

the  
**sign of peace**

SPRING 2005 · VOLUME 4.2

JOURNAL OF THE  
CATHOLIC PEACE FELLOWSHIP



## Selective Conscientious Objection

What it means for Catholics in a country at war

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*Archbishop Romero's Theology of Transfiguration, by Margaret Pfeil*  
*Fr. Robert Barron on "Christus Victor"*  
*The Editors on the papacy and peace*

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*The Sign of Peace* is published four times a year. Annual voluntary subscription rate: \$10. To submit letters to the editor, address changes, manuscript submissions, or questions, contact:

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Cover art by Jan Peters for *The Sign of Peace*;

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# letters

Dear Sir or Madam,

His Holiness Pope Benedict XVI, his reputation for "conservatism" notwithstanding, spent part of his boyhood in the small Bavarian town of Tittmoning. In 1987, I passed through that town on the way to visit St. Radegund [hometown of Franz Jägerstätter].

Seeing that both the Pope and Jägerstätter were in effect near neighbours makes me hopeful that the cause of Franz Jägerstätter can proceed apace. What a wonderful message of commitment to the cause of peace that would be for your Church, if he were canonized!

In Peace,

Nigel Baldwin

St Albans (Anglican) Church

Hampshire, England

Dear CPF,

...In the spring of 1966 I filed for "Selective Conscientious Objector" status with the U.S. Military. Your pamphlet [Catholics and Conscientious Objection] and Gordon C. Zahn's book *In Solitary Witness: The Life and Death of Franz Jägerstätter*

played a significant role in helping me formulate my position...

...I have started developing a website ([www.geocities.com/objection\\_conscientious](http://www.geocities.com/objection_conscientious)) and I want to have information available in case someone contacts me requesting assistance.

George Schoen, OH

*from our online discussion board...*

I would like to share with anyone considering submitting a C.O. packet. Writing the packet was extremely difficult and draining for me. It took me 4 months just to answer all the questions. Although I believe I qualify for approval of my packet, I am not expecting that the Army will approve it. However, the amount of inner peace I feel for completing it is worth any repercussions. Being forced to deeply consider and confront my beliefs has changed me and clarified for me how to live my life. Negotiating choices in life that used to seem complex and ambiguous now seems much more simple.

Ann Marie

# The Papacy and Peace



Political commentator Christopher Hitchens noted in March 2003 that “an awful realization has been dawning upon the Bush White House. Christianity is a religion of peace.” The cause of his remark was the staunch opposition to the Iraq War from John Paul II. Despite the efforts of George Weigel, Michael Novak and other Catholics closely allied with the president, the pope insisted on peace.

We ought not be surprised. The pope is the successor to Peter, the one to whom Christ gave leadership of the Church. But it was also Peter who received some of Christ’s clearest rebukes. In the Garden of Gethsemane, the night of Jesus’ arrest, when his captors came to the garden, Peter drew his sword and cut off the ear of the high priest’s servant. Many have noted that if violence were ever to be employed for a just cause, this would be it, on behalf of the innocent Son of God being led to torture and death.

Yet Jesus rebuked Peter and commanded, “Put away the sword. Those who live by the sword will perish by the sword” (see Mt. 26:52; Lk. 22:51; Jn. 18:11). The early Church gleaned from these words a conclusion at once obvious and revolutionary: in disarming Peter, Jesus disarmed all Christians, including soldiers.

“Put away the sword.” Again and again, John Paul II echoed this sentiment. From stopping war between Chile and Argentina to exhorting Irish youth, “do not follow any leaders who train you in the way of inflicting death,” to the stand against the Iraq invasion, our late pontiff saw war as unacceptable.

Some will respond that the Vatican did offer limited cooperation with Ronald Reagan’s plan to “bring down the Soviet Union.” Yet in the 1991 encyclical *Centesimus annus*, John Paul II cited another plan. Oppression, the pope wrote, “has been overcome by the nonviolent commitment of people, who, while always refusing to yield to the force of power, succeeded time after time in finding effective ways to bear witness to the truth . . . May people learn to fight for justice without violence, renouncing class struggle in their internal dispute(s) and war in international ones” (n. 23).

John Paul here distinguished between “the cowardice which gives in to evil and the violence which, under the illusion of fighting evil, only makes it worse.” One fascinating aspect of the pope’s analysis—which speaks to contemporary critics of nonviolence—is that the pope notes the success of “the Gospel spirit in the face of an adversary determined not to be bound by moral principles” (n. 25).

Later in this encyclical, citing “the recent tragic war in the Persian Gulf” he called for a radical rejection of war. Not because it is unjustifiable, but because it inevitably “destroys the lives of innocent people, teaches how to kill, throws into upheaval even the lives of those who do the killing and leaves behind a trail of resentment and hatred, thus making it all the more difficult to find a just solution of the very problems which provoked the war” (n. 52).

Could he have recommended to Catholic soldiers that they conscientiously object? For sure, and perhaps this is the next step for the hierarchy to take in its rejection of war. Yet did he not give us, the Church, the tools to encourage precisely this response? Yes, and working nonviolently for peace stands squarely within his legacy.

With the election of the new pope, we can expect more of the same. Just as John Paul II cried out to the world, “War never again!” the new pontiff has taken the name of the one who first made that cry, Benedict XV, who was commonly known as “the peace pope” for his efforts to stop World War I. Cardinal Justin Rigali of Philadelphia said that the new pope told the cardinals he was selecting Benedict because “he is desirous to continue the efforts of Benedict XV on behalf of peace.”

As a Cardinal, the new pope was a staunch critic of the Iraq invasion and even suggested that “given the new weapons that make possible destructions that go beyond the combatant groups, today we should be asking ourselves if it is still licit to admit the very existence of a ‘just war’.”

Now is a time of hope. In 1945, the young Ratzinger made the decision to desert his post in the German army. When he was spotted and stopped by SS troops, he could have been shot on the spot. They did not harm him, using his wound (his arm was in a sling) as an excuse. Yet in his memoir, *Milestones*, Ratzinger gives the deeper reason for his escape from death. Those soldiers, he wrote, “had enough of war and did not want to become murderers.”

Our world, too, has had enough of war. We join the chorus of hope that Benedict’s ministry as pope will help us all put an end to war and hasten along God’s kingdom of peace.

# Peace Briefs

NEWS COMPILED BY THE CPF STAFF

## Marines seek help

As waves of young marines reported for Advanced Training, having just finished boot camp last year, commanders quickly found that a number of them had no desire to stay. Several had called the GI Rights Hotline—the phone number spread from person to person—to express their opposition to continuing military service and training.

One young man, a Catholic, had only begun to go regularly to Mass during Basic Training last summer. This experience led him down the road of applying for conscientious objector status. “At Boot Camp, the severity of killing another human being became more apparent when we shot at human-shaped targets,” he wrote, “but not until after Boot Camp did I realize that Catholics share my feelings. I now realize that being opposed to war and the killing of others is not wrong.” His application is now pending, though one officer privately told him he would work to see it rejected.

## Eucharist Is “God’s Absolute ‘No’ to Violence”

Echoing the late pope’s call to focus this year on the Eucharist, the preacher of the Pontifical Household directed the final Lenten meditation of the pontificate on “God’s absolute ‘no’ to violence.” According to Capuchin Father Raniero Cantalamessa, the Eucharist keeps alive this ‘no’ by which “Christ defeated violence, not opposing it with greater violence, but suffering it and laying bare all its injustice and uselessness.”

Father Cantalamessa referenced the work of René Girard, saying, “According to [Girard], with his doctrine and life, Jesus un.masks and tears apart the mechanism of the scapegoat that canonizes violence, making himself innocent, the victim of all violence.”

“Christ defeated violence, not by opposing it with greater violence, but suffering it and laying bare its injustice and uselessness,” the preacher said. “He inaugurated a new kind of victory that St. Augustine condenses in three words: ‘victor quia victima’: victor because he is victim.”

Stated Cantalamessa, “Resurrecting him from the dead, the Father declared once and for all, on what side truth and justice are, and on what side error and lies.”

## Camilo Mejia is Freed

Miami, FL - Camilo Mejia was released in February from military prison at Fort Sill, Oklahoma, after a nine month sentence for desertion. In October, 2003, Mejia

refused to re-deploy to Iraq after a furlough home in which he reflected on his experience in combat, as well as his faith and morals. He went AWOL and worked on his application for status as a conscientious objector. In March 2004, Mejia turned himself in, stating, “I went to Iraq as an instrument of violence. Now I have decided to become an instrument of peace.” His application was rejected and his charge of desertion was upheld. On May 21, 2004 he was sentenced to a year in military prison to be followed by a Bad Conduct Discharge.

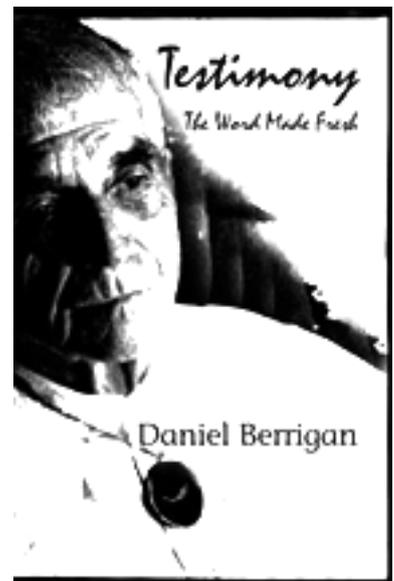
Mejia, 29 years old, was released February 15, 2005, ahead of schedule based on good conduct. While in prison, Mejia reflected:

“One of the reasons I did not refuse the war from the beginning was that I was afraid of losing my freedom. Today, as I sit behind bars I realize that there are many types of freedom, and that in spite of my confinement I remain free in many important ways. What good is freedom if we are afraid to follow our conscience?”

Two of Mejia’s strongest supporters have been his mother, Maritza Castillo and his aunt Norma. Both were present in October, 2004 to accept CPF’s St. Marcellus Award (given each year to an outstanding Catholic peacemaker) on Camilo’s behalf. Concerning his future, Mejia wrote, “I certainly want to continue to lend my voice to the movement for peace and justice, of which I feel privileged to be a part.”

## Berrigan’s Latest, ‘Testimony’

In his latest book, *Testimony: The Word Made Flesh* (Orbis Books: 2004), Daniel Berrigan shares recent writings on the biblical tradition and contemporary challenge of peace. *Testimony* includes personal reflections on his friendships with Dorothy Day, Thomas Merton and his late brother Philip as well as never-before released homilies and biblical commentaries. Among Berrigan’s topics are “Keeping the Flame Alive: Maccabees and the Fire of Peace,”



“Three Youths and the Fiery Furnace,” “Learn a Lesson from the Fig Tree,” and other biblical themes. The final chapter is particularly oriented toward Christians “in a warmaking state.” In this chapter, according to a review by Gene Roman, Berrigan “continues the biblically honorable tradition of castigating and admonishing America’s Catholic bishops for their silence during the nation’s military excursions in Vietnam, Grenada, Panama and Iraq.” The book is available at [orbisbooks.com](http://orbisbooks.com)

### Peace Team in Darfur

In December, CPF staff member Brenna Cussen travelled to Darfur, Sudan, with a Catholic Worker Peace Team. The team fundraised and distributed \$17,000 in aid to people in IDP camps and to local humanitarian groups. They listened to personal testimonies that corroborated reports that the government, through soldiers and paramilitaries called *janjaweed*, is committing genocide against the ethnically African (non-Arab) population of Darfur. Sudanese people told the team that they could be most effective in stopping the killing by pressuring the U.S. government to take action.

In response, on February 4th, Cussen and six others travelled to Washington, D.C. to block the entrance to the Sudanese Embassy. They were arrested and will go to trial on May 25th, where expert witnesses, including Bishop Thomas Gumbleton, will support their defense of necessity. Information about the trial and surrounding events, all open to the public, as well as information about what you can do to stop the genocide, can be found at [www.pieandcoffee.org/category/darfur](http://www.pieandcoffee.org/category/darfur).

### More Hotline News

One afternoon we received a call from Christine, an Army reservist. Although she characterized herself as a person who had almost never broken a rule in her life, she was considering not showing up to drill and risking the consequences, an other-than-honorable discharge.

Christine had joined the Army Reserves four years ago to help her pay for college, a promise that never came through. After “live fire” exercises in Basic Training, Christine realized she could never kill another human being in war. “As a respiratory therapist, my job is to save people’s lives.” She visited her Catholic Chaplain during training every week for six months to discuss her strong revulsion at the thought of killing. The chaplain told her that the Army had good benefits and that four years wasn’t that long. He never told her—nobody in four years ever told her—that she could apply to be a conscientious objector.

After the Unit Advisor told the group that anyone repeatedly missing a certain number of drills would be transferred to an Iraq-bound unit, Christine finally called the GI Rights Hotline.

Christine went to her drill that weekend prepared with Army Regulation 600-43. She asked for a CO application and requested immediate exemption from

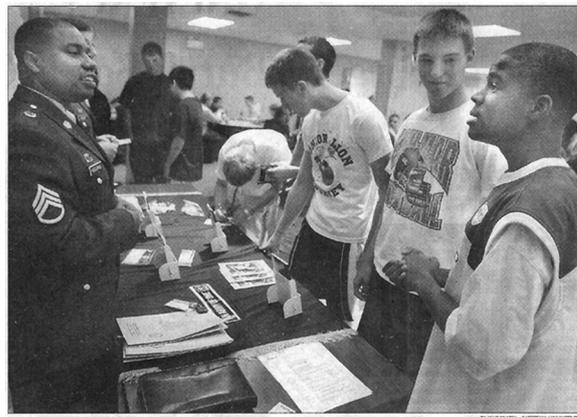
weapons training. Her Unit Advisor cooperated, although he put her on unpleasant “detail” all weekend. Still, she said, anything is better than having to shoot a weapon.

