Just Policing as a means for war to *cease* to be a church-dividing issue; on the other hand, Capizzi rejoins that war *remains* a church-dividing issue. “I doubt fundamental aspects of Schlabach’s paper; in particular I think the paper proceeds on a fundamental confusion of the genus with species.”<sup>156</sup> The following table illustrates Capizzi’s attempt to rebut Schlabach:

Moral Justification of Force (genus)	
War (species)	Policing (species)
<p style="text-align: center;">War has no internal accountability. - Schlabach</p> <p style="text-align: center;">Operates on “us v. them”-a-la-Ricoeur - Capizzi commenting on Schlabach</p>	<p style="text-align: center;">“slender bonds of accountability” - Schlabach</p> <p style="text-align: center;">“inherent tendency to minimize recourse to violence” against other – Schlabach</p>

Table 1: Illustration of Capizzi’s Genus v. Species Framework to Rebut Schlabach’s Proposal.

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<sup>156</sup> Ibid., p. 76.

For Capizzi, the distinctions made in Table 1 highlight a foundational error in Schlabach's thought process. First, Capizzi states that Schlabach confuses the genus of the moral use of force with the species of war and policing, of which these two species are a part. Capizzi observes that Schlabach compares the genus of the moral use of force with the species of policing. He also compares the species of war with the species of policing. In other words, colloquially speaking, war and policing in Schlabach are like apples within the family of fruits. Differences of the species of apples are unsurprising and one does not distinguish between species but within a species, Capizzi notes.<sup>157</sup> A simple comparison of the two species of apples among themselves is not insightful in understanding the genus of the family of fruits. Similarly, it is not sufficient to simply compare the two species of war and policing. "It is not enough to make this point, however. One must also explain the moral significance of these differences."<sup>158</sup>

Capizzi has a problem with Schlabach's comparison of species of war and policing distinction and claims that Schlabach did not show a morally significant distinction between the two. "My comments on Schlabach's proposal shall be limited to parsing the first and third parts of that paragraph. I will not question some of the less essential aspects of the argument."<sup>159</sup> The first and third parts of the paragraph to which Capizzi refers is one listed as Point #1 and Point #3, respectively, in Table 1 as follows: (a) Point #1 is that by using principles of Just Policing, what has been called Just War is finally just, but it is really policing and not war and (b) Point #3 is that both Just War theorists and Pacifists have failed in their task to avoid war.

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<sup>157</sup> Cf. *Ibid.*, p. 77.

<sup>158</sup> *Ibid.*, p. 77.

<sup>159</sup> *Ibid.*, p. 78.

Capizzi calls Point #1 “unclear, as it stands.”<sup>160</sup> Capizzi claims that the impasse attributed to Just War theorists and Pacifists is “reducible merely to intellectual laziness” over the centuries.<sup>161</sup> “Schlabach implies that all along what Christians meant to justify was not war, but policing, and that analytical imprecision...led them to include war in their justification of policing.”<sup>162</sup> Capizzi thus rejects Schlabach’s proposal in the first of two major arguments. Capizzi (who again inclines to the Just War position) reminds Schlabach about Reinhold Niebuhr (who also inclines to the Just War position). Niebuhr, too, asks what theological considerations distinguish the use of force in policing from the use of force in war. Under this line of thought, Capizzi, concludes, “[p]olicing emerges as one way to use force.”<sup>163</sup>

Schlabach replies to the first objection and acknowledges Capizzi’s resurrection of the Niebuhrian “ghost of an old alliance” with the ghost of nonresistant Mennonites.<sup>164</sup> He appeals to the older ghosts, so to speak, of Augustine and Aquinas to rebut the Capizzi framework as highlighted in Table 1 and its appeal to Niebuhrian suppositions. “If we remember both Augustine’s privative theory of evil, however, along with the Thomistic principle that *bonum* is convertible with *esse*, the genus/species framework runs into problems.”<sup>165</sup> The Augustine-Aquinas metaphysical views of privation hold that violence is never a good and thereby lacks being. If it lacks being, it also lacks genus and species, for Schlabach. Instead, Schlabach offers a different analysis rather than the moral use of force as genus framework Capizzi proffers. The good to be examined is not

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<sup>160</sup> Ibid., p. 79.

<sup>161</sup> Ibid., p. 79.

<sup>162</sup> Ibid., pp. 79-80.

<sup>163</sup> Ibid., p. 80.

<sup>164</sup> Ibid., p. 112.

<sup>165</sup> Ibid., p. 114.

lethal force but the good – *esse* – of government. Schlabach acknowledges that Capizzi accuses him of “fundamental confusion” – that is to say, the very foundations of the Schlabach proposal have been questioned – but Schlabach counters that it is Capizzi’s framework rather that “invites multiple confusions.”<sup>166</sup>

The second main counterargument is Point #3. It is this point with which Capizzi has a substantial problem: “If both attended more fully to the *difference* between war and policing, then ... in the process both would have practically, yet decisively rejected war. To begin moving in this direction, however, both traditions of moral reflection need to recognize their respective *failures* to think in clear and forthcoming ways about policing.”<sup>167</sup> Two observations should be noted here which I have italicized above: First, the very difference in species – to use Capizzi’s terms – itself is a main challenge to Schlabach’s proposal. For Capizzi, both war and policing involve the genus of the moral justification of force. Both war and policing involve some degree of force, and because of this similarity in species of war and policing, the policing argument seems for Capizzi (and thus for Just War proponents in general) a simple reiteration of Just War thought. Capizzi queries, “Perhaps Schlabach means that just-war theorists ought to become just-war pacifists?”<sup>168</sup> Capizzi then resurrects the classical Paul Ramsey response to Pacifism that if one accepts that force is the *esse* of government, and if wars can no longer be waged, then an international crisis follows in which sovereign states are dissolved. A global authority would replace sovereign states in order to avoid war. Thus, for Capizzi, Schlabach seems merely to revert to questions raised during Paul Ramsey’s time, without

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<sup>166</sup> Ibid.

<sup>167</sup> Ibid., p. 84; italics mine.

<sup>168</sup> Ibid.

further breaking the mold of the impasse. As such, the principles of the Just War tradition remain in effect, and they remain in effect all the more so even with an international governing body.