Another memorable call that brought home to us the misinformation rife in the military came from a man in Fort Leonard Wood in Missouri. After talking with us about making a conscientious objector claim, he went to his sergeant to talk about his beliefs. The sergeant spent ten minutes looking through a dictionary trying to find out the definition of “conscientious objector.”

Another soldier called to say that when he approached his supervisor about making a conscientious objector claim, he was told that he would need to have a “mental defect” to make such a claim.

### Military Recruitment

As the number of Americans deployed to Iraq and Afghanistan tops one million—yielding the largest group of veterans since the Vietnam era—military recruiters are struggling to find more bodies. On March 27, 2005 *The New York Times* ran a story which highlighted the enormous pressure put on recruiters as enlistment numbers have failed to meet Pentagon quotas over the past few months. One recruiter stated that his current assignment was more strenuous than the



from *The Washington Post*, February 21, 2005

time he was shot at while deployed in Africa. Another recruiter said that he had volunteered many times to go to Iraq rather than continue as a recruiter.

Calls from disenchanted recruits have highlighted for CPF the almost standard practice of false promises and lies in the recruiting process. As a result, we have initiated a counter-recruitment campaign and are producing a (yet to be paid for) poster to be sent to every Catholic high school in the country: “Consider This Before You Enlist...” It will include graphics, a quote from John Paul II, and facts about war and the military that recruiters can sometimes fail to mention. C

## Remembering Archbishop Romero 25 Years After His Death

# Gloria Dei, Vivens Pauper Romero's Theology of Transfiguration

BY MARGARET PFEIL

*Vibran los cantos, explosivos de alegría.  
Voy a reunirme con mi Pueblo en Catedral.  
Miles de voces nos unimos este día,  
Para cantar en nuestra fiesta patronal...*

*Pero los dioses del poder y del dinero  
Se oponen a que haya Transfiguración.  
Por eso ahora vos, Señor, sos el primero  
en levantar tu brazo contra la opresión.*

*The songs reverberate, explosive with joy.  
I am going to meet my People in the cathedral.  
Thousands of voices unite this day,  
To sing on our patronal feast...*

*But the gods of power and of money  
Oppose the Transfiguration.  
So now you, Lord, are the first  
To lift up your arm against oppression.  
- "Gloria," Misa Popular Salvadoreña*

In his last Sunday homily on March 23, 1980, Oscar Romero, Archbishop of San Salvador, took time to savor these lines from "Gloria" as he recounted the bloody events of the week. That Friday, Guillermo Cuéllar had stopped by Romero's office to deliver the lyrics, fulfilling a promise made some months earlier. The archbishop had asked this very gifted young church musician to compose a piece in honor of El Salvador's patron, the Divine Savior, celebrated each year on August 6, the Feast of the Transfiguration.

Some have said that in this homily, Romero preached his own death sentence. He reported that at least 78 murders had been perpetrated by state security forces during the previous week alone. A day earlier, he noted, Amnesty International had declared that in El Salvador, human rights were being violated to an extreme not seen in other countries. Concluding his homily, Romero ordered Salvadoran soldiers to stop killing their brother campesinos. The following day, he was gunned down

while offering Mass. Romero had spoken God's truth to "the gods of power and of money" in his country, to those who opposed the Transfiguration.

### Romero's Theology of Transfiguration

A feast day, Josef Jungmann wrote, "is a piece of time which touches eternity. On a feast-day, time stands still for a moment, restlessness and the stir of business fall back, people 'take their time'." (*Pastoral Liturgy*, 1962) Every year on the Feast of the Transfiguration, Romero took time to remember with his people the place of Salvadoran history within God's



Pregnant market vendor prays at the tomb of Msgr. Romero, Cathedral, San Salvador, 1986. (photo by Steve Moriarty)

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*Margie Pfeil is Assistant Professor of Theology at the University of Notre Dame. She is a co-founder of the St. Peter Claver Catholic Worker House in South Bend, Indiana.*

time, salvation history. He released three of his four pastoral letters on that date, carefully situating the signs of the times, both ecclesial and societal, against the larger horizon of eschatological hope.

Preaching on the synoptic Gospel narratives of the Transfiguration every sixth day of August and every second Sunday of Lent, Romero gradually crafted a theology of transfiguration:

The theology of transfiguration is saying that the road of redemption passes through the cross and through Calvary, but that the goal of Christians is beyond history. Not to alienate oneself from history but rather to give more meaning to history, a definitive meaning. From the day of Christ's Resurrection there remained burning in the same history of time a torch of eternity. (Homily, 2 March, 1980)

### **"Listen to him!"**

Romero's theology of transfiguration began with contemplation of Jesus' witness, following the mandate of the divine voice in the epiphany on Mount Tabor: "This is my Son, the Beloved; with him I am well pleased; listen to him!" (Mt 17:5; cf. Mk 9:7 and Lk 9:35) A supremely ascetic discipline grounding contemplative practice, listening disposes one entirely toward the message conveyed. Full apprehension, involving body, mind, and spirit, permits wholehearted, truthful response. As a pastor, Romero listened to the Word of God with his people, allowing the scriptural witness of Jesus' life, death, and resurrection to shed light on the integrity of Salvadoran reality. The truth of God's Word, the Incarnation, provided the ultimate criterion for measuring the authentic expression of Salvadoran history as part of salvation history. Only by entering deeply into the actual historical moment, fully embracing the risks of love enfolded on the cross, could Romero and his people come to know the truth of the Resurrection's hope, surrendering to the power of Jesus' love to transform violence and hatred.

Romero came to embrace this meaning of the Transfiguration only by living it, walking the way of Calvary with God's people. He became Archbishop of San Salvador in February 1977. Less than a year before, his homily on the Feast of the Transfiguration reflected an almost sanguine contentment with Mt. Tabor's promise of glory, accompanied by a rather optimistic exhortation to the harmonious social transformation that he envisioned for El Salvador. But, as is commonly acknowledged, the murder of his dear friend Rutilio Grande, the Jesuit pastor of the Aguilares community, proved to be a defining moment in Romero's ongoing process of conversion. "[T]he road from Aguilares," Ignacio Martín-Baró suggested, "was to be his road to Damascus." It would also become his own road to Golgotha, as Grande was the first of many church workers whom he would bury before his own assassination

three years later.

Grande's murder was a gauntlet thrown down by the Salvadoran national security state to challenge the church's pastoral and ministerial option for the poor. At the time, an oligarchy known as "the fourteen families" owned more than sixty percent of the arable land in El Salvador. Grande and other pastoral ministers were persecuted for supporting the masses of landless *campesinos* in their struggle for agrarian reform and a dignified way of life. Under such circumstances, failure to challenge the status quo meant giving tacit support to the repressive structures of the U.S.-backed national security regime.

### **The Bishop Listens**

As he let the light of the transfigured Jesus lead him by way of the cross, Romero's pastoral leadership came to embody a kind of asceticism. As athletes undertake arduous, methodical conditioning to meet the physical challenges set for them, he mindfully held up each thread of Salvadoran reality to uncompromising scrutiny by Scripture's light, preparing for the spiritual task at hand. His dominical homilies bore the mark of a contemplative at work, taking in the signs of the times and finding Christ there, no matter how dark the pain and suffering. The sisters with whom he shared community at the Divine Providence Hospital remember that on Saturday nights, Romero would gather the data of discernment for that week. Newspaper reports of current political and economic events, urgent messages from

**Only by entering deeply into the actual historical moment, fully embracing the risks of love enfolded on the cross, could Romero and his people come to know the truth of the Resurrection's hope...**

parishes and base communities regarding the details of persecution suffered, theological commentaries, and Scripture found their way to his desk and into his heart. Bringing it all to prayer, often long into the night, he shared the fruits of his contemplation in his homily the next morning. His voice amplified the dignified aspirations of the poorest and steadfastly proclaimed the witness of

those brutally and permanently silenced by political repression, whose blood cried out to heaven. His words reached the ears of those gathered in the eucharistic assembly as well as of those within earshot of the thousands of radios throughout El Salvador tuned in to the weekly broadcast of his homilies on the archdiocesan YSAX station.

Romero's contemplative *askesis* also found expression in his deep commitment to "the charism of dialogue and consultation." (Fourth Pastoral Letter, "The Church's Mission amid the National Crisis," 6 August 1979) As archbishop, he carefully cultivated an ear for



Guerrilla fighters of the FMLN assemble in San Salvador to celebrate the end of the War, 1992. (photo by Steve Moriarty)

the *sensus fidelium*, the sense of the faithful. Before any major decision, particularly one involving prophetic denunciation, he sought input from a wide variety of sources, ranging from canon lawyers to the beggar by the seminary's door. In the process of drafting his presentation for the 1979 meeting of the Latin American Episcopal Conference in Puebla, Mexico, and in preparing his fourth pastoral letter, Romero took the unusual step of administering a questionnaire to parishes and local communities and incorporating their responses into his deliberations. Instead of preaching a homily on El Salvador's patronal feast day that year, he presented an outline of what would be his last pastoral letter. Romero gratefully acknowledged the people's direct participation in the drafting process, humbly sharing authorship with them in accordance with his interpretation of *Lumen gentium* (the Vatican II *Dogmatic Constitution on the Church*). "All the people of God,' says the Council, 'guided by the Magisterium of the church enjoys the prophetic charism of Christ.' You and I have written the fourth pastoral letter...." (Homily, 6 August 1979)

### Rhetoric and Reality

With transparent humility, Romero invited his people to contemplative practice, becoming fully present to the truth of their experience and holding the joy together with the pain. As Jesus led Peter, James, and John down Mt. Tabor and into the paschal mystery of suffering, Romero, in typical fashion, concluded his homily on the second Sunday of Lent in 1979 with a detailed review of the facts of Salvadoran reality. That week, a boy named Carlos Fuentes was kidnapped from San Miguel. Jaime Baires, a lawyer, was tortured and killed

by agents of the National Guard. Romero was asked to mediate a labor dispute that had already left one person dead, his body delivered to the cathedral. But, at that moment, the people of Aguilares were embarking on a pilgrimage to remember Rutilio Grande on the second anniversary of his murder, a sign, Romero said, "of a church that honors its martyrs." (Homily, 11 March 1979) And, in San Antonio Silva, land redistribution was underway, a cause for modest celebration as well as honest acknowledgement of the sinful structures of property ownership that still held El Salvador captive in their idolatrous grip.

Romero's contemplative practice revealed the lethal chasm between rhetoric and reality in El Salvador, and with undaunted faith he gave his whole self, and ultimately his

life, to bridge the gap. The government could cynically call for national dialogue while sanctioning a record number of politically motivated murders, but not without Romero exposing the lie to the Gospel's light. Appealing to the truth of the Word, the Incarnation, he took full measure of the distorted human word by beginning where Jesus did, with the reality embodied in the lives of the poor majority.

In 1979, data from the archdiocesan Legal Aid Bureau indicated that the vortex of violence gripping El Salvador was becoming tighter and further institutionalized. As he celebrated the Feast of the Transfiguration with his worshipping community that year, Romero summed up his final pastoral letter by observing the truth of Salvadoran reality: In the first half of the year, "the number of those murdered by various sections of the security forces, the armed forces, and the paramilitary organizations rose to 406. The number of those arrested for political reasons was 307.... Not a single victim comes from the landowning class, whereas those from among the *campesino* population abound." (Homily, 6 August 1979)

As Jesus led his disciples from Mt. Tabor to Jerusalem and on to Calvary, so too the poor reveal the way of the cross as the way to God. In the Incarnation, God's glory and the human being fully alive become one: *Gloria Dei, vivens homo*. This well-known phrase of Irenaeus was once, according to Jon Sobrino, modified by Romero: "*Gloria Dei, vivens pauper*, 'the glory of God is the poor person alive.'" A dignified life for the poorest human beings marks the path of salvation for both the church and society.

The bitter ideological divisions among Salvadoran bishops stemmed from insufficient commitment to the

poor, Romero believed, and a wholehearted societal option for the poor would rob Marxism of its appeal, eliminating the ostensible justification for the systematic desecration of the poorest Salvadorans under the insidious guise of national security.

Romero situated the multivalent violence enveloping El Salvador against the horizon of the *kind of peace* sought. The Christian response to violence, he insisted, must take root in the true peace of Christ. All those surrounding Jesus at the Transfiguration were prone to aggression, Romero noticed, and yet Peter, James and John, though fearful, remained docile in his transfigured presence. Listening to the beloved Son, they surrendered to the power of Jesus' love to transform the violence of the cross.

Particularly in Eastern Christian practice, the Transfiguration has long served as an ascetical symbol, functioning prophetically to convey eschatological hope. The brilliant uncreated light of glory's promise radiating from the transfigured Jesus reveals to those who would follow him all that must be cleansed and purified within and around them in order to become fully alive, capable of mediating the light of Jesus' love as his disciples. The transfigured Jesus illuminates the reality of the People of God, calling them to action as part of their baptismal commitment.

By his own contemplative practice, Romero led his worshipping community in remembering their place in

salvation history so that they might become ever more fully the Body of Christ in Salvadoran history. Using the Transfiguration's light as their guide, they would gradually become transparent to God's love, disarming social hatred and violence and freely facing the inevitable persecution that would follow. "And by preaching this promotion of humanity and awakening humans from their sick conformity and making them active," Romero warned, "the church has to suffer..." (Homily, 6 August 1977) The more entrenched the sin, the greater the *kenosis*, love poured out as total self-gift, required to uproot it.