Consequently, Capizzi observes a relevant interplay between John XXIII's *Pacem in Terris* in 1963 *vis-à-vis* Paul Ramsey's response to *Pacem in Terris* twenty years later in 1983. Even if Schlabach and Capizzi were to mutually agree on the need for an international governing body, they would part company as regards the moral justification of force. Capizzi, for instance, notes the following from *Pacem in Terris*:

Today the *universal common good* presents us with problems which are world-wide in their dimensions; problems, therefore, which cannot be solved except by a public authority with power, organization and means co-extensive with these problems, and with a world-wide sphere of activity. Consequently, *the moral order itself demands the establishment of some such general form of public authority*.<sup>169</sup>

Here, the notion of a universal common good entails via moral argument a global governing authority. However, for Capizzi, what is important in Ramsey is not just the existence of the universal governing body but rather the perennial character of the Just War tradition that the global governing body utilizes to justify its moral existence. Capizzi readily agrees with Ramsey that the appropriate public authority “must start and remain with the church’s traditional teachings about the just conduct of war. For these criteria are also the principles intrinsic to purposive political action....”<sup>170</sup> In other words, use of force by international authorities retains in and of itself a type of *raison d’être* for the use of force. Capizzi states, “The church’s traditional teachings about the

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<sup>169</sup> John XXIII, “Encyclical Letter *Pacem in Terris* ‘Peace on Earth’ (1963),” *Catholic Social Thought: The Documentary Heritage*, Thomas A. Shannon and David O’Brien, eds. (Maryknoll, NY: Orbis Books, 1992), pp. 131-161.

<sup>170</sup> Ivan J. Kauffman, ed., *Just Policing: Mennonite-Catholic Theological Colloquium*, 2002, p. 84.

just conduct of war are perennial, even if the specific political structures to which they apply are not.”<sup>171</sup> The greater international consciousness of rule of international law, for Capizzi, means that positive action, rather than passive inaction yields a greater usage of the perennial Just War principles. Power, in whatever form, still needs to be governed by morality; and in this particular argument, that power, whether international or not, relies upon Just War reasoning. The moral use of force will necessarily involve the question of whether war is just.

Finally, Capizzi closes his arguments against Just Policing by returning to the title of his article and qualifying his agreement with Schlabach through practical application of unifying principles. War thus *remains* a church-dividing issue rather than *ceasing* to be a church-dividing issue. He acknowledges the old rift’s continual existence, “But what divides us is what led John Howard Yoder to call the theory of just war an apostasy.”<sup>172</sup> Schlabach’s proposal contains some merits for Capizzi, such as efforts for Catholics and Mennonites to come together in dialogue and practical action, even though policing action alone is not sufficient for Capizzi. This tone suggests future conversation. Nevertheless, war is, for Capizzi, right action to live out the Christian love of neighbor. “What divide us are, among other things, incommensurable views of what Christian love entails.”<sup>173</sup>

Schlabach’s final counterargument to Capizzi’s case against the Just Policing proposal is a direct response to Capizzi’s final response about international governance. Schlabach does not jettison his proposal but strengthens it *vis-à-vis* the global authority

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<sup>171</sup> Ibid., p. 85.

<sup>172</sup> Ibid., p. 86.

<sup>173</sup> Ibid., p. 87.

argument Capizzi made above. Schlabach takes Capizzi's case regarding the *esse* or the good of government by rejecting forms of violence – particularly war – as evils to be avoided. Rather, an active non-violent Gandhian approach is the most suitable answer to Capizzi. Citing Kauffman who supports him, Schlabach maintains the “legitimate police function of government, however positively re-constructed.”<sup>174</sup> Schlabach continues, “But as Kauffman charts so well, the Gandhian revolution has begun to make nonviolent government imaginable.”<sup>175</sup> Government, especially international government, need not resort to use of violent force to maintain peace and stability.

Finally, citing Yoder's *When War is Unjust*, Schlabach drastically diverts from Capizzi's assessment of international law and the relationship of war and policing to it. Schlabach warned that international law “often gets subverted in exactly the same way just war theory gets subverted.”<sup>176</sup> Yoder refers to this as “war realism” in which a “moral façade” rationalizes war at the international level instead of averting<sup>177</sup> it. When the United States, for instance, makes its case before the United Nations on Iraq, Schlabach notes how the United States bullied the United Nations into agreeing with the U.S. desire to invade Iraq. Schlabach agrees with Kauffman's observation that rule of law at the international level exists in “in a very rudimentary form” and acknowledges Kauffman's observation that Schlabach's proposal contains a weakness regarding international law and politics.<sup>178</sup> It is a theme that would later return in Schlabach's response to the Pacifist Weaver.

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<sup>174</sup> Ibid., p. 116.

<sup>175</sup> Ibid., pp. 116-117.

<sup>176</sup> Ibid., p. 117.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid.

### Principled Pacifism v. Practical Pacifism (“Almost Pacifism”)

Of the four scholars who provided an initial and further response to Schlabach’s initial proposal, both Capizzi and Weaver exhibit the strongest argument against Schlabach. Kauffman and Hauerwas, by contrast, essentially support the Just Policing proposal. Before understanding Weaver’s argument against Schlabach (and thereby his contribution to Schlabach’s proposal), Weaver decides it is important to present his Pacifist credentials. In response to Schlabach’s proposal, Weaver explicitly identified himself as a Christian Pacifist who believes that the “rejection of violence is intrinsic to who Jesus was.”<sup>179</sup> Weaver is a Pacifist because he is a Christian rather than because of its practical value. He refers to this as the principled Pacifist position and does not doubt the coherence of the Pacifist movement. He is not a practical or strategic Pacifist which is synonymous with an almost-Pacifist. This distinction between his beliefs as a principled Pacifist, as opposed to a practical Pacifist, comprises the first of three main arguments against Schlabach’s proposal: the attempts to see (1) conceptual flaws (principled pacifism v. practical pacifism); (2) flawed assumptions (policing framework is *still* violence); and (3) another spectrum (rejected violence v. justified violence). Of the three main arguments, the first argument sets the tone for the other two and, as such, Schlabach devotes a considerable response to Weaver’s perceived conceptual flaw.

First, the conceptual flaw that distinguishes between the principled Pacifist and the practical Pacifist is substantiated in two major analogies: pregnancy and the post office puzzle. Just as a woman is either not pregnant or one week pregnant, so, too, one is either a principled Pacifist or a practical Pacifist. In the post office analogy, a

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<sup>179</sup> Ibid., p. 89.



mathematical situation is presented whereby someone who wants to mail a letter goes half way to the post office one day, followed by going half of the remaining distance the second day, and then half of the remaining distance each day thereafter. In such a puzzle, the person mailing a letter would never reach the post office. However, Weaver simply asks, “[C]ouldn’t you just reach out and drop the letter in the box?”<sup>180</sup> The practical answer here surpasses the real answer. Given this analogy, Weaver reasons that Schlabach through Just Policing was simply reaching out to drop off the letter in the box without ever reaching the post office. Similarly, the Just Policing proposal is, for all intents and purposes to Weaver, practical Pacifism. It is “almost Pacifism” but not principled Pacifism. For Weaver, “‘practical pacifism’ or ‘almost pacifist’ are still just-war outlooks but with more stringent application of just-war criteria than is usually the case.”<sup>181</sup> In a sense, practical Pacifism, upon which the Just Policing proposal is based, is not real Pacifism for Weaver and is really a compromise of Pacifism.

To this first charge, Schlabach relates a true anecdotal data of a time years ago when he and Weaver were colleagues teaching at the same Mennonite university. At the time, an elusive stalker roamed the women’s dormitories and needed to be caught. In this scenario, Schlabach recalls how the principled Pacifist Weaver himself at that time remarked that policing this dormitory situation was a “really tough ethical problem.”<sup>182</sup> Schlabach then proceeds to critique Weaver’s approach and how this case did not provoke moral indignation to police the women’s dorms. Schlabach notices that Weaver then does not provide alternatives for nonviolent policing. Schlabach’s illustration only

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<sup>180</sup> Ibid., p. 91.

<sup>181</sup> Ibid., p. 90.

<sup>182</sup> Ibid., p. 119.

serves to rebut Weaver's distinction of the "almost principled" Pacifist position.

Schlabach counter-claims that "we have to live in this world, not in a mathematically abstract one" that Weaver presents in his post office analogy.<sup>183</sup>

Second, Weaver holds that, in addition to the conceptual flaw described above (and rebutted by Schlabach), Schlabach's proposal contains a flawed assumption. While Weaver agrees with Schlabach's support for community policing in which root causes of conflict are involved, and while Weaver even cites and agrees with Yoder's ethical distinction between war and policing, Weaver nevertheless points out that violence is still minimized in policing. Even though violence may be lessened in policing, it is "still problematic—just as the almost-not-pregnant woman is still pregnant."<sup>184</sup> Moreover, this problem has (a) allowed Just War assumptions to determine the terms of the discussion and (b) "co-opted nonviolent action as a form of minimal violence."<sup>185</sup> Weaver concludes that Just Policing is a compromise. Non-violence, whether active or passive, still involves some degree of violence, an approach unacceptable for Pacifists.

To this second charge, Schlabach answers the non-Catholic Weaver by focusing on Catholic trends. Schlabach sought to assuage Weaver's concerns by highlighting that Catholic Just War proponents have been gradually concerned that, since *The Challenge of Peace* in 1983, Just War thinking has been "eroded in favor of at least a functional pacifism."<sup>186</sup> There is a strong Catholic current post-*The Challenge of Peace* towards, to use Weaver's terms, practical Pacifism. Then, citing Drew Christiansen, S.J., who creates "permissive/stringent" terms describing varying degrees among Just War

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<sup>183</sup> Ibid., p. 120.

<sup>184</sup> Ibid., p. 93.

<sup>185</sup> Ibid., p. 94.

<sup>186</sup> Ibid., p. 120.

theorists, Schlabach reports that the U.S. Catholic shift towards Pacifism is itself not a compromise.<sup>187</sup> Christiansen, Schlabach states, thinks that Schlabach should be more demanding of Catholics than of Mennonites. Schlabach here seeks to allay Weaver's fears that the Mennonites are compromising. Schlabach notes that "if there is a danger of people being co-opted, it is mutual."<sup>188</sup> If compromise is present, it is being done by both Catholics and Mennonites, but Schlabach clarifies, "I am not asking anyone to make concessions, certainly not now. I believe I made this clear in my paper..."<sup>189</sup> Finally, instead of compromise, Schlabach instead reminds Weaver that Schlabach himself "made this clear" already by proposing concrete practices where institutions can operationalize policing or, rather, to use Yoder's terms, "give it 'teeth.'"<sup>190</sup>

Third, Weaver refers to "another spectrum" that is "defined by or shaped by the rejection of violence rather than by the assumption of justified violence."<sup>191</sup> Before summarizing his claims against Schlabach, Weaver draws a critical "ad hoc" distinction between non-violent, peace people guided by the Reign of God versus a conventional understanding of justified violence by the kingdom of the world.<sup>192</sup> Here, the Christian's "highest loyalty is to the Reign of God and refuses to accept ruling the so-called kingdom of the world" rather than compromise or co-opt.<sup>193</sup> Weaver further states:

In sum, Schlabach's proposal neglects the theological distinction between the Reign of God and that which does not acknowledge the Reign of God and that which does not acknowledge the Reign of God for the sake of a practical bridging of the gap between just-war people and pacifists. In effect, Schlabach's proposal asks the peace church to compromise principled pacifism...<sup>194</sup>

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<sup>187</sup> Ibid.

<sup>188</sup> Ibid., p. 121; emphasis his.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid., p. 126, as cited in Footnote #12.

<sup>191</sup> Ibid., p. 94.

<sup>192</sup> Ibid., p. 96.

<sup>193</sup> Ibid., p. 97.

<sup>194</sup> Ibid.

Thus, for Weaver, Christians with their highest loyalty to the Reign of God are called to renounce violence and embrace nonviolence. Anything less for Weaver is a compromise where even peaceful people resort to justified violence. “My point is that from a principled pacifist perspective, Schlabach’s proposal actually establishes ‘compromise’ as the operative principle. His proposal calls for the principled pacifist to compromise in the name of the public good and for the sake of making common cause with just-war advocates.”<sup>195</sup> Weaver desires cooperative work with Schlabach but calls for a distinction of theoretical foundations; otherwise, principled Pacifists are for Weaver substantially similar to the almost-Pacifist-Just-War-people. Weaver closes by agreeing with Capizzi’s concluding statement and reiterates that the divide between Just War theorists and Pacifists remain: “But what divides us is what led John Howard Yoder to call the theory of just war an apostasy. ... Our obligation to God and neighbor may involve the use of lethal force against another neighbor. ... What divides us, are among other things, incommensurable views of what Christian love requires.”<sup>196</sup>

To this third charge, Schlabach emphasizes the notion of vocation spirituality, specifically “vocational pacifism.”<sup>197</sup> Vocational Pacifism addresses Weaver’s insistence that “nonviolence is normative for all Christians.”<sup>198</sup> Interestingly, Schlabach does not contradict Weaver’s point of compromise; rather, believing himself to be faithful to his teacher Yoder. He states that he is faithful to his teacher for two reasons: (1) First, true dialogue does not mean that one should cave in to the other party yet one can also be

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<sup>195</sup> Ibid., pp. 97-98.