Romero invited his people to contemplate the truth of their persecution, the suffering relentlessly imposed upon them and justified by the U.S.-backed governing junta as a political necessity. "The scandal of the cross and of pain will not make us flee from Christ, reject suffering, but rather embrace it." (Homily, 2 March 1980) The luminous hope of Jesus' transfigured body shines forth precisely in the crucified Body of Christ in history, in the Salvadoran people's own bloodied testament to the truth of God's glory in the poor person fully alive. *Gloria Dei, vivens pauper. C*

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I would like to appeal in a special way to the army's enlisted men....Brothers: you are part of our own people. You kill your own campesino brothers and sisters. And before an order to kill that a man may give, God's law must prevail that says: Thou shalt not kill! No soldier is obliged to obey an order against the law of God. No one has to fulfill an immoral law. It is time to take back your consciences and to obey your consciences rather than the orders of sin. The church, defender of the rights of God, of the law of God, of human dignity, of the person, cannot remain silent before such abomination. We want the government to understand seriously that reforms are worth nothing if they are stained with so much blood. In the name of God, and in the name of this suffering people, whose laments rise to heaven each day more tumultuous, I beg you, I beseech you, I order you in the name of God: Stop the repression!

(Homily, Sunday, 23 March, 1980. Trans. in *Romero: A Life*, by James Brockman)

*Catholics, The First Amendment, and U.S. Military Law*

# The Forgotten Case of Louis Negre

BY DR. CHARLES J. REID, JR.



Jeremy Hinzman enlisted in the Army in 2001 and was a member of the 82d Airborne Division. A convert to Catholicism, he felt ill at ease in his early training and looked for spiritual solace in Catholic tradition, especially the life of St. Francis—as well as in Zen Buddhism and with the Quakers. Hinzman can, as a *New York Times* reporter noted, “sometimes sound so otherworldly it is far easier to imagine him as a monk than as a soldier.”<sup>1</sup> He had been accepted for training as an Army Ranger when his misgivings about modern war became overwhelming. Even before deployment to Afghanistan, he petitioned for discharge from the Army as a conscientious objector, a petition that was rejected because Hinzman did not qualify as a pacifist. Upon his return from duty, and facing deployment to Iraq,

Hinzman deserted from his unit and drove to Canada with his wife and their newborn son. He petitioned for refugee status; in late March his petition was rejected. He plans to appeal.

Catholics have had a particularly challenging time seeking conscientious objector status in the United States, at least since 1971. It was in that year that the United States Supreme Court, in the case of *Negre v. Larsen*,<sup>2</sup> determined that Catholics who objected to service in war on just-war grounds could not qualify for conscientious objector status, although members of other religious groups, such as Mennonites and Quakers, with a traditional commitment to pacifist principles, did qualify.

Louis Auguste Negre, the petitioner in *Negre v. Larsen*, immigrated with his family from France to the United States in 1952 when he was five years old. Young Louie attended Catholic grade school and high school and practiced his faith seriously throughout his adolescence and young adulthood. When called upon to give an accounting of his religious faith in his appli-

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cation for conscientious objector status, the young Negre wrote: "I have always been taught and I firmly believe that [the] teaching of the Popes of the Church in matters of religious faith and morals is binding on all Catholics, clergy or laity, military or civilian."<sup>3</sup>

Negre was drafted into the United States Army in 1967. He made clear during basic training his opposition to the Vietnam War. Indeed, he only showed up for induction in order to weigh the Army's point of view and thus be certain of his beliefs. His family, he recalled, had been opposed to the French War in Indochina and had moved to the United States at least in part so that young Louis would not have to serve in the French army. In preparing his application for conscientious objector status, Negre turned for support to the Bible and to the just-war tradition of the Catholic Church. The Decalogue forbade killing, he noted. Jesus counseled his followers to love those who are our enemies and to turn the other cheek to those who strike us. Looking for support in recent statements of the magisterium, Negre called attention to the Second Vatican Council, which had declared that the morality of warfare must be "evaluated . . . with an entirely new attitude."<sup>4</sup> Alfredo Cardinal Ottaviani was also cited by young Negre for the proposition that technological developments had made it impossible to "fulfill [those] conditions which in theory make war lawful and just."<sup>5</sup> Pope John XXIII's assertion that the invention of nuclear armaments made it "irrational to believe that war is still an apt means of vindicating violated rights,"<sup>6</sup> was also quoted by Negre in his application for conscientious objector status, as was Paul VI's plea at the United Nations: "If you wish to be brothers, let the weapons fall from your hands. . . . No more war. War never again."<sup>7</sup> Negre declared that he was bound in conscience to follow this teaching. Vietnam, he declared, was an unjust war because it was nothing more than an ideological struggle, an attempt to win over by force of arms another people to the American point of view.

### The Supreme Court and Conscience

In applying for conscientious objector status, Negre sought the protection of a body of law that had been in a state of evolution since the early days of the American Republic. Especially important in the development of conscientious objector law was a little-noticed case of 1931, United States v. Macintosh.<sup>8</sup> "Douglas Macintosh was a Canadian national who received a graduate degree from the University of Chicago and taught at Yale Divinity School until shortly after the outbreak of World War I when he enlisted as a chaplain in the Canadian Army and saw service at the Battle of the Somme."<sup>9</sup> Having resumed his teaching career at Yale following the War, he sought to be nationalized as an American citizen. Responding to a question whether he was prepared to defend the United States by force of arms, Macintosh answered: "Yes, but I should want to

be free to judge of the necessity."<sup>10</sup> Macintosh had thus posed, in the context of a naturalization case, the problem of conscientious objection on just-war grounds: a veteran of World War I, Macintosh was no pacifist, but he was not in favor of abandoning his conscience to the decisions and demands of the state.

In a five-four decision, Macintosh lost. He could not become a U.S. citizen. Of more enduring importance, however, was the dissent, authored by Chief Justice Charles Evans Hughes, who had previously served as American Secretary of State, and joined by Oliver Wendell Holmes, Louis Brandeis, and Harlan Fiske Stone. Distinguishing between the "domain of power"—which belonged to the nation—and a "forum of conscience"—which belonged to the private judgment of the individual—Hughes sought to find room under the naturalization laws for Macintosh's conscientious objections, premised as they were on just-war principles:

Nor is there ground, in my opinion, for the exclusion of Professor Macintosh because his conscientious scruples have particular reference to wars believed to be unjust. There is nothing new in such an attitude. Among the most eminent statesmen here and abroad have been those who condemned the action of their country in entering into wars they thought to be unjustified.<sup>11</sup>

In 1940, on the eve of entry into World War II, Congress enacted legislation enabling the creation of the Selective Service; this legislation was superseded in 1948 by a second Selective Service Act. The second Act paraphrased from passages of Chief Justice Hughes' dissent in Macintosh in allowing conscientious objection on the basis of "an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation."<sup>12</sup> In this way, Hughes' distinction between a domain of power and a forum of conscience was given practical effect.

Until Negre's case, the United States Supreme Court had not considered the question of selective conscientious objection. Traditionally, conscientious objector status had been limited statutorily to those who objected on pacifist grounds to any and all acts of violence and warfare. Lyndon Johnson's National Advisory Commission on Selective Service recommended in February 1967 the retention of this policy. A majority report of the Commission proposed that objection to all war was "moral," but that *selective* objection was necessarily "political."<sup>13</sup> The Commission's majority simply failed to comprehend the nature of just-war argument within religious tradition.

Despite the difficulties, Louis Negre continued to press his case. Under orders to go to Vietnam, Negre unsuccessfully sought release from the Army. When the Supreme Court rejected his application for a writ of habeas corpus, he was physically put on an airplane and

shipped against his will to Vietnam. According to Richard Harrington, one of his attorneys, “the Army assigned four enlisted personnel to seize his arms and legs and carry him on board the aircraft which carried him to Vietnam.”<sup>14</sup> Negre, however, did not abandon his efforts even then and his challenge was eventually heard by the United States Supreme Court in December, 1970. His claim was that by protecting religiously-grounded pacifism while at the same time rejecting Catholics who used Catholic just-war principles to ground their objection to war, Congress had effectively discriminated among religions and had created an establishment of religion by preferring one religious viewpoint over another.

Representing Negre in the Supreme Court were Harrington, who argued the case before the justices, and the prominent Catholic scholar, John T. Noonan, Jr. At the time the case came before the Court, John Noonan was famous chiefly for his books on usury and contraception, both of which considered carefully the development Catholic moral thought had undergone over the course of the Church’s long history. Noonan wrote a brief on Negre’s behalf which took up the history of the Church’s teaching on conscientious objection.<sup>15</sup> He elucidated several key points.

### The Noonan Brief

Most critical among Noonan’s points in the brief was that Catholic moral theology has taught that conscientious objection on just-war grounds is permissible. Indeed, the position of the Selective Service—that only a total objection to war was somehow moral—was

unknown to the Catholic moralists.

Historically, Noonan asserted, “[t]he Catholic’s religious duty to obey conscience is scarcely a new doctrine of the Church.” Noonan quoted from St. Jerome’s admonition to Roman soldiers to obey “[i]f what the emperor and presiding officers command is good . . . . But if it is evil and against God, answer him with those words from the Acts of the Apostles, ‘It is necessary to obey God rather than men.’”<sup>16</sup>

He then turned to Catholic just-war thought to demonstrate the unanimity of the tradition’s opposition to killing in unjust wars. As far back as the twelfth century, moral theologians like Peter the Chanter made it plain that Catholic knights were under no obligation to participate in their overlord’s unjust wars. In the sixteenth century, the Spanish Jesuit Francis de Vitoria, in his treatise *On the Civil Power*, considered the conscientious obligations of those who objected on just-war grounds to a prince’s military adventurism. Not only the prince, but *his subjects too* were obliged to consider carefully the moral implications of their conduct. Vitoria asserted that all those admitted to the prince’s council—nobility, the lords of the land, legal advisors and others—were expected independently to scrutinize a proposed war. Where the war was morally objectionable, one not only had the right but was under an affirmative duty to object.<sup>17</sup> Vitoria went even further with this proposition in his treatise *On War*. “Subjects who are aware of the injustice of a war are obliged to refrain from fighting, even if their prince attempts to coerce them, since one must place loyalty to God ahead of loyalty to the prince. Elites are further obliged to inform

## An Interview With Louie Negre

**Sign of Peace:** Have you received much media attention for this case?

**Negre:** Not at all. It’s been an obscure chapter in my life. I didn’t want to keep it private, but that’s just how it worked out.

**SoP:** Your case was argued at the Supreme Court in December, 1970. Were you there?

**Negre:** No, but I was already back from Vietnam.

**SoP:** So the Court was deciding whether you should have to go to Vietnam *after* you had already returned?

**Negre:** Correct. I was discharged in ’69, the year before the case was argued at the Supreme Court.

**SoP:** Were you forcibly deployed, against your will?

**Negre:** Absolutely, physically. There were more of them than me. This was after they denied my conscientious objection claim.

**SoP:** Let’s go back a bit. When did you enter the service?

**Negre:** I was drafted in 1967, reported for induction in order to be open to the military’s perspective. But it was terrible. You’re there, you belong to them, you fight, you kill, you do their thing. During training, I contemplated going to Canada, but decided just to make my stand.

**SoP:** At any point in the process, did you speak with your chaplains?

**Negre:** You know, I spoke to a couple, but the ones I talked to were not really Catholic priests, well they were Catholic priests, but their concept was that if you’re in the military you do what the military says. Military first, Catholicism second.

**SoP:** What about any priests back home?

**Negre:** I met with a Jesuit priest at the University of San Francisco, and we talked at length. He had me write my feelings down. But other than that, there just was very little support.

**SoP:** Did you consider going AWOL?

**Negre:** Yes, but I didn’t want to

themselves independently of the justice of the war and to advise the prince of the impropriety of his proposed course of conduct, although commoners are not under such an obligation.”<sup>18</sup>

Alphonsus de Liguori (1696-1787), whose works would become the standard starting-point for Catholic moral theology from the end of the eighteenth century to the middle of the twentieth, treated the obligation to object to unjust war under his treatment of the Fifth Commandment—“Thou Shalt Not Kill.” Whether a lord, an advisor to a prince, or a common footsoldier, one might participate in war, Liguori cautioned, only where one had **not** concluded that the war was unjust. Where the moral analysis was equivocal and it was possible the prince was correct in his decision to go war, one could still licitly fight. But “where a soldier understands a war to be unjust, he may not receive absolution for his sin unless he seeks, as quickly as possible, dismissal from the military and in the interim refrains from hostile acts.”<sup>19</sup>

In the middle of the twentieth century, in the context of the Vietnam War, John Courtney Murray expanded on these views. Murray had been a member of President Johnson’s Advisory Commission and had dissented from the final report because of its rejection of the possibility of selective conscientious objection. Speaking at a college commencement just months before his death in 1967, Murray stressed that any use of armed force by the state had to be constrained within moral limits. The distinction between moral pacifism and political objection to particular unjust wars was improper. Murray emphasized: “[S]trictly on

grounds of moral argument, the right conscientiously to object to participation in a particular war is incontestable.”<sup>20</sup> Murray made clear that the issue was larger than the Vietnam War. One could simultaneously maintain that the Vietnam War was just—he acknowledged that he held this view himself—but still insist on recognition for selective conscientious objection. This much, Murray observed, was the settled expectation of the Catholic moral tradition.

John Noonan drew deeply from this tradition in his brief on behalf of Negre. Vitoria and Alphonsus Liguori featured prominently in Noonan’s account to the Court. Noonan stressed also the significance of Charles Evans Hughes’ endorsement of selective conscientious objection. Hughes had appreciated the importance of freedom of conscience to the American story. “The essence of religion,” Hughes wrote and Noonan quoted, “is belief in a relation to God involving duties superior to those arising from any human relation.”<sup>21</sup>

There also were other briefs filed on Negre’s behalf. The Executive Board of the National Federation of Priests’ Councils wrote:

In counseling draft-aged youth, the priest is often caught in a painful dilemma when confronted with a situation in which the young Catholic feels that his direct or indirect participation in a particular war would be immoral. In guiding the young man to a personal decision on the matter, the priest is placed in the dubious position of having to counsel his subject to disregard the law in order to follow a belief which results from religious training, or to disregard

break the law. I had nothing against serving the country. My objection was being told to go kill someone when those are not my beliefs.