<sup>196</sup> Ibid., p. 99.

<sup>197</sup> Ibid., p. 122.

<sup>198</sup> Ibid.

vulnerable *vis-à-vis* the other. When Schlabach holds that Just War thought could be reconstituted as Just Policing, it does not follow that Schlabach has compromised.

(2) Second, Yoder's method of pressing for Just War criteria but only as "middle axioms" does not necessarily mean a compromise, too, for Yoder himself is willing to consider limited exceptions to the absolute prohibition against violence *if* that were needed as those middle axioms.<sup>199</sup> Schlabach asserts, "Though I mean here to contest Weaver's claim that compromise is the 'operative principle' of my paper, I will not deny that at some point over the horizon I *might* be willing to consider compromises, though I hope we can instead discover 'third options' that transcend our current impasse".<sup>200</sup> The third option appears in the next author.

#### International Law, Incommensurability, and the Third Way

The substance of Schlabach's reply is oriented against both Capizzi and Weaver who provide the bulk of the counter-positions against the Just Policing proposal. Kauffman and Hauerwas do not receive substantial attention in "Just Policing: Response to the Responses" thus ending this thesis's summary and analysis of Schlabach's replies to challenges to his proposal; however, for the purposes of this study, Kauffman's and Hauerwas' response to Schlabach are nonetheless important to understanding the foundations of Just Policing. Themes identified by both Kauffman and Hauerwas signify priorities from further responses to the Just Policing proposal.

"My major suggestion," writes Kauffman, "is that a clearer understanding of *what distinguishes policing from warfare* would be helpful in enabling the concept of just

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<sup>199</sup> Ibid., p. 124.

<sup>200</sup> Ibid., p. 123.

policing to play a significant role in this great debate.”<sup>201</sup> Kauffman identifies one major distinction between policing from warfare, between police officers and soldiers. The police officer, he observes, is acting on behalf of a court of law. Notice the significance of the police officer acting on behalf of a court of law. There are legal codes to which the police officer is beholden, whereas a soldier is not beholden to a specific court or legal system but rather is beholden to the government and arbitrary violence where rule of law does not necessarily exist.

The implication of this first major point is a critical foundation emphasized by Just Policing theorists; that is to say, international law (in rudimentary form) and international courts (albeit not universally accepted) as utilized by the United Nations are global infrastructures that now make Just Policing more of a reality today. The conversations among members of the international community and the growing role of the community of nations today provide an atmosphere positively conducive to policing. Prior to an established global authority to enforce international policing action, proponents of Just Policing would be hard pressed to find an international authority to promote a universal common good. Moreover, given the international character of the institutional Catholic Church, the Catholic Church is in a ripe position to cultivate international peace and rule of law through the Church’s robust international networks. It is within the issue of international law that both Just War theorists and Pacifists would find common ground for conversation without having to compromise their respective positions. Accountability is thus not neglected in Just Policing thought, since

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<sup>201</sup> Ibid., p. 100; italics mine.

international rule of law provides such a needed structure. Without international systems, Just Policing is ineffective.

Second, Kauffman revisits the issue of incommensurability and acknowledges the other respondents, Capizzi and Weaver, who likewise note that there exists “incommensurable views of what Christian love requires.”<sup>202</sup> Here, Kauffman admits that an inherent different theological worldview exists between Mennonites and Catholics. Evidently, the incommensurable character about role of government is more pessimistically evil in the Mennonite tradition based on St. Paul, while the Catholic traditions view the role of government as an optimistic good based on Aristotle’s *Politics*. However, while government is a necessary evil for Mennonites, Kauffman (who has been both a Mennonite and a Catholic) still observes a common assumption, even with differences: Both Mennonites and Catholics hold that civil government is not possible without violence; yet curiously, even with this common assumption, two different conclusions emerge.

Given incommensurable views and common assumptions, this paves the way in Kauffman for a third and final response. Just as the international community emerges through the United Nations as a phenomenon that would support the principles of Just Policing, so too the growing phenomenon of Gandhian nonviolence demonstrates for our time today that non-lethal violence can be part of effective government based on Just Policing. Mennonites, a descendant of the Anabaptist tradition which historically tends to shy away from government roles, now had a new opportunity through the Gandhian nonviolence movement. “This is possible only when some people are willing to die,

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<sup>202</sup> Ibid., p. 102.

rather than engage in legitimate self-defense, but it is nonetheless possible— as peoples throughout the world have demonstrated repeatedly in the past half-century,” states Kauffman.<sup>203</sup> Kauffman notes that Mahatma Gandhi himself was a lawyer that used rule of law to accomplish nonviolent ends in government.

Moving forward, then, Kauffman contends that both Mennonites and Catholics, both Just War advocates and Pacifists, will “need to make major adjustments in their past positions.”<sup>204</sup> Kauffman is “deeply convinced” that neither tradition will prevail in the future and that what really appears to be emerging is a “*third way* that preserves the best of both positions while retaining the defects of neither.”<sup>205</sup> For Catholics, he states that the bishops of Vatican II committed the Catholic Church to new outlooks: “[I]nstead of giving conciliar authority to the just-war doctrine, they said, ‘All these factors force us to undertake a completely fresh appraisal of war.’”<sup>206</sup> While for Mennonites, Kauffman borrows a phrase coined by Weaver and observes that Mennonites committed themselves by “moving off of the non-resistant, no-violence-at-all end of the spectrum.”<sup>207</sup> Hence, international law and overcoming incommensurability pave the way for a third way that preserves the best of both traditions and corrects the defects of both. Kauffman also alludes to the third way in his book *If War Is Wrong, What Is Right: Beyond the Just War Pacifist Debate*; however, no particular texts are cited here. Stanley Hauerwas, however, asks the same theme of Kauffman’s book title with a slightly different nuance: “[I]f war is not just, what is it?”<sup>208</sup>

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<sup>203</sup> Ibid., p. 104.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid., p. 105; emphasis mine.

<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<sup>208</sup> Ibid., p. 107.



## Force as *Bene Esse* of Government: Paul Ramsey's Mistake

Hauerwas launches immediately into Capizzi's major line of thought that "force is of the *esse* of government."<sup>209</sup> Capizzi, according to Hauerwas, commits the same fundamental error as Paul Ramsey before him, and as Reinhold Niebuhr before them, and as Max Weber before all three of them. "The whole assumption that the *bene esse* of government is force is a peculiar modern notion that has everything to do with modern state formations and the creation of boundaries."<sup>210</sup> Hauerwas, in collaboration with Roman Catholic moral theologian Enda McDonagh, asks fellow theologians: "if a war is not just, what is it?"<sup>211</sup> For Hauerwas, Just War theorists are tasked with effectively demonstrating how Just War should shape foreign policy as well as police and military institutions "if it is to be just."<sup>212</sup> Neither he nor his Catholic colleague has seen that manifested. Thus, Hauerwas places the burden of proof – not on Pacifists but rather – on Just War proponents.

More specifically, Hauerwas focuses his attention not just on Just War theorists in general, but on Christian theologians in particular. He calls for an ambitious appeal to abolish war and presents this vision as possible. Interestingly, Hauerwas appeals to John Paul II, Tertullian, and Jesus's disarming Peter in the Garden of Gethsemane. He notes that in John Paul's *Centesimus Annus*, the phrase "War Never Again" rings in our ears.<sup>213</sup> He cites Tertullian who teaches, "The Lord in disarming Peter henceforth disarms every soldier."<sup>214</sup> And finally, Hauerwas looks to Jesus himself: "It is loyalty to the example

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<sup>209</sup> Ibid., p. 106.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid., p. 107.

<sup>212</sup> Ibid.

<sup>213</sup> Ibid., p. 108.

<sup>214</sup> Ibid.

and teaching of Jesus Christ which first and foremost summons Christians to renounce war and to seek with the wider religious and human communities to develop alternatives in protecting the innocent, restraining aggressors, and overcoming injustices. Let us study war no more. Let us study peace.”<sup>215</sup> Hauerwas subsequently attacks fourth century attempts to justify war. “It is very doubtful if any actual war during that period fulfilled the traditional criteria of *jus ad bellum* and *jus in bello*.”<sup>216</sup> These appeals to historical data is important in understanding Just Policing.

Finally, Hauerwas’ actual comments during the 2002 colloquium focuses mainly on Capizzi and his assumptions on government via Ramsey, Niebuhr and Weber. The remaining commentary took on the form of a call to action, with an appeal to a wider listenership, both Christians and non-Christians, to abolish war. Most striking, however, is Hauerwas’ use of a slavery analogy to abolish war. “Those calling for slavery’s abolition were thought to be foolish utopian dreamers. We are well aware that slavery still exists in multiple disguises, but no one thinks aloud that slavery can be justified or that public profit can be made from it.”<sup>217</sup> For Hauerwas, Just Policing seems not just a lofty idea but a lived reality that is borne from spiritual convictions and historical precedence. “Let the twenty-first century be for war what the nineteenth century was for slavery, the era of its abolition....”<sup>218</sup>

Given the antithesis, synthesis and maturation of the Just Policing proposal in this Chapter Two, the next major chapter in this thesis identifies a fundamental assumption of the Just Policing proposal. Carrying out its argument to conclusion, Schlabach signals a

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<sup>215</sup> Ibid.

<sup>216</sup> Ibid.

<sup>217</sup> Ibid., p. 111.

<sup>218</sup> Ibid.

transformational model in his contribution to the social ethics of war and peace. In Chapter Three, the Just Policing proposal is carried out to its theological and philosophical conclusion with an ambitious effort to even replace the traditional Just War ethics model so that it is *just* Just Policing.

## CHAPTER THREE

### JUST POLICING TRANSFORMATION INTO *JUST* JUST POLICING

In the previous chapters, we saw the foundational principles and maturing of the Just Policing proposal. In this chapter, we see the transformation of Just Policing to displace Just War. This development appears in three major articles that Gerald W. Schlabach contributes to the book *Just Policing, Not War*.<sup>219</sup> In the book's foreword, Jim Wallis writes, "In that important discussion [on Just Policing], this book could play a critical role. It is time to explore an alternative to war— not just because modern warfare fails to meet ethical standards, but also because it is failing to resolve the genuine threats of real evil in our time. We must find a better way."<sup>220</sup> In my Chapter Three, I summarize these three major articles with three major themes: (1) convergence between Just War and Pacifism; (2) critical distinctions between warfare and policing; and (3) practical applications revisited. These three themes of convergence, distinctions and applications evolve into an ambitious transformation of Just War into "just" Just Policing.

#### Towards Convergence

Schlabach explicitly presents his thesis on Just Policing as convergence. He says,

If the best intentions of the just war theorists were operational, they could *only* allow for just policing, not warfare at all. If Christian pacifists can in any way support, participate, or at least not object to operations with recourse to *limited but potentially lethal force*, that will only be true for just policing. Just policing— and *just* just policing.<sup>221</sup>

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<sup>219</sup> Gerald W. Schlabach, ed. *Just Policing, Not War: An Alternative Respond to World Violence* (Collegeville, MN: Liturgical Press, 2007).

<sup>220</sup> *Ibid.*, p. xvii.

<sup>221</sup> *Ibid.*, p. 3; italics mine.

He continues, “That, in a nutshell, is the twofold thesis of the ‘just policing proposal.’”<sup>222</sup> For Schlabach, Just Policing is “not a grand convergence right now— or mere compromise ever”<sup>223</sup> but rather is an attempt at convergence over the centuries-old impasse between Just War and Pacifism.

The intellectual foundations of his convergence thesis are reflected in Schlabach’s use of the following authors and organizations that underpin his work on the social ethics of war and peace: the United Nations, Reinhold Niebuhr, Vatican II, John Ford, S.J., various popes, the U.S. Conference of Catholic Bishops (USCCB), the Methodist bishops, John Howard Yoder and Glenn Stassen. The common thread through which these authors and organizations weave together is Schlabach’s reliance on this line from Vatican II’s Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*: “All these factors force us to undertake a completely fresh appraisal at war.”<sup>224</sup> Here, the line contains two major ideas for the purposes of this thesis: (a) factors that are the cause of undertaking a new approach to war and (b) a completely fresh appraisal of war.

#### “Factors That Force Us”

The first major factor that impels a new approach to studying the ethics of war is seen in grim data provided by the United Nations. A United Nations report observes that at the beginning of the twentieth century, only 5% of war casualties were civilians. By World War II, 65% of war casualties were civilians. Around the twenty-first century,

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<sup>222</sup> Ibid.