**SoP:** When did your objection to Vietnam crystallize?

**Negre:** I knew when I went to basic training at Ft. Lewis. You go out there with the bayonets, and the guns, and it was “kill, kill, kill,” that kind of indoctrination. Going back a bit, my father was in the underground resistance to the French involvement in Indonesia and brought us here so that I would not get drafted to serve there. So it was like, *déjà vu*.

**SoP:** What happened when you arrived in Vietnam?

**Negre:** They wanted to put me in ammunitions. I said that if I have

to directly contribute to this war, I simply will refuse. And they accommodated me fairly decently; I did not have to carry a weapon and I worked a supply job, a number counter.

**SoP:** While you were there, did you have any resentment toward the Church, or did it still play a vital role?

**Negre:** Being able to go to church over there, it just kept everything alive. And I got to go quite often.

**SoP:** The military, and the Supreme Court, said you were only opposed to Vietnam, not all war. Was that accurate?

**Negre:** I want to say that I am not a pacifist, but I did not judge other wars at the time because *I was not being asked to fight in other wars at the time*. And I had no objection to

going to Vietnam to help people or do this or that, but when you’re in combat, and killing someone because he’s on the other side of the fence, that is where I drew the line. And so for [the courts to say I was not opposed to] “all wars,” I just don’t know, not being in those situations to make the call.

**SoP:** Any advice for young soldiers today?

**Negre:** When a person joins the service, he has to go with what he feels is right, not what he’s pressured, or even ordered, to do. But the military is not set up for that, they’re geared for one thing: for you to be a machine, and to execute their order. C

that belief in order to follow the law.<sup>22</sup>

Among all the briefs, though, it was Noonan's that brought perhaps the clearest focus on the religious and legal questions at hand. "The teaching of the Catholic church has been consistent for nearly two thousand years in affirming the primary duty of man to follow conscience as the voice of God, and to refuse to kill where taking life violates conscience," Noonan concluded. "If in the heat of defense of a much-criticized war the government can prevail with its contention that these teachings of the Catholic church are 'political' rather than 'religious,' one can only wonder what life is left in the freedom of religion guaranteed by the First Amendment which has been the pride of the American commonwealth for nearly two centuries."<sup>23</sup> Noonan had framed for the Justices a clear choice.

The Court had joined Negre's case to that of Guy Gillette. Gillette had based his conscientious objector claim on a "non-religious 'Humanism' which stressed love and respect for one's fellow creatures and a confidence in human perfectibility."<sup>24</sup> In making his claim, Gillette proceeded on the basis of a 1965 Supreme Court decision, *United States v. Seeger*,<sup>25</sup> which extended the right of conscientious objection to those holding non-theistic pacifist views. The joining of the Gillette and Negre cases lightened the burden of government lawyers: they could point to Gillette's case and more credibly claim that a decision in favor of selective objection might open the door to all those with "political" objections to a given war.

In oral argument, Harrington stressed the religious dimensions of Negre's claim and the discrimination he suffered because of his religious beliefs:

Now, I assert . . . our position is quite simple; it's an equal protection position that if the Quaker on my right hand says, 'I'm not going to fight in the Vietnam War.' You say, 'Why not?' 'Because of my religion.' If you compel the man, the Quaker[, that] would be violating the statute, certainly. Now, my Catholic on my left hand is not going to go. You say, 'Why not?' He says, 'Because of my religion,' but they are both acting under the command in the Bible: 'It's better to obey God than man.' They're both acting as taught by their religion. But you say, 'Well, you're a felon and you have to go because you are Catholic' and to the Quaker they say, 'Well, you may stay home.'<sup>26</sup>

### **Negre Loses, Douglas Dissents**

The Supreme Court rejected the claims of Louis Negre in an eight-to-one decision announced on March 8, 1971. Justice Thurgood Marshall, who had himself avoided military service during World War II in order to continue his civil-rights work, authored the majority opinion. In it, he failed to address the religious arguments made as well the constitutional issues at stake. Instead, he merely offered a defense of policy, along

with a trivialization of the harmful effects of that policy:

The conscription laws, applied to such persons as to others, are not designed to interfere with any religious ritual or practice, and do not work a penalty against any theological position. The incidental burdens felt by persons in petitioners' position are strictly justified by substantial governmental interests that relate directly to the very impacts questioned.<sup>27</sup>

Marshall concludes by clarifying these interests, and offering what many see as the real reason for the Court's decision: "the Government's interest in procuring the manpower necessary for military purposes."<sup>28</sup> If a certain group—like the Roman Catholic population of the United States—were allowed the right of selective conscientious objection, the need for manpower would be severely compromised.

It should be noted that the decision did not preclude a legislative remedy. Marshall, in concluding that "it is supportable for Congress to have decided that the objector to all war—to all killing in war—has a claim that is distinct enough and intense enough to justify special status, while the objector to a particular war does not,"

**If a certain group—like the Roman Catholic population of the United States—were allowed the right of SCO, the need for manpower would be severely compromised.**

added an observation: "Of course, we do not suggest that Congress would have acted irrationally or unreasonably had it decided to exempt those who object to particular wars."<sup>29</sup>

Only William O. Douglas, himself the son of a Presbyterian minister, grasped the religious significance of the case.

Relying on Noonan's brief and Negre's application for conscientious objector status, Douglas acknowledged that obedience to conscience was a cornerstone of Catholic teaching, as articulated by Pope Paul VI and the Second Vatican Council.

The obligation to follow conscience has been a part of the Church's teaching since the Acts of the Apostles, Douglas stated, and the "duty has not changed."<sup>30</sup> On the matter of participation in warfare, Douglas referenced many of the ecclesial guides Noonan had presented. Francisco de Vitoria forbade the killing of innocents, and Alfredo Cardinal Ottaviani, in the aftermath of World War II, questioned whether war could ever again fulfill the conditions required to be just. The Second Vatican Council was especially emphatic in its condemnation of indiscriminate warfare against populations. These were the principal guides Louis Negre followed in forming his conscience, Douglas noted, thus placing him in the long tradition of selective conscien-

tious objection within the Catholic Church.

Under the present state of the law, any Catholic considering enlistment in the United States military must ask himself or herself in advance whether it is possible that the armed forces will be called upon to wage war unjustly. If that Catholic answers in the affirmative, he or she is then confronted with a hard choice: “Do I enlist, knowing that if service becomes morally problematic I must object and face the risks of dishonor and imprisonment? Or do I simply refuse to enlist because of the refusal of the government to make accommodation for Catholic conscientious objection?” These are the moral questions raised by the *Negre* case—and the current experience of objectors such as Jeremy Hinzman. As noted, Jeremy’s escape to Canada has proven difficult. If his appeals for refugee status there continue to fail, he would face deportation and a multi-year prison sentence. For Jeremy, and even for those who refused to deploy but stayed in the U.S., the road has not been easy. It presents the dilemma that well-formed and moral American Catholics must consider in deciding whether to join their nation’s armed forces. C

#### Endnotes

- <sup>1</sup> Clifford Kraus, “In Canada, an exile Pleads a Tangled Case for Refuge,” *The New York Times*, October 9, 2004, p. A4.
- <sup>2</sup> *Negre v. Larsen*, 401 U.S. 437 (1971).
- <sup>3</sup> Louis Negre, “Application for Request for Discharge as a Conscientious Objector Under AR 635-20, reprinted in Appendix to Petition for Writ of Certiorari, *Negre v. Larsen*.”
- <sup>4</sup> *Gaudium et spes*, paragraph 80.
- <sup>5</sup> Alfredo Cardinal Ottaviani, “The Future of Offensive War,” *Blackfriars* 30 (1949), 415, 419.
- <sup>6</sup> Pope John XXIII, *Pacem in Terris*, paragraph 127 (1963).
- <sup>7</sup> Quoted in *Negre’s Application for Request for Discharge*, p. 7. *Negre’s application is discussed more extensively in Reid, “Catholic Conscience and War,” pp. 889-890.*
- <sup>8</sup> *United States v. Macintosh*, 283 U.S. 605 (1931).
- <sup>9</sup> Reid, “Catholic Conscience,” p. 897.
- <sup>10</sup> Brief for the Respondent, *United States v. Macintosh*, at 5.
- <sup>11</sup> *United States v. Macintosh*, 283 U.S. at 635 (Hughes, C.J., dissenting).
- <sup>12</sup> Selective Service Act of 1948, ch. 625, 6(j), 62 Stat. 604, 612. Congress excluded from protection those whose objections arose from “essentially political, sociological, or philosophical views or a merely personal moral code.” *Id.*
- <sup>13</sup> Reid, “Catholic Conscience,” p. 919.
- <sup>14</sup> Quoted in Reid, “Catholic Conscience,” *supra*, pp. 925-926.
- <sup>15</sup> For analysis of Noonan’s arguments, see Reid, “Catholic Conscience,” pp. 939-946.
- <sup>16</sup> See Reid, “Catholic Conscience,” p. 944. Noonan here was quoting St. Jerome, *On Titus*, 3:1, in 26 *Patrologia Latina* 626 (J.P. Migne ed.).
- <sup>17</sup> *Id.*, pp. 906-909.
- <sup>18</sup> *Id.*, pp. 909-910.
- <sup>19</sup> *Id.*, p. 910.
- <sup>20</sup> *Id.*, p. 921.
- <sup>21</sup> *Id.*, p. 942.
- <sup>22</sup> *Id.*, p. 931.
- <sup>23</sup> *Id.*, p. 944-945.
- <sup>24</sup> *Id.*, p. 935.
- <sup>25</sup> *United States v. Seeger*, 380 U.S. 163 (1965).
- <sup>26</sup> Quoted in Reid, “Catholic Conscience,” p. 949.
- <sup>27</sup> *Gillette v. United States*, 401 U.S. 437 (1971), at 462.
- <sup>28</sup> *Id.*
- <sup>29</sup> *Id.*, at 460.
- <sup>30</sup> *Id.*, (Douglas, J., dissenting) at 472.

## An Interview With Judge Noonan

*Noonan was appointed by President Reagan in 1985 to the United States Court of Appeals for the Ninth Circuit, a position he still holds. His career has been prolific in both legal and theological analysis, treating themes from contraception and abortion to the history of religious liberty in U.S. law.*

**Sign of Peace:** What are some memories you have of this case?

**Noonan:** *Negre’s* lawyer, Richard Harrington, knew that I was a Catholic and asked me to write the brief. I went with him to Washington for the oral arguments. Arguing for the government was Erwin Griswold, my old Dean in law school—actually, I had done some work for him as a student. So, I saw him in the corridor during a break, and in his brusque manner he said, ‘I wish I could cross examine you!’ Now, he was a good man, a very decent Protestant. And I think he really didn’t believe the Catholic claim. He was so skeptical of my brief, I

think he didn’t feel that Catholics really attached that kind importance to conscience.

**SoP:** At that time, people felt Catholics could not be conscientious objectors...

**Noonan:** Right. In the majority opinion of the *Negre* case, Thurgood Marshall gives very little weight to the Catholic conscience. The Court in some ways has really stretched the law for *secular* bases of conscientious objection.

**SoP:** But not for Catholics...

**Noonan:** My analysis of this case always has been that they didn’t want a very large group of people out, that giving Catholics an out could be used by too many people. It was a very pragmatic, even insensitive approach to the Catholic conscience.

**SoP:** Is exercising selective conscientious objection part of...

**Noonan:** It’s part of what religious liberty means. Yes, I would say that. But I don’t think the issue is closed forever. As a historian of religious liberty, I think it is some-

thing that could be brought up again to the Supreme Court.

**SoP:** Some say this case shows again that Catholics cannot be at home in America. Do you agree?

**Noonan:** No. In my book, *Luster of Our Country*, I quote James Madison that the obligations of conscience trump everything else. That’s certainly Madison’s view, and he after all *wrote* the First Amendment. It’s unfortunate that his suggested clause to the Second Amendment was defeated. [The clause read: “no person religiously scrupulous of bearing arms shall be compelled to render military service in person.”] But still, the sense of the First Amendment is there.

**SoP:** We’re getting calls everyday from soldiers in a dilemma of going to war against their conscience or going to jail. What would you say to them?

**Noonan:** Well, I don’t want to give advice as a judge, but I do think, in terms of Catholic theology, they should follow their conscience. C

# Selective Conscientious Objection

## History, Theology and Practice

BY THE STAFF OF THE CATHOLIC PEACE FELLOWSHIP

**F**ranz Jägerstätter, the Austrian farmer who was martyred on August 9, 1943 for refusing to participate in the war being waged by Nazi Germany and its surrogate, the Austrian government, can rightly be considered a conscientious objector. But he was not a total conscientious objector. He did not refuse to participate in any and all wars. He was a selective conscientious objector, one who refused to participate in wars that are unjust.

We don't know how Franz Jägerstätter learned about the Catholic Church's teaching on just war. Perhaps he heard about it in a homily. Perhaps he read about it in a catechism. Perhaps he came across it in some other book on Catholic teaching. In any case, we know that Jägerstätter refused to join the Austrian military because, as he wrote to his godson, it was "an unjust war." The implication is that he would have participated in a just war. One gets the sense from his letters and personal reflections in his diaries that he would have readily fought in a war in 1938 against Nazi Germany had the Austrian government called upon its citizens to resist instead of buckling under pressure to erect a puppet regime and serve Hitler's expansionist purposes. So Jägerstätter provides us with an object lesson: those who espouse just-war theory can serve as a powerful form of resistance to the warmaking of modern nation-states.

We thought it would be worth explaining selective conscientious

objection (SCO), its theory and practice, its history and current status, its vexing problems and its promise of being, for Catholics and others in the United States, an important part of our call to make peace in a time of war.