<sup>223</sup> Ibid.

<sup>224</sup> Second Vatican Council, “Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*),” *Vatican Council II: The Conciliar and Postconciliar Documents, New Revised Edition*. Austin Flannery, O.P., ed. (Collegeville: Liturgical Press, 1975, 1986, 1992, 1996), no. 80.

90% of war casualties were civilians. And of these war casualties today, roughly half of them were children.<sup>225</sup>

The second major factor, for Schlabach, is taken from Reinhold Niebuhr's assessment of the contemporary humanity's "hysterias and furies" that are evidences of humanity's "daemonic capacity and inclination to break the harmonies of nature and defy the prudent canons of rational restraint."<sup>226</sup> Niebuhr's observation on fallen humanity's inclination to modern horrors is then contrasted with Vatican II's abhorrence of war. Schlabach highlights how modern war disturbed the Vatican II bishops deeply such that they proposed new ways to help address the theology of war and peace, particularly for the suffering poor and afflicted affected by war and violence today.

The third major factor is the deterioration between combatant and non-combatant, the protector and the protected. Schlabach reminds us of the statistic of civilian war casualties which we saw earlier. The dramatic move from 5% to 90% of civilian war casualties within a century is reflected, he notes, in mass armies, industrial mobilization, the wide-scale destruction potential of nuclear annihilation, guerrilla and low-intensity warfare, terrorism, and other new post-Cold War "intermeshed" military-civilian functions.<sup>227</sup>

#### "A Completely Fresh Appraisal of War"

These three major factors, says Schlabach, impel the need for new evaluations of war and peace theory. Schlabach emphasizes Vatican II's perception of how combatants

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<sup>225</sup> Cf. Graca Machel, *The Impact of War on Children* (New York: Palgrave, 2001).

<sup>226</sup> Reinhold Niebuhr, *The Nature and Destiny of Man*, Vol. 1 (New York: Scribner's, 1941, 1961), p. 94.

<sup>227</sup> Schlabach, *Just Policing, Not War*, pp. 6-7.

resort to “barbarities far surpassing those of former ages”<sup>228</sup> including the attempts to exterminate entire races, nations and ethnic minorities. He also cites a new observation by John C. Ford, S.J., in which modern warfare takes on an indiscriminate character.<sup>229</sup> Even with such a horrific state of new warfare today, Schlabach writes how it is noteworthy that Vatican II did not emphasize the use of Just War theory, “For all its historic prominence in Catholic deliberation over the ethics of war, the just war theory had never been promulgated as an official *doctrine* or dogma in the Catholic Church, and if ever there was a moment to do so, the Second Vatican Council was it.”<sup>230</sup> This Vatican II omission, for Schlabach, significantly shows how the “bishops held back from endorsing just war reasoning as the church’s preferred approach to war, must less as doctrine. No, instead of either endorsing *or* renouncing, the bishops made a lateral move.”<sup>231</sup> This lateral call is made for new approaches to evaluate war today. While he admits that Just War principles appear in key Vatican II sections on war, Schlabach argues that this deliberate lack of endorsement of Just War theory by the Vatican II bishops really reflects a radical Catholic shift away in recent decades from the Just War model and towards a completely new appraisal. Schlabach highlights that if there was a time to present Just War principles in a church document systematically, a major church council would have been the right time to do so.

Schlabach then proposes that post-conciliar popes such as Pope Paul VI and Pope John Paul II confirm Vatican II’s approach for a completely fresh appraisal of war today.

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<sup>228</sup> Second Vatican Council, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, nos. 79-80.

<sup>229</sup> Cf. John C. Ford, S.J., “The Morality of Obliteration Bombing,” *Theological Studies* 5 (September 1944): 261-309.

<sup>230</sup> Schlabach, *Just Policing, Not War*, p. 10.

<sup>231</sup> *Ibid.*

Like Paul VI at the United Nations, John Paul II writes in *Centesimus Annus*, “Never again war!”<sup>232</sup> At the same time, Schlabach documents how the Vatican was quick to say that the popes were not acting as Pacifists. “Yet it has also prompted hasty clarifications that neither the pope nor the Holy See is ‘pacifist.’”<sup>233</sup> This is a vital point for Schlabach in that it shows Schlabach is neither a Just War proponent nor a strategic Pacifist. As such, Just Policing emerges as a fresh approach to completely appraise war today.

Furthermore, Schlabach sees that the Catholic Church has also given a “new level of recognition to vocational pacifism, at least.”<sup>234</sup> He appeals to the USCCB document *The Challenge of Peace* as well as the United Methodist Council of Bishops (UMCB) document *In Defense of Creation*. Whereas the USCCB writes about the “complementary relationship” between the traditions of Just War and Pacifism or active nonviolence, the UMCB speaks of these as a “partial but vital testimony to the requirements of justice and peace.”<sup>235</sup> Even historic peace communities themselves, like the Mennonites, the Church of the Brethren, and Society of Friends, admit that they too must “have it both ways” by having someone use explicit force in a fallen world.<sup>236</sup> Schlabach also refers to the Schleithem Confession of 1527 that allows secular rulers to use the “sword” which “punishes and kills the wicked” but “guards and protects the

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<sup>232</sup> John Paul II, “Encyclical Letter on the Hundredth Anniversary of ‘Rerum Novarum’ (*Centesimus Annus*),” *Catholic Social Thought: The Documentary Heritage*. Thomas A. Shannon and David O’Brien, eds. (Maryknoll, NY: Orbis Books, 1992), no. 52.

<sup>233</sup> Schlabach, *Just Policing, Not War*, p. 11; see also ZENIT News Agency, “Pope Isn’t a Pacifist, Says Vatican Spokesman,” February 13, 2003; see also ZENIT New Agency, “Holy See is Not Pacifist But Peace-Making, Says Cardinal Sodano,” February 18, 2003.

<sup>234</sup> Schlabach, *Just Policing, Not War*, p. 12.

<sup>235</sup> *Ibid.*; cf. also United States Conference of Catholic Bishops, *The Challenge of Peace: God’s Promise and Our Response* (Washington, D.C.: United States Catholic Conference, 1983), no. 74; United Methodist Council of Bishops, *In Defense of Creation: The Nuclear Crisis and a Just Peace* (Nashville: Graded Press, 1986), 33, 88.