### **SCO: Its Basis in Just War Theory**

As far as we know, it wasn't until late in the second century that Christians served as members of the Roman military. But as time went on, they did serve in increasing numbers and so had to discern what form their service would take. For example, Roman military life was interwoven with religious rites seeking guidance and assistance from Roman gods. Not surprisingly, many Christians refused to participate in these rites for fear of worshipping false gods, and, as some accounts show, they were martyred for it. But not all Christians left the military; some stayed, and thus had to face the task of discerning to what extent they would participate in Roman religious rites. Taking the life of another was a matter of conscientious discernment as well. Here too, many Christians left the military to avoid shedding blood. But others did not leave, and they had to decide how to avoid egregious violence. In this sense, participation in the military has long been a matter of careful, conscientious discernment, not only whether or not to be in the military at all, but also, what form that military service may, or may not, take. Repeat: a matter of careful, conscientious dis-

cernment.

With Emperor Constantine's Edict of Milan in the year 313, Christianity was legalized throughout the Roman Empire; no longer would it suffer persecution. By the end of the fourth century, Christianity became the official religion of the Empire; legal restrictions were placed on all *other* religions. The military was now comprised mainly of Christians. Thus, in keeping with the moral seriousness with which Christians had long approached the matter of military service and the taking of human life, the Church sought to clarify what forms of warfare were just and what forms were not. One early instance of this kind of "clarification of thought" (to use Peter Maurin's famous phrase) came in the year 390, when Ambrose, Bishop of Milan, instructed the Emperor Theodosius I to do public penance for a punitive massacre he had ordered in Thessalonica. This penance was an instruction about the Christian obligation to refrain from injustice even in war. In this sense, Ambrose was an early practitioner of what we now call just war theory, which grew out of the healthy insight that waging an unjust war is an act from which a Christian must repent. Repeat: waging unjust war is an act from which one must repent.

It was this insight, in part, that shaped the thinking of Ambrose's famous protégé, Augustine (354-430), widely regarded as the primary articulator of Christian just war theory. Like his predecessor, Augustine believed that war was

sometimes necessary in order to defend or restore justice, owing to the fallen nature of humanity and its propensity, even after Christ, to sin. In other words, war is a tragic necessity; and yet, even so, it must be waged in accord with certain principles. Augustine never actually set forth a “just war theory” in one place; rather, his viewpoint comes for the most part in the form of letters sent to those who had turned to him for moral guidance. Nevertheless, it is possible to glean from his letters a coherent just-war position that can be summarized as follows: war may be waged if it is done so by a legitimate authority, in order to punish crime or uphold the peace, and if the combatants intend to establish or re-establish justice rather than take vengeance on their enemies in a hateful manner. Thus, although it is true that Augustine gave legitimacy to the notion of Christians taking up arms in war, he also laid down clear conditions under which going to war would be just, and would be unjust.

In the centuries following Augustine, Church leaders and civil authorities continued to sort out the conditions under which war may be waged justly. For example, war was not permitted in certain places that had some kind of spiritual significance, such as churches, cemeteries, hospitals, and monastic lands. These spatial restrictions came under the label “The Peace of God.” Then there was “The Truce of God,” which set down restrictions relating to time. Hostilities were not to occur, for example, on Sundays, holy days, or during Lent. Other restrictions emerged as well. Some weapons were considered too hideous, too lethal, such as the crossbow, which was revolutionary because it could pierce armor. Also, much discernment about the justice and injustice of war arose out of the context of the sacrament of confession. Soldiers on the battlefield in danger of death, or returning from military campaigns and wrestling with their consciences, needed to know if what they had done in war

was immoral, so they could then be forgiven their sins. Thus it became important to identify immoral acts done in war, such as robbing civilians of food or property, taking the lives of non-combatants, or killing out of anger or in vengeance rather than for military purposes. It was also felt that returning soldiers should carry with them a general sense of remorse, even if they were fighting in a just war, simply because it involved bloodshed. This was in keeping with the ancient principle: *Ecclesia abhorret a sanguine*. Repeat (in translation): the Church abhors bloodshed.

In the Middle Ages, the most important single formulator of just war theory was, of course, Thomas Aquinas (1225-1274). Gathering together the principles that over the course of centuries had been developed in civil and canon law, Aquinas formulated a conception of just war theory that included the following conditions: war must be waged by a competent authority, for the sake of peace, and with a proper intention,

## Catholic Just War Theory

Based on the U.S. Catholic Bishops’ 1983 Pastoral Letter, *The Challenge of Peace*

“The theory of the ‘just war’ or ‘limited war’ begins with a presumption that binds all Christians, we must love our neighbors and our enemies. The possibility of taking even one human life must be a prospect we should consider with fear and trembling” (n. 80).

### Jus ad Bellum

*(The Justice of Going to War)*

**Just Cause:** War is permissible only to confront “a real and certain danger,” i.e. to protect innocent life, to preserve conditions necessary for a decent human existence and basic human rights.

**Competent Authority:** The right to use force must be joined with the common good; war must be declared by those with responsibility for public order, not by private groups or individuals.

**Comparative Justice:** No state should act on the basis that it has “absolute justice” on its side. Every party to a conflict must acknowledge the limits of its “just cause” and the consequent requirement to use

only limited means in pursuit of its objectives.

**Right Intention:** War can be legitimately intended only for the reasons set forth as a just cause; no ulterior motive.

**Last Resort:** For war to be justified, all peaceful alternatives must have been exhausted.

**Probability of Success:** This is a difficult criterion to apply, but its purpose is to prevent irrational resort to force or hopeless resistance when the outcome of either will clearly be disproportionate or futile

**Proportionality:** The destruction to be inflicted and the costs incurred by war must be proportionate to the good expected by taking up arms. Destruction applies in both the temporal and spiritual sense.

### Jus in Bello

*(The Justice Within War)*

**Discrimination:** This criterion requires that actions within a war must never amount to “total war” or to nuclear war, and must never target civilian populations or non-military targets.

**Proportionality:** Destruction caused by actions in war must be proportionate to the good expected by the actions. Destruction applies in both the temporal and spiritual sense.

that is, with the intention of defending the good. Regarding these conditions, Aquinas was clearly working in continuity with his predecessor Augustine. But in one respect, Aquinas went further in clarifying a crucial principle that was implicit in Augustine's thought, the principle that it is always wrong to intentionally take the life of the innocent. This principle is spelled out explicitly in the *Summa Theologiae*, Aquinas's massive three-part summary of theology set forth in a question-and-answer format. To the question, "is it ever permissible to kill an innocent person?" Aquinas answers, "there is . . . simply no justification for taking the life of an innocent person" (*ST* 2, 2, 64, 6). Repeat: simply no justification for taking the life of an innocent person.

### **Catholic Neo-Scholastic Thinkers on SCO**

In the centuries after Aquinas, just war theory developed through the work of two key Catholic neo-scholastic thinkers, Franciscus de Vitoria (1492-1546) and Francisco Suarez (1548-1617). Vitoria was acutely concerned with the deplorable treatment by European explorers and colonists of the indigenous peoples of the New World. In calling a halt to these atrocities, he appealed to the common law of nature which, he noted, imposes the obligation to protect the rights of "Indians" as well as Europeans. Suarez also appealed to natural law to point to the natural community of nations and the law of all peoples, which laid the theoretical basis for international law.

What is important to note for our purposes is that both of these early modern thinkers argued for the necessity of individual soldiers to follow their consciences, even when it conflicted with the policies of political leaders or the orders of military commanders. In such an important practical development, it is worth quoting the relevant texts at length.

In *On The Laws of Wars*, Vitoria addressed the duty to refuse to carry out unjust orders with these words:

If the injustice of a war is clear to a subject, he ought not to serve in it, even on the command of his prince. This is clear, for no one can authorize the killing of an innocent person... Again a prince sins when he commences a war in such a case. But "not only are they who commit such things worthy of death, but they, too, who consent to the doing there of" (Romans 1:32)... Again, it is not lawful to kill innocent fellow citizens on the prince's command.

In a work entitled *On Charity*, Suarez writes:

Just as one is not allowed to proceed to an unjust war, neither is he allowed to undertake the obligation of serving in such a war, nor even in any war indiscriminately, whether just or unjust; and the reason for these discriminations is that to fight in an unjust war is to act unjustly.

Both of these quotations show that Christian thinkers of the early modern period considered Christian participation in unjust wars to be a serious problem, so serious that they took the position that Christians should disobey the law rather than take part in an unjust war. This position is summed up nicely by James T. Johnson (himself a proponent of just-war theory) in his book *Ideology, Reason, and the Limitation of War*.

Referring to the neo-scholastic thinkers, Johnson writes, "When the prince's cause is manifestly unjust, subjects may not serve in his war." Johnson then notes, "Suarez even pushes the issue back one step: when arguments have been advanced that raise some doubt in the consciences of the subjects, they must inquire into their prince's cause. If they discover that the cause is unjust, they may not serve."

For Johnson, "Suarez and Vitoria offer a clear justification for individual conscientious objection to particular wars....It is emphatically the subject's responsibility to dispel any doubt...and if doing so results in certainty on his part that the war is unjust, he must in conscience refuse." Repeat: he must in conscience refuse.

### **SCO and Total War**

And yet, despite the calls of these voices in the Church, the idea of Christians conscientiously objecting to participating in unjust wars remained only that—an idea. Moreover, it remained an almost entirely unheard of idea, one that could be found in learned treatises by Christian scholastics but rarely in the actual practice of Christians. This is because the primary allegiance of the preponderance of Christians was not to the dictates of justice, nor to the natural law, nor to ancient Church tradition, nor to the Gospel, but—and this is a crucial point—to the State. In the modern period (from the seventeenth century on, which is often called, quite misleadingly, the Enlightenment), the modern nation-state assumed increased power and authority over the lives of Christians, so that, more than ever, Christians thought of themselves first and foremost as citizens of a particular nation-state, and then, secondarily, as members of the Body of Christ. With the French Revolution and the emergence throughout Europe of the *secular* state, this pattern of Christians identifying themselves as citizens first became more prevalent. And this made it less likely that a Christian would object to participating in a particular war being waged by their political and military leaders.

This diminished ability of Christians to practice selective conscientious objection in the modern period was especially unfortunate because, in the same period, the waging of war became increasingly

difficult to control. Several factors were operative here: the increase of industrial capacity, advances in transportation on land (e.g., the locomotive), at sea (e.g., the steam ship), and in the air (e.g., the air balloon, the airplane), and advances in communication (e.g., the telegraph), all of which made it possible for nations to wage war at a greater scale and pace, with greater efficiency and flexibility than ever before. As a result, all sectors of the population, especially those engaged in war-related economic production, were considered to be legitimate targets. Add to that the trend, dating

**In the modern period (from the seventeenth century on which is often called, quite misleadingly, the Enlightenment), the modern nation-state assumed increased power and authority over the lives of Christians, so that, more than ever, Christians thought of themselves first and foremost in terms of citizens of a particular nation-state, and then, secondarily, as members of the Body of Christ.**

back to the French Revolution, of governments conscripting entire populations for military service, and what we have is the advent of unlimited or “total” war.

The first instance of total war is marked by scholars as having occurred when the General William Tecumseh Sherman of the Union Army commanded a scorched-earth mission through Georgia and North Carolina, his infamous “March to the Sea.” From there, the waging of war became, so to speak, ever more “total.” The First World War brought unprecedented numbers of peoples and nations into armed conflict, leaving 9,000,000 soldiers and civilians dead and an entire continent devastated. The Second World War subjected soldiers and civilians alike to the wide scale use of obliteration bombing; first with the Axis bombings of England, then with the Allied fire-bombings of Dresden and

Tokyo, and finally with the atomic bombings of Hiroshima and Nagasaki. Not long after came the Cold War and the emergence of nuclear weapons. By the end of World War II, it was a legitimate part of military strategy to destroy entire population centers.

### **SCO: The Church’s Response to Total War**

It was in response to the advent of total war that the Catholic Church articulated with increasing urgency the necessity of waging war according to the dictates of justice.

One thinks, for example, of Pope Benedict XV, the “Peace Pope,” whose papacy, beginning only weeks after the guns of August sounded, was dedicated to alleviating the suffering brought about by the World War I and calling all nations back to peace. One thinks also of Elizabeth Anscombe, the great English philosopher

who wrote a pamphlet published by the Catholic Truth Society claiming that Great Britain’s going to war against Germany in the fall of 1939 was unjust and that people of good conscience should not participate in it. One thinks as well of Fr. John C. Ford, S.J., the moral theologian who argued cogently in a lengthy article published in *Theological Studies* (1944) that the U.S. and British policy of obliteration bombing of German cities was immoral and must be resisted. And one thinks of Popes Pius XII, John XXIII, and Paul VI, who condemned with increasing urgency the construction and use of nuclear weapons.

But more than any of these statements, one thinks of the Second Vatican Council, and the paragraphs in *Gaudium et spes*, the *Pastoral Constitution of the Church in the Modern World*, that deal with the matter of war (paragraphs 77-82).

Probably the most widely known passage in this section comes in paragraph 80, entitled “Total War,” which makes the following declaration: “any act of war aimed indiscriminately at the destruction of entire cities or of extensive areas along with their population is a crime against God and man himself” (*Gaudium et spes*, n. 80). Here, the Council Fathers were clearly addressing nuclear weapons, a pressing concern in the mid sixties at the height of the Cold War. But it is important to read this condemnation in light of the previous paragraph, where, in response to “the savagery of war,” the Council pointed to “the permanent binding force of universal natural law and its all-embracing principles. Man’s conscience itself gives ever more emphatic voice to these principles. Therefore,” the Council declared, “actions which deliberately conflict with these same principles, as well as orders commanding such actions, are criminal. Blind obedience cannot excuse those who yield to them.” After listing examples of such criminal actions, the Council stated that “the courage of those who openly and fearlessly resist men who issue such commands merits supreme commendation” (*Gaudium et spes*, n. 79). Repeat: orders conflicting with the principles of the natural law are criminal, and those who refuse to obey such orders merit supreme commendation.