<sup>236</sup> *Ibid.*, p. 13.



good.”<sup>237</sup> Across the Christian spectrum, then, a new shift has taken place among all these Christian denominations in recent decades.

Moreover, Schlabach acknowledges the new Just Peacemaking Initiative as an attempt to make a fresh approach to studying war, but he capitalizes on a fundamental weakness in this movement. The problem in the Just Peacemaking approach is that Pacifists seem to reject the proposal in Just Peacemaking for being a “stringent, limited and thus rectified just war approach— but just war approach nevertheless.”<sup>238</sup> Schlabach notes the fruitfulness of Just Peacemaking as “one of the best efforts to transcend a centuries-old impasse between Christians working from pacifist and just war convictions.”<sup>239</sup> However, Just Peacemaking remains within the categories of the Just War and Pacifists debates, and this means that Just Peacemaking itself falls within the impasse. On the other hand, Schlabach claims, Just Policing falls outside these categories in a way that the Just Peacemaking approach does not.

Finally, Schlabach closes this article by looking at this impasse as a “cause for hope.”<sup>240</sup> The cause for hope is seen in his citation of international analyst Jonathan Schell who observes how Mahatma Gandhi helped humanity in the twentieth century to discover the following observation from Gandhi: “True power is social, not violent.”<sup>241</sup> Gandhian nonviolence reflects the notion that Just Policing is a type of call, a vocation. It

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<sup>237</sup> Ibid.; cf. John Howard Yoder, ed. and trans., *The Schleithem Confession* (Scottsdale, PA: Herald Press, 1976), art. 6.

<sup>238</sup> Ibid., p. 14; cf. also Glen Stassen, ed., *Just Peacemaking: Ten Practices for Abolishing War* (Cleveland: Pilgrim Press, 1998) and Glen Stassen, “The Unity, Realism, and Obligatoriness of Just Peacemaking Theory,” *Journal of the Society of Christian Ethics* 23, no. 1 (2003): 171-194.

<sup>239</sup> Schlabach, *Just Policing, Not War*, p. 14.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid., p. 15.

also fosters ecumenism.<sup>242</sup> As such, one does not need to compromise one's confessional position but can still engage in conversation with a Christian tradition different from one's own. Just Policing is thus not a church dividing issue but has ample room to bring denominations together. This is all the more necessary especially for victims of war and violence around the world. Schlabach maintains, "Christians do not have to be fully united around issues of peace and war. For Christ's church simply to be less divided may be quite enough."<sup>243</sup>

#### Warfare Versus Policing: Critical Distinctions for *Just* Policing

Having addressed a convergence between Just War and Pacifism, Schlabach turns his attention to a vital clarification. He distances Just Policing from Just War. "The differences between war and policing make a difference. So I will argue. But this is not to deny all similarities."<sup>244</sup> It is important for Schlabach to clarify the distinction so that Just War and Just Policing are not merged into the same category. He defines Just Policing as follows:

*Policing* seeks to secure the common good of the very society within which it operates; because it is embedded, indebted, and accountable within that community, according to rule of law, it has an inherent tendency to minimize recourse to violence.<sup>245</sup>

By contrast, he defines Just War in the following way:

*Warfare* may also seek to secure the common good of a society, of course. But because it extends beyond that society through threats to other communities, it has an inherent tendency to break out of the rule of law.<sup>246</sup>

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<sup>242</sup> See, for example, "Called Together to be Peacemakers: Report of the International Dialogue Between the Catholic Church and the Mennonite World Conference, 1998-2003," *Information Service* 2003-II/III, no. 113 (2004): 111-148.

<sup>243</sup> *Ibid.*, p. 19.

<sup>244</sup> *Ibid.*, p. 69.

<sup>245</sup> *Ibid.*

<sup>246</sup> *Ibid.*

Schlabach says, “Neither pacifists nor just warriors have explored this difference adequately.”<sup>247</sup> Whereas Just Policing uses rule of law and minimizes violence, Just War tends to break the rule of law and permit violence. Given the critical distinction between warfare and policing, the remaining main structure of this article is then divided into two parts, similar to previous chapter, but with a focus on transforming Just Policing into *just* Just Policing, not war: (1) Just Policing and the Just War tradition with an emphasis on the misnomer and (2) Just Policing and the Pacifist tradition and the emphasis on policing as a vocation to protect the innocent. It is through such foundations and maturations in Schlabach’s thought, examined in this thesis, that Just Policing ethics seeks to displace the Just War theory.

#### Just Policing and the Just War Tradition: The Misnomer

Schlabach uses the thought of John Howard Yoder as his point of departure. Yoder argues that the Just War tradition “suffers from a kind of slipperiness”<sup>248</sup> by permitting war as morally justifiable (*jus ad bellum*) and by also using reason to limit war (*jus in bello*). By protecting innocent third parties, however, Just War is acting, in effect, like police action. Just War acts on the strong presumption of violence, a principle which

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<sup>247</sup> Citing Tobias Winright as a leading exception, Schlabach further writes, “Pacifists and just warriors have rarely even argued over the similarities between war and policing with enough rigor to expose the limits of those similarities and thus reveal crucial differences” from Gerald W. Schlabach, ed., *Just Policing, Not War: An Alternative Response to World Violence* (Collegeville, MN: Liturgical Press, 2007), p. 70; see also, for example, Tobias Winright, “The Perpetrator as Person: Theological Reflections on the Just War Tradition and the Use of Force by Police,” *Criminal Justice Ethics* 14, no. 2 (Summer/Fall 1995): 37-56; see also “Two Rival Versions of Just War Theory and the Presumption Against Harm in Policing,” *Annual Society of Christian Ethics* 18 (1998): 221-239; see also “The Challenge of Policing: An Analysis in Christian Society Ethics,” Ph.D. Dissertation (University of Notre Dame, 2002).

<sup>248</sup> Cf. John Howard Yoder, *When War is Unjust: Being Honest in Just-War Thinking*, rev. ed. (Maryknoll, NY: Orbis Books, 1996), pp. 50-70.

is shared with Pacifism.<sup>249</sup> Nevertheless, continues Schlabach, “For once war is justified as an extension of the self-evident need for policing, war consistently becomes something other than policing, and the just war tradition tends to devolve into either ‘war realism’ or crusading.”<sup>250</sup> Schlabach calls this use of Just War theory over the centuries mere war realism or warism whereby Just War really serves for propaganda and provides a moral permissive attitude with the appearance of having been stringent. For Schlabach, what is understood as war using the Just War theory is really policing. Just War theorists have the burden of demonstrating ways in which war is not like policing, while Just Policing theorists “must be called back from the brink of militarization.”<sup>251</sup> This important distinction shows that what was called Just War “is probably a misnomer”<sup>252</sup> for what is really Just Policing.

#### Just Policing and the Pacifist Tradition: Vocation to Protect

Turning to the Mennonite tradition which is Pacifist, and using this Christian community as an example, Schlabach observes that Mennonites “only show more clearly the need for pacifist deliberation on the ethics of policing.”<sup>253</sup> Specifically, Schlabach turns to Christian Pacifist thinkers. Mennonite ethicist Duane K. Friesen, for example, writes in *Christian Peacemaking & International Conflict: A Realist Pacifist Perspective*

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<sup>249</sup> See Schlabach’s citations, in his Footnote #4 on Page 87, of James F. Childress, “Just-War Criteria,” in *Moral Responsibility in Conflicts: Essay on Nonviolence, War, and Conscience* (Baton Rouge: Louisiana State University Press, 1982), pp. 63-94, and Richard B. Miller, “Aquinas and the Presumption Against Killing and War,” *Journal of Religion* (April 2002): 3-35.

<sup>250</sup> Gerald W. Schlabach, ed., *Just Policing, Not War: An Alternative Response to World Violence*, pp. 72-73.

<sup>251</sup> *Ibid.*, p. 77.

<sup>252</sup> *Ibid.*

<sup>253</sup> *Ibid.*, p. 78.

that 9/11 should be viewed within a crime framework, not a war framework.<sup>254</sup> For his part, Theologian Stanley Hauerwas, a Pacifist ally of Mennonites, envisions taking police functions into the international arena, so that nations and communities will make killing a truly rare event. For John Howard Yoder, Schlabach sees how Yoder was “widening that focus [on policing] enough that Mennonites could recognize social and political engagement to promote social justice and limit violence as *part* of this very witness.”<sup>255</sup> Pacifists would thus not only permit police actions by international governments and courts without compromising their principles, but Pacifists would also see in their policing a real vocation where they are called to defend the innocent through policing.

#### Practical Applications of the Transformation Revisited

In the first article on convergence, Schlabach focuses on the *theoretical* foundations of Just Policing. In this third and last article, Schlabach ends with the *practical* application of Just Policing. He starts with some caveats: First, if Just Policing grows in influence, Just Policing needs to resist the tendency to militarize police forces. Second, it is not the intention in Just Policing for any nation to take on the role of a police officer of the world, as this would be a type of imperialism rather than an international police force accountable to the rule of law. Given these caveats, along with a reminder that Just Policing can bridge divided Christian traditions, Schlabach then takes stock of current policing practices and reminds his readers of the vocational discernment for policing.

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<sup>254</sup> Ibid.

<sup>255</sup> Ibid., p. 83.

Schlabach briefly addressed the notion of community policing, but he seeks to widen community policing to the international Just Policing level. As such, it remains distinct from Just Policing. By contrast with Just Policing, community policing seeks to address the root causes of violence in local communities and modifies its methods of apprehending criminals using less violent tactics. Community policing refers to a “shift from a military-inspired approach to fighting crime to one that relies on forming partnerships with constituents. It employs health and human service programs as well as more traditional law enforcement, with an emphasis on crime prevention. It represents a change from a reactive model of law enforcement to one dedicated to developing moral structure of communities.”<sup>256</sup> Looking forward, Schlabach opens up Just Policing to these community policing approaches which rest on a community moral fiber.

But at the heart of Schlabach’s Just Policing proposal at this juncture is a shift, particularly in the Catholic view of Just War theory. That shift is seen with transforming the Just War tradition “back into what it has claimed to be, in effect, just policing.”<sup>257</sup> The fundamental transformation here is reflected in his Footnote #9, citing Alasdair MacIntyre’s socially embodied arguments. In this footnote, Schlabach writes, “The notion of and need for social embodied arguments is a major theme in the work of Catholic philosopher Alasdair MacIntyre, carried through his books.... In the context of ecumenical dialogue, proof embodied in practices are especially necessary if Catholics hope to convince Mennonites of their claims, since Mennonites have sometimes called

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<sup>256</sup> Christopher Freeman Adams, “Fighting Crime by Building Moral Communities,” *The Christian Century* III, no. 27 (October 5, 1994): 894.

<sup>257</sup> Schlabach, *Just Policing, Not War*, p. 97.

discipleship the ‘essence of Christianity.’”<sup>258</sup> Here, the transformation of Just War into Just Policing gives Catholic credibility in its ecumenical outreach to historic peace churches. Schlabach later says, “If the just war tradition were truly operative along these lines, and if it were accompanied by the thoroughgoing development of nonviolent practices that would truly render war a last resort, Mennonites and other historic peace churches would find the tradition far less objectionable.”<sup>259</sup> Under this model, Just Policing would be “just” Just Policing, instead of another model of social ethics that coexists with Just War and Pacifism.

Finally, Schlabach recalls his gratitude to Todd Whitmore. Citing Whitmore with whom Schlabach has engaged in informal discussions, Schlabach concludes the following, “That is why we may begin to chart the practices needed to make war no longer a church-dividing issue by exploring what the Catholic Church needs to do to implement the just war tradition, even though we hope to displace it with a tradition of just policing.”<sup>260</sup> For Schlabach, then, the Catholic Church seeks an application of Just Policing that is “church-wide and parish-deep enough that they correspond with the magisterium’s teaching that the just war tradition begins with a strong presumption against violence, allows wars only as an exception, and does so only in the last resort.”<sup>261</sup>

To close, Schlabach’s Just Policing proposal has matured and transformed. It has matured through a process of proposal, examination, response, maturation, and transformation. His thoughts will continue to impact ecumenical efforts today in

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<sup>258</sup> Schlabach, *Just Policing, Not War*, p. 107, in Footnote #9; cf. Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 2<sup>nd</sup> ed. (Notre Dame, IN: University of Notre Dame Press, 1984).

<sup>259</sup> *Ibid.*, p. 101.

<sup>260</sup> *Ibid.*

<sup>261</sup> *Ibid.*, pp. 101-102.

particular, but the approaches to Just War and Pacifism in general. Whether Just Policing transforms or does not transform Just War thought and Pacifism in the future, Schlabach's commendable attempt to bypass the centuries-old impasse remains a notable contribution to the social ethics of war and peace today.



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