In *Gaudium et spes*, then, the Council issues both a moral prohibition and a moral commendation. The moral prohibition is rooted in the principles of the natural law. The moral commendation points to those who have adhered to these principles over against the instructions of political and military authorities. Writing only two decades after the end of World War II, the Council Fathers surely were mindful of people who refused to acquiesce in the unjust waging of war perpetrated by Nazi Germany. Here we see a crucial development in the Church’s teaching on consci-

entious objection to war. Rather than reiterating the assurances of Augustine and Aquinas that the moral responsibility of soldiers in war falls to their commanders, the Council placed the moral responsibility on soldiers themselves, who are obligated to follow the authority of their own consciences rather than the authority of the state. Accordingly, when the Council states, in reference to military personnel, that “those who are pledged to the service of their country as members of the armed forces should regard themselves as agents of security and freedom on behalf of their people,” it qualifies this statement in the very next sentence: “As long as they fulfill this role properly, they are making a genuine contribution to peace” (*Gaudium et spes*, n. 79).

In sum, the teaching of the Second Vatican Council, based on insights developed over centuries and confronting the crisis of modern states waging total war, affirmed the duty of Christians to wage war justly and, if and when that is not possible, to become, in effect, selective conscientious objectors. Selective conscientious objection is thus based not on the whims of individual soldiers, nor on some fanciful wish for peace, nor on some pie-in-the-sky ideals. It is based, as the Council states, on “the permanent binding force of universal natural law and its all-embracing principles.” Repeat: the binding force of universal natural law.

## SCO and Vietnam

After the Council made it clear that its “evaluation of war with an entirely new attitude” (*Gaudium et spes*, n. 80) includes supporting those who refuse to participate in unjust wars and in unjust actions within wars, Catholics in the United States insisted that the rights of selective conscientious objectors (SCOs) be recognized by law.

Perhaps the most prominent voice along these lines was John Courtney Murray, the Jesuit theologian and political theorist who had a

key role in the Second Vatican Council’s *Declaration on Religious Freedom*. In the mid sixties, he was appointed to serve on the National Advisory Commission on Selective Service. As a long-time exponent of just-war theory and a supporter of U.S. intervention in Vietnam, Murray was certainly not a pacifist, not a “dove” (to use the parlance of the day). And yet he strongly disagreed with the majority of the Commission in its rejection of any legal right to

SCO, so as to forestall, in the Commission’s words, “selective disobedience to the law.” Shortly before his untimely death in 1967, Murray denounced the findings of the Commission and called for legal recognition of SCO “in the name of the traditional moral doctrine on war and also in the name of traditional American political doctrine on the rights of conscience.” He also insisted that “the public argument goes on and must go on. . . . The issue is before the country and it must be kept there.”

The following year, another prominent voice came forth to support SCO, the collective voice of the National Conference of Catholic Bishops. In their pastoral letter *Human Life in Our Day* (1968), the bishops recommended “modification of the Selective Service Act, making it possible, although not easy, for so-called selective conscientious objectors to refuse—without fear of imprisonment or loss of citizenship—to serve in wars which they consider unjust or in branches of service...which would subject them to the performance of actions contrary to deeply held convictions about indiscriminate killing” (*Human Life in Our Day*, n. 152). Three years later, in their *Resolution on Southeast Asia* (1971), the U.S. Catholic bishops judged that the Vietnam War was unjust on grounds

of proportionality, that it was causing more harm than the good it was supposed to protect. This marked a crucial turning point for Catholic SCOs. Finally they could turn to the hierarchy of their Church for support.

The Catholic Peace Fellowship had a role to play in this development. From the mid sixties on, Tom Cornell and Jim Forest had been counseling young men considering conscientious objection. One phe-

**Rather than reiterating the assurances of Augustine and Aquinas that the moral responsibility of soldiers in war falls to their commanders, the Council placed the moral responsibility on soldiers themselves.**

nomenon they ran into was that Catholics, formed in the just-war teaching of their Church, objected to fighting in Vietnam, not because they were opposed to war in any form, but because they were opposed to this particular war on just war grounds. The problem, as we have seen, was that there was no legal recognition for SCO. As a result, the CO claims of Catholics who refused to participate in the war because it was unjust were routinely turned down. One claimant associated with the Catholic Peace Fellowship, Stephen Spiro, argued in court that this violated his First Amendment right to free exercise of religion, specifically, his right to adhere to the teaching of his Church regarding conscientious objection to unjust wars. The case went up the Federal Court system but the Supreme Court refused to hear it. In 1971, the Supreme Court agreed to hear a similar case, but the plaintiff’s right to SCO was turned down on the grounds that SCO would compromise the manpower needs of the military (see “The Forgotten Case of Louis Negre,” p. 10). The dictates of conscience and the needs of the military were at an impasse.

## A Legislative Remedy?

Attempts to win legal protection for SCO have proven difficult. "Generally, congressional staffers do not want to weaken present CO rights, but on this issue they are largely uninterested," according to Bill Galvin of the Center on Conscience and War. "However," Galvin said, "the one thing that does get their attention is when I inform them that support for SCO is the position of almost all the churches." Asked whether this offered hope for a legislative change, Galvin said, "Perhaps if they heard this support more *from the churches themselves*, it might make a difference. Even so, it's still an uphill struggle."

The difficulty, Galvin suggested, may go back to 1940, when Congress approved the Military Selective Service Act (which is the basis of current CO policy for potential draftees and for already enlisted soldiers). That law did offer some important gains. Before 1940, you had to be a member of a peace church to qualify for conscientious objector status. The 1940 law changed this; CO protection was tied no longer to *church membership* but to an *individual's beliefs*. The provision recognized an individual who, "by reason of religious training and belief, is conscientiously opposed to participation in war in any form." Still, the 1940 law offered no protection for SCO, perhaps because the main lobbyists were pacifists. There does not seem to have been an official Catholic voice pressing for a change.

In the early 1990's, there was a promising effort to gain legal protection for SCO. The Center on Conscience and War (then known as the National Interreligious Service Board for Conscientious Objectors, NISBCO), along with representatives of the U.S. Catholic bishops, Rep. Ronald Dellums (D-CA), and others proposed the change to the Pentagon's chaplaincy office. That office, along with their legal advisors, were supportive of giving legal protection to selective conscientious objectors. Yet senior civilian Pentagon officials rejected the plan. C

### SCO: An Impasse Between Church and State

The impasse remains to this day. On the one hand, the U.S. Catholic bishops reiterate their support of SCO on a regular basis, as they did in their *Statement on Registration and Conscriptation for Military Service* (1980), in their pastoral letter *The Challenge of Peace* (1983), and in their follow-up to that letter, *The Harvest of Justice is Sown in Peace* (1993), as well as in all their letters on the Iraq War. On the other hand, these calls go entirely unheeded in civil and military law because they could undermine the mission of the military. What we have here is a classic conflict between Church and state, the state claiming that the freedom of its citizens rests first and foremost on military security, and the Church claiming a freedom of a different sort, the freedom of its members to act in accord with the binding principles of the natural moral law. As the war in Iraq and

elsewhere drags on, this conflict will only be exacerbated.

So when it comes to SCO, what is to be done? For one thing, the Church needs to continue calling for the legal recognition of SCO. For another, theologians, philosophers, and legal scholars need to articulate with greater clarity and force the moral urgency of attaining such recognition. And then there are SCOs themselves, whose consciences put them in the middle of this conflict. Some SCOs eventually discern their way into seeing that what they originally considered to be a conscientious objection to unjust wars is actually an objection to wars as they are fought in this day and age, to modern war. Some SCOs refuse to participate in nuclear wars. Other SCOs believe that the nation can and does wage just wars and that they should participate in them, but they also believe that the nation wages unjust wars in which they refuse to partici-

pate. They would rather break the civil law than violate the natural law. As it stands now, such a refusal will entail suffering for their selective conscientious objection. But it will also put them in a long line of conscientious objectors whose lives embody the principle uttered by Peter and the other apostles to the Sanhedrin, "we must obey God rather than men" (Acts 5:29).

Our work on the GI Rights Hotline has brought us at the Catholic Peace Fellowship into contact with soldiers, many of whom are going to or coming from Iraq. They tell us that they do not think that this particular war is just and that they do not want to participate in it. They tell us that they believe the President lied about the reasons for going to war. They tell us horrible stories about what they saw and did while in Iraq. For these reasons they have concluded that this particular war is being waged unjustly. And they want out. But their options are limited. They can act contrary to their consciences and remain in the military. They can try to come up with a reason to be discharged. Or they can refuse to fight and go to jail. This was the choice made by Franz Jägerstätter, who is now regarded by the Catholic Church as a Servant of God and is being considered for canonization. In refusing to serve in an Austrian military allied in battle with Nazi Germany, Jägerstätter followed the light of his conscience and thus himself became a light in that time of great darkness. C

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# Annapolis Professor Reflects on the Oath of Commissioning Religious Conviction in Military Service

BY CHRISTOPHER J. EBERLE

Suppose that an officer in the United States military is ordered to fight in a war that he's convinced is unjust. What morally acceptable options are open to that officer? May he refrain from fighting by tendering his resignation or, if his resignation isn't accepted, by outright disobedience? Or should he soldier on, fighting in a war that he privately disavows but that he, as a public servant, must prosecute? I will argue that military officers needn't fight in wars that they are responsibly convinced are unjust. That is, they should be permitted to exercise "discriminating obedience" to legal orders to fight. More particularly, we, the citizens of the United States, should not require officers to take an oath that morally forbids them to exercise discriminating obedience. These points emerge when we reflect upon the proper role of religious reasons in both political and military decision-making.

I take it that many officers in the United States military are deeply hostile to discriminating obedience: for them, it's a matter of personal honor and moral duty that, when required by the civilian authorities to fight in a given war, the military officer obeys, whatever his moral evaluation of that war and whatever the personal sacrifice that obedience involves. To be sure, certain kinds of disobedience are permissible. But discriminating obedience—by which I mean refusing to fight in a war regarded as unjust—is simply off limits. Why this hostility to discriminating obedience? Paul Christopher, in *The Ethics of War and Peace*, formulates a common line of argument:

Professional soldiers who refuse to fight in wars that are formally just [that is, that have been declared in the appropriate way by duly constituted authorities] are guilty of a much greater crime than conscripts who choose civil disobedience rather than fight in wars they believe are unjust. While the conscript may have some implied legal obligation to the state of which he or she is a member, the professional military person has willingly agreed to fight in wars that are declared legally just by a duly constituted body in

accordance with a formal procedure. Therefore, it is morally reprehensible for professional soldiers to refuse to fight on behalf of their nation when ordered to do so by their legitimate political body... (p. 144).

Christopher's argument seems to capture faithfully a rationale that's compelling to many officers. It's a moral truism that "promises generate obligations." A person is commissioned to serve as an officer in the United States military only if she takes what's known as the Oath of Commissioning, in which she promises "without any mental reservation" to "support and defend the United States Constitution" and so promises to comply with the directives of the civilian authorities in the manner specified by the Constitution. Given that promises generate obligations, any officer who takes the Oath of Commissioning ought to comply with the directives of the civilian authorities—most pertinently, the demand of the civilian authorities to wage war. So officers ought to exercise *indiscriminate* obedience because they have promised to do so. What could be more straightforward?

## A Theistic Argument For Discrimination

As with other social roles, military officership is defined by a set of statuses, rights and responsibilities. To be a military officer is, for instance, to have a certain rank, to be located in a particular chain of command, and to have a specific set of responsibilities in virtue of that rank and location in the chain of command. Now this nexus of status, rights and responsibilities isn't a 'natural,' fixed reality; the contours of military officership aren't limned by the fiery finger of God. Rather, military officership is a *social* and *political* construction, an edifice built by those who have the capacity to alter what they've constructed, even taking faith into account.

Fundamental to theism is the conviction that God is worthy of *unconditional* allegiance: although theists are free to make and to honor all manner of commitments—to parents, friends, spouse, nation, etc., theists also believe that, in cases of conflict, commitment to God must win out over any and all competitors. So, if God demands that I perform action A, then I am thereby morally obliged to perform A and no competing

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moral considerations can defeat that obligation. Moreover, no competing *normative* considerations can defeat that obligation: if God commands me to perform A, then I must so act *whatever* the legal, aesthetic, egoistic, or communal considerations that count against that action. In short, nothing can successfully compete with a genuine divine command.

Second, theists regard God as demanding justice. God cannot expect anything less from us than due respect for the rights and deserts of human beings. Moreover, theists commonly take there to be just and unjust wars: wars fought to extirpate the faithful, for personal fame, for the glory of the empire, or to compel the unconverted to convert, are commonly regarded as unjust wars. And not only unjust but *egregiously* unjust: there are few things worse than killing, maiming and uprooting human beings in pursuit of such ends. It will seem, therefore, to many a theist that he can't intentionally participate in an unjust war.

Third, even reasonably decent governments can, and do, wage war unjustly. However appropriately citizens of the United States affirm their system of government, we cannot reasonably deny that there's a realistic prospect that our government will wage war unjustly. Any theist who contemplates being commissioned as an officer in the U. S. military must therefore take seriously the prospect that *she'll* be ordered to fight in an unjust war. And if that happens, her theistic commitments provide her with ample reason to believe that she can't obey. Given her unconditional allegiance to God, given that God demands that we abstain from fundamentally unjust projects, and given a command of the governing authorities to engage in an unjust war, a theist naturally concludes that God's demand takes precedence. And this has direct implications for the kind of oath she's sincerely able to take. If a theist intends not to fight in wars that, on reflection, she believes to be unjust, and if one can't sincerely promise to do that which one intends not to do, then she can't promise to exercise indiscriminate obedience. It seems, then, that a theist can't in good conscience take the Oath of Commissioning as currently understood.

### **Making Public Choices on Religious Grounds**

A further problem is that recent years have brought much discussion among political theorists about the proper public use of religious reasons in public matters. Some have advocated for a *doctrine of restraint* regarding religious reasons: citizens, and even more so military officers have a role-specific moral obligation to refrain from making public decisions on religious grounds.

Consider a prospective military officer—a Midshipman at the United States Naval Academy, for example—who takes himself to be *called* by God to enter military service, but who realizes that he cannot exercise indiscriminate obedience. The only way for him to fulfill all of his divinely imposed moral responsibili-

ties is to serve in the military without also promising to exercise indiscriminate obedience. Our Midshipman—and fellow theists—will rightly advocate that we ought not lay down as a condition of officership that candidates promise to abandon their religious beliefs and exercise indiscriminate obedience. First, theists have good reason to challenge public policies that prohibit people from faithfully serving God. Second, faithful service to God requires some to enter military service, but not at the cost of promising to obey legal orders to fight in what they responsibly take to be an unjust war. Indeed, theists have good reason to challenge the understanding that officers who take the Oath of Commissioning thereby promise to exercise indiscriminate obedience.

Military officers should be willing to subordinate themselves by allowing the moral and prudential determinations of the citizenry and government to delimit the options morally open to them. That said, obedience to the dictates of conscience is an important moral good when exhibited by the citizenry, and it's no less good when exhibited by the inhabitants of other social roles, including that of military officers.

When citizens determine the constraints that military officers must obey, they should give officers the greatest latitude for abiding by the dictates of conscience consistent with an officer's fulfilling his vocational responsibilities. We have good reason to encourage officers to discharge their professional responsibilities conscientiously and should therefore be reasonably loath to demand that they bracket what they in fact take to be their fundamental religious commitments. C

**Obedience to the dictates of conscience is an important moral good when exhibited by the citizenry, and it's no less good when exhibited by military officers.**

**Speak out on the Discussion Board at  
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*First in a Two-Part Series*

# War and Conscience After Vatican II

BY TOM CORNELL



Until the final session of the Second Vatican Council, the miniscule, almost invisible Catholic peace movement faced a daunting, if not intractable, problem: the question of conscientious objection. Before the Council, almost any priest, bishop, or theologian, asked whether a good Catholic could be a conscientious objector, would have answered no. If pressed about the fact that there were in fact Catholic conscientious objectors, they would say: “These men are mistaken, in *good* conscience it may be presumed, but not *right* conscience. Catholics may not be conscientious objectors except by reason of invincible ignorance. As such they may be tolerated.”

The road to change on this matter of doctrine, while not easy, was certainly fascinating. Catholic laity, from a French village to a small office in New York City, were

instrumental in that transformation. Here is part of that story, which became my story as well...

Jean Goss came from a bourgeois family in France that had fallen into poverty. His father was an anarchist, his mother Catholic. Goss worked in a factory from the age of 13, where he discovered labor unions as a vigorous instrument for defending the rights of the workers. This was the first step towards practicing non-violence.

His career goal on the French railways was interrupted by World War II. “I was a good soldier,” he would later boom in a robust oratorical style that made people think he might be a preacher or a laicized priest. “I killed many men, I don’t know how many, and I got medals for bravery.”

Then, during a terrible slaughter of French troops while he was defending their retreat to Dunkirk, France, Goss had a mystical experience of which his wife, Hildegard Goss-Mayr, writes, “God revealed to him the only true alternative to violence: absolute, self-giving love.”

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*Tom Cornell is the co-founder, with Jim Forest, of the Catholic Peace Fellowship. He now lives at Peter Maurin farm in Marlboro, NY. This reflection expands on an essay in the September, 1996 issue of Salt of the Earth magazine.*

Later Goss was captured by the German army and imprisoned in a POW camp, where he underwent a conversion. “The old Jean Goss was gone. I don’t know where he went. I couldn’t hate any more, not even the guards, not even the Nazis.” After the war, Goss attached himself to a group of worker priests in an industrial section of Paris. He went to work for the French railway system and soon rose to leadership in his union. But his heart burned to work for peace and the abolition of war—war he knew in the concrete, not war in the abstract, which moral theologians write about. He wanted the Catholic Church to rediscover the nonviolence of Jesus.

Cardinal Alfredo Ottaviani came to understand the realities of war also, as he toured southern Italy after World War II. Southern Italy has always been poor, but poverty turned to destitution after unification of the Italian state in 1869, due to exploitation by the more powerful North. Ottaviani saw the ruin brought upon already impoverished, innocent, and uncomprehending people by the war, and came to the conclusion that justice could no longer be served by war because of the massive injustices it generates, and because of who pays for it—always the poor. “*Bellum omnino interdicendum*,” he wrote in a monograph from the Holy Office, “War is to be altogether forbidden.”

Goss read it and sensed that this opening from a most unexpected source—Ottaviani was an ultraconservative even by pre-council standards—was too important not to enter. Goss wrote the cardinal asking for an audience. He got no answer. A second and a third letter remained unanswered. So in 1950 he used his union railway pass and took the train to Rome.

### **Chasing Down a Cardinal**

Goss had done a little research. He knew exactly where to find Ottaviani’s office. A Swiss Guard stopped him on his way. After a brief “failure in communication,” Goss made a dash up a flight of stairs, Swiss Guard in hot pursuit, halberd clattering.

An imposing figure appeared in the doorway of the Holy Office, tall and well-built, with milky eyes. Cardinal Ottaviani asked the cause of the racket. “*Bellum omnino interdicendum*, your Eminence!” Goss belted out.

The cardinal ushered Goss into his office, and they talked for two hours. Yes, he had written this. Yes, it is of the utmost importance, the greatest urgency, that the resources of the church be aimed at the elimination of the scourge of war. But the church, the cardinal insisted, speaks in this area to governments. Such matters as the justice or injustice of war in general or of a particular war are not to be left to individuals or to voluntary groupings to judge, but to the competent authorities of church and state. Conscientious objection to war or to military service was too foreign an idea for the cardinal.

Ottaviani was among the last defenders of the doc-

trine that “error has no rights” and of the confessional state as the norm to be strived for. But he was a good and an honest man. He continued his dialogue with Goss, and later with his wife, Hildegard Goss-Mayr.

Goss-Mayr came by her role as a leader in the international peace movement naturally. Her father, Kaspar Mayr, was one of the first Catholics in the leadership of the International Fellowship of Reconciliation, the largest religious pacifist organization in the world. Peace work was for Goss-Mayr a family legacy.

When Pope John XXIII decided to open the windows of the church to the modern world, to hold a council, no one knew what would fly in or out the windows, but what came to be known as the “peace lobby” set itself in motion. When Goss introduced his wife, Hildegard Goss-Mayr, to Ottaviani, he was impressed. She had a doctorate in philosophy and spoke with quiet authority, out of deep faith and iron conviction, but never overstating her case.

The cardinal introduced Jean and Hildegard to bishops and theologians who were hammering out the working document, Schema XIII, which came to be known as *Gaudium et spes*, the *Pastoral Constitution on the Church in the Modern World*. In meetings with more than 200 bishops, they urged that the teaching of *Pacem in terris*, Pope John’s 1963 encyclical on peace, be expanded, and that the question of the deterrent be addressed as well as individual responsibility—conscientious objection to war and military service.

In 1965, during the fourth and final session of Vatican II when the council discussed Schema XIII, Goss helped organize an international group of twenty women to come to Rome to fast and pray for the council fathers for ten days. Among them was Dorothy Day. Day did not “lobby,” but she brought with her 300 copies of a special edition of the *Catholic Worker*, edited by Eileen Egan, as a teaching tool for the bishops and theologians at the council, featuring articles by Gordon Zahn, James Douglass, and Howard Everngam.

A special gift had made it possible to airmail every bishop in the world a copy of this issue of the *Catholic Worker*, but Day brought extras just in case. Barbara and Bernard Wall, of the English Pax Association, joined Egan, Zahn, Douglass, and Richard Carbray as the English-speaking peace lobby.

They found many bishops more than eager to explore ways of expanding the church’s peace teaching, among them Melchite Patriarch Maximos IV of Jerusalem, Archbishop George Flahiff of Toronto, and Bishop John Taylor of Stockholm.

### **A Step Forward**

In the end, language recognizing and even praising conscientious objection was incorporated into the text. “It seems right that laws make human provision for the case of those who for reason of conscience refuse to bear arms, provided however that they accept some other form of service to the human community”

(*Gaudium et spes*, 79). Douglass wrote the words pertaining to the unqualified condemnation of the use of weapons of mass destruction: "Any act of war aimed indiscriminately at the destruction of entire cities or of extensive areas along with their population is a crime against God and man himself. It merits unequivocal and unhesitating condemnation" (*Gaudium et spes*, 80).

Ottaviani, said to have been the least popular bishop among the council fathers, rose to defend Schema XIII and to urge its acceptance against the efforts of some American bishops, led by Cardinal Francis Spellman, to weaken the text. Ottaviani was given the longest and loudest ovation of the council, and *Gaudium et spes* was accepted resoundingly.

Bishop Taylor thought the contribution of the Catholic Workers to the council so valuable that he gave his Commemorative Medallion, which Pope Paul VI presented to each of the council fathers, to the Catholic Worker. I have it before me now.

So it happened that a leap of faith in the trenches of World War II and a dash up a Vatican staircase hastened a process not yet completed. After a long, bumpy, and tortuous road through accommodation to power, Crusades, and "just wars," the Church now clearly teaches the right of conscientious objection to war and to military service. In 1980 the U.S. Catholic bishops went so far as to pledge the good offices of Catholic institutions to the aid of any and all who were troubled by the military draft.

While these advances in church teaching were taking place at the highest level of the magisterium, something of equal importance was happening from the base. Ordinary Catholic laypeople took a leading role in the anti-Vietnam War movement. Catholics were among the first to demonstrate, to burn their draft cards, and to engage in acts of nonviolent civil disobedience against the war, and they took leadership positions in the broad coalitions that raised the biggest protests in the nation's history.

### **The Work Begins in Earnest**

The Fellowship of Reconciliation (FOR) was and is the largest ecumenical and inter-faith religious pacifist organization in the U.S., comprised of a Baptist Peace Fellowship, an Episcopal Peace Fellowship, a Methodist, a Jewish (and later a Buddhist and a Muslim group). As the 60's began, there were a few Catholic members of FOR, very few, but among them were Thomas Merton, a few lesser known but influential priests, and one generous woman of means. Alred Hassler, the FOR executive secretary at that time, charged John Heidbrink, director of church work, with the mission: organize a Catholic Peace Fellowship. Where to go for such an unenviable task but to the Catholic Worker in New York City, then the only Catholic pacifist group in existence.

Heidbrink found Jim Forest at the editor's desk of *The Catholic Worker*, and made the proposal: gather a small group of people who might be willing to accept

\$5,000 seed money to start a CPF. Jim called me from my teaching job in Connecticut to help him make the pitch to Eileen Egan, Gordon Zahn, Ed Rice (editor of *Jubilee* and a friend of Merton's) and Howard Everngam (I can't recall the others). The group declined FOR's offer of seed money—out of fear that the bishops might suspect that we were acting under "a Protestant notion of individual interpretation of Scripture"—and decided they would organize something else, which over the next decades became Pax Christi USA. Three years passed. Pope John XXIII published his encyclical *Pacem in terris* on April 11, 1963. Suddenly, the state of the question changed. The FOR saw an opening. Heidbrink made another approach to Forest. This time it worked! But there remained a question: would our newly formed Catholic Peace Fellowship really get off the ground?

CPF picked up steam in 1965, the year of the final session of Vatican II, out of a cramped two-room office at 5 Beekman Street in Lower Manhattan. Thomas Merton had given us a boost by giving us an essay, "The Root of War is Fear," to publish and circulate. We billed ourselves, on our letterhead, as "an educational agency conducted by Catholic members of the Fellowship of Reconciliation," and looked for something to do.

The fundamental goal was to make the peace message of the Catholic Church available to Catholics and to stimulate a wider peace and pacifist movement. But we realized that a vigorous peace movement was impossible to envision without the idea of personal responsibility, especially in regard to one's own participation in war, i.e. conscientious objection. We knew that those bishops who believed that Catholics had only become conscientious objectors out of ignorance were mistaken. We knew this because we had studied the question carefully, I for several years.

Both Jim and I had been successful in seeking CO status, Jim in the U.S. Navy, I as a civilian, but with minimal help, no real quality counseling. I did not want anyone to feel as bereft as I had felt, even at the New York Catholic Worker, with no counselor to turn to. We wanted to solidify the Catholic CO position, make it easier in the future for Catholics to succeed in CO claims and enrich the peace movement with new recruits. As the Vietnam War heated up, we knew we had something to do: counsel Catholic COs. [ed. note: stories of counseling will be featured in Part II of this essay]

Jim wrote a pamphlet, "Catholics and Conscientious Objection," which laid out the case. We applied for an *imprimatur* from Cardinal Spellman, and we got it. By the time it was revised to meet changing times, there were a quarter of a million printed. It laid out the whole tradition, beginning with the early Church's rejection of war.

The pamphlet included stories from Scripture and the lives of the saints. It even drew on the witness of the Catholic Worker movement, stressing that "if doing these works of mercy is a matter of salvation," then

“surely we are forbidden to do the very opposite, as war requires, to cause hunger and thirst, to destroy homes and create refugees, to leave many sick and dying...”

The updated version addressed the nuclear question as well, and included the great quote from the Jesuit Richard McSorley:

The taproot of violence in our society today is our intent to use nuclear weapons. Once we have agreed to that, all other evil is minor in comparison. Until we squarely face the question of our consent to use nuclear weapons, any hope of large scale improvement of public morality is doomed to failure.

The pamphlet is still useful, and CPF is planning to do a revision soon.

### **At the Service of the Church**

Over the years, demonstrations and other peace movement business brought me to Washington, D.C. every so often. If at all possible, around lunchtime I would drop in at the bishops' headquarters and pay a courtesy call. Tom Quigley, a CPF member on whom I could always call, was a layman in charge of programs for Latin America for the bishops. Fr. Bryan Hehir was always ready to share lunch. We got to know each other. So it was that Fr. Hehir called upon me when President Carter reinstated registration for the draft, which had been suspended at the end of the Vietnam war. Most of us expected resumption of the draft itself. So the bishops asked CPF how we thought the Church should respond. I suggested that the bishops restate their support of SCO and that they offer the institutions of the Church to the counseling of anyone with any kind of problem relating to military serve and the draft. To my

astonishment, they did, in a statement of the Administrative Committee of the U.S.C.C., in 1980.

As soon as the words were in black and white, I asked Fr. Hehir, “How do you mean to implement this? Do you have anyone here who is qualified to train draft counselors?” Bryan laughed. He knew I was out of a paying job at that time. “We don’t have the funds to hire you, Tom!” he said. I asked him to write a letter to be sent to all the bishops recommending the CPF draft counselor training program for their schools and social work agencies. He said I should write it myself. I did. Bishop Rausch signed it. The next year I spent taking the program across country, and the principles were established which inspires the work of CPF even to this day: education and counseling.

Some peace people have objected to our emphasis on conscientious objection. CO by itself will not make war impossible, they argue. War will not end because men and women refuse to fight. Enough cannon-fodder will always be summoned. War will end when war is no longer possible, when an international fabric of law and institutions is created strong enough to preclude it. But that is not likely to happen unless the moral energy is generated to hasten historical processes.

The problem is fundamentally spiritual. “Some hope in horses and chariots. We call upon the name of the Lord,” sang the Psalmist. And there is hope in the small bands of men and women who place principle above expediency and struggle above comfort. We work that they may grow, not perhaps to anything like a majority, but large enough to make a difference, “a mighty league of conscientious objectors.” C

### **from “The Root of War is Fear,” by Thomas Merton**

What is the use of postmarking our mail with exhortations to “pray for peace” and then spending billions of dollars on atomic submarines, ballistic missiles, and smart bombs? This, I would think, would certainly be what the New Testament calls “mocking God” – and mocking Him far more effectively than the atheists, liberals and Muslims do....

If men really wanted peace they would sincerely ask God for it and He would give it to them. But why should He give the world a peace it

does not really desire? The peace the world pretends to desire is really no peace at all.

To some men peace merely means the liberty to exploit other people without fear of retaliation or interference. To others peace means the freedom to rob brothers without interruption. To still others it means the leisure to devour the goods of the earth without being compelled to interrupt their pleasures to feed those whom their greed is starving. And to practically everybody, peace simply means the absence of any physical violence that might cast a shadow over lives devoted to the satisfaction of their animal appetites for comfort and pleasure.

Many men like these have asked God for what they thought was ‘peace’ and wondered why their prayer was not answered. They could not understand that it actually was answered. God left them with what they desired, for their idea of peace was only another form of war . . . .

So instead of loving what you think is peace, love other men and love God above all. And instead of hating the people you think are warmongers, hate the appetites and the disorder in your own soul, which are the causes of war. If you love peace, then hate injustice, hate tyranny, hate greed – but hate these things in yourself, not in another.” C

# Christ, the Victor over Violence

BY FR. ROBERT BARRON

The Gospel of Luke gives a riveting account of Jesus' resurrection appearance to the disciples, who are gathered together in Jerusalem. We read in the text that the risen Jesus "stood in their midst" (*este en meso auton*), so that he functioned as the center around which the others gathered in a kind of circle. Here is the shepherd at work, the divine power that orders and arranges the lost sheep of the house of Israel around himself.

Standing at the center, Jesus then articulates in speech what he had accomplished: "Peace be with you" (Lk. 24:36). In Jerusalem, the city of peace, the prince of peace offers *Shalom* to his disciples and, through them, to the scattered tribes of the world. By going to the limits of godforsakenness and fighting the effects of sin through non-violent love, Jesus effectively drew fallen human beings back into *communio* with God and hence into connection with one another. Abiding in their midst, like a heart in the midst of a body, he can communicate his *Shalom*, like blood, like a life-force, to all of them.

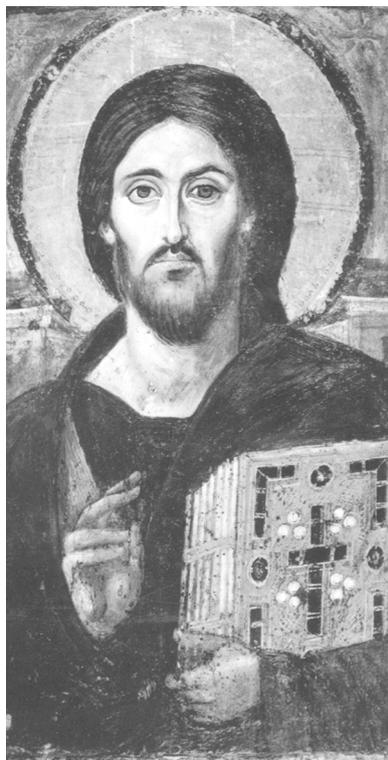
Their reaction is not, immediately, one of joyful acceptance but rather apprehension and confusion: "They were startled and terrified, and thought they were seeing a ghost" (Lk. 24:37). The fear of the disciples can be read at several levels. In the most obvious sense, they were afraid because they were witnessing something wholly strange and unexpected, an event outside of the conventional categories. That a shade of a dead man, who had gone to Sheol, might rarely and under extraordinary circumstances make an appearance in this dimension of space and time was unheard of. Or that a ghost might manifest itself was, similarly, deemed a possibility (as the disciples' initial reaction to

Jesus' appearance suggests). Even that, as in the cases of Lazarus or the daughter of Jairus, a dead person might be resuscitated was, though rare, at least understandable to a Jew of Jesus' time. But that someone who had died would return after his death in an eschatologically transformed but still embodied state, a harbinger of the general resurrection of the dead expected at the end of time—that was utterly unexpected. And so, understandably, they were terrified, flummoxed.

But there is, I submit, another and more spiritually significant reason for their fear. These were the very men who had, in the moment of crisis, abandoned, betrayed, and denied their master, fleeing for their lives rather than standing in solidarity with him. Thus, when they saw him alive and in their midst, they rather naturally assumed, in accord with the standard haunting story, that he was back for vengeance. In the ordinary practice of the fallen world, the breaking of relationship, the shattering of the peace, is paid for through a kind of retributive violence. The imbalance caused by a rupturing of the community is restored through an answering violence: "an eye for an eye and a tooth

for a tooth." This is the sort of justice favored by the older brother in the Prodigal Son story: the offender against *communio* should be compelled to pay before being readmitted to the family. And it is recommended in myths, legends, and sacred stories from ancient times to the present day—from the *Epic of Gilgamesh* to *Dirty Harry*. When order is lost through violence, it is restored through a greater violence. And so the disciples stand in the presence of the crucified and risen Lord in an attitude of fear, convinced that he is an avatar of worldly *ordo*.

But central to the teaching and practice of Jesus was forgiveness, the restoration of order, not through violence, but through compassion and non-violence. Essential to his vision that the heavenly *ordo* become the *ordo* here below was the hope that we might learn to



traditional Christ the Pantocrator icon

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Fr. Bob Barron is the author of *The Strangest Way: Walking the Christian Path*, available from Orbis Books. The article here is excerpted from his yet to be published work, *Toward a Postmodern Catholicism*. You can listen to his weekly homilies at [wordonfire.org](http://wordonfire.org)

share the forgiveness that we have together received from God: “forgive us our trespasses as we forgive those who trespass against us.” Thus, when confronting those who had drastically violated his friendship, the risen Jesus says, “*Shalom*,” a word of pardon, and in so doing creates an entirely new spiritual space and introduces a revolutionary understanding of God.

Jesus consistently acted in the very person of Yahweh, claiming an authority that belonged exclusively to Israel’s God. And so, in going to his death on the cross, he was expressing Yahweh’s solidarity with sinners and Yahweh’s willingness to endure the resistance of those whom he wished to gather into friendship. In putting Jesus to death, his executioners—both directly and indirectly—put Yahweh to death, expressing their definitive rejection of the mercy offered to them by God. And this awful truth, paradoxically, is the ground for salvation, though we appreciate it only in light of the resurrection. When the crucified Jesus returned alive to his disciples, stood in their midst and said, “*Shalom*,” he was once more speaking in the very person of Yahweh, and what he implied was that even the killing of God was not enough to block divine forgiveness.

According to the standard interpretation of justice and the traditional theology, this greatest of crimes would call for the greatest of retributions, but instead, it is met with non-violence, compassion, *Shalom*. This in turn shows us that authentic justice is much different than we had imagined and that God is much stranger than we had thought. God’s love is such that it can swallow up, absorb, and conquer even the most pointed resistance, and this becomes clear in the manner in which the murdered God restored order to the broken circle of his disciples. They (along with many others) contributed to the killing of God, the most egregious violation of justice imaginable, and God answered this injustice with forgiving love. In light of this compassionate love which swallowed up the greatest of sins, Paul could exclaim, “I am certain that neither death nor life, nor angels nor principalities, neither height nor depth, nor any other creature could ever separate us from the love of God that comes to us in Christ Jesus our Lord” (Romans 8:38). Human beings committed the unsurpassable sin—not only turning from God but actively opposing him, even to the point of putting him to death—and they were met with forgiveness. The only conclusion is the one that Paul drew, viz. that nothing is powerful enough to turn back the

**Only when we had done our worst—through killing the Son of God—could God reveal his best: forgiving even that act.**

relentlessness of the divine mercy.

In many of the Fathers of the Church, one can find an account of the redemption that Aulén, in the 20th century, famously characterized as the *Christus Victor* theory. It has the following basic structure: sinful human beings are held captive by the devil; God compels the devil to release sinners by luring him toward the particularly enticing object of the perfect human being, Jesus Christ. The devil “takes” Jesus through his death on the cross, but then finds himself captured by the hidden power of Jesus’ divinity, much as a fish is caught by a hook concealed behind an alluring piece of bait. The end result of this process is a freed humanity and a disempowered devil, in a word, salvation. Now many have over the centuries quarreled with this theory, finding it either theologically superficial or simply fantastical, but I wonder whether, properly demythologized, it might still prove illuminating.

That God is forgiving and merciful had certainly been a central proclamation in the Torah and the prophets, but those very texts reveal that the full extent of that forgiveness was not apparent to Israel, for there seemed to be numerous qualifications and conditions set to the divine mercy. How could Yahweh convince his people of the absolutely unqualified nature of his compassion? First, he had to become one with us, condescending to exist at our level and on our terms. But second, he had to accept from our hands a rejection so total that, in forgiving it, he could surround it and disempower it. Following the main lines of the *Christus Victor* theory then, could we say that the devil is Sin itself (that which holds humanity captive) and that the divine forgiveness (hidden as it were under the guise of Jesus’ humanity) is the hook that “captures” it? Sin had to be lured out into the open, and this took place through the provocative quality of Jesus’ life, ministry and death. Then, thus exposed, Sin could be undermined and defeated by Christ, the victor.

Prior to the incarnation and the cross, humans could never know the height, breadth, depth, and length of God’s forgiveness and were hence still to that degree held captive by Sin. Interestingly, many Church Fathers wrote that the sin of Adam was a *felix culpa* (happy fault) for humanity because it would lead to the coming of a savior. But von Balthasar has reminded us that, for some of the Fathers, it could even be seen as a *felix culpa* for God, since it allowed him to demonstrate so dramatically the extent of his forgiveness. Only when we had done our worst—through killing the Son of God—could God reveal his best: forgiving even that act. The full meaning of *Christus Victor* comes into focus only here when Christ the Lord demonstrates that his is a *victory-through-forgiveness* over sin. C

# American Jesus to the Rescue

A BOOK REVIEW BY DAVID GRIFFITH

When the American colonies broke free from England to form a nation, the hitherto royal subjects became citizens invested with the right to choose their religion. “Inspired by republican rhetoric of liberty and equality, and by popular revolt against deference and hierarchy, they rejected . . . the authority of ministers, the veracity of creeds, and the importance of theology,” writes Stephen Prothero in his book *American Jesus: How the Son of God Became a National Icon* (Farrar, Strauss, Giroux, 2003).

Many in the dutiful flock, particularly Calvinist Puritans and Anglicans, revolted against “elitist” and “established” churches in favor of “unpretentious” and “down-to-earth” populist preachers who entertained large audiences with stories that illustrated and expounded upon previously abstract ideas of grace, salvation and Heaven. Even though the Bible remained the center of belief, “Americans insisted on interpreting it for themselves.”

Prothero seeks to analyze the rise of Christianity in America by taking a historical look at answers to Jesus’ most poignant and haunting question: “Who do you say that I am?” Over time, he has been called many things: a poor Jewish carpenter, the son of Man, the Lamb of God, socialist revolutionary, and military strongman. But, despite the array of answers, Jesus’ teachings have remained the same. What has changed, according to Prothero, is a modern problem rooted in our increasingly visual culture: the image of Jesus.

To understand the roots of this controversy, the book first takes us on an historical survey beginning with the God-the-Father-centric, Jesus-less Puritans. They balked at the idea that Jesus could be imitated or “followed” or even that he would come again in glory. Jesus was the unfortunate messenger, the sacrificial lamb sent by an angry God to die spectacularly in order to shame sinful humanity.

The book also examines Thomas Jefferson’s attitude that religious belief and worship are deeply private matters—no one else’s business. But Jefferson made it his business to denounce creeds that saw Jesus as any-

thing more than sage teacher of sound moral principles.

The idea that Christ sits at the right hand of the father as part of the Holy Trinity is, Jefferson wrote, “an engine for enslaving mankind, . . . an effort on the part of ‘schismatics’ with an interest in sophisticating and perverting the simple doctrines [Jesus] taught . . . until they have caused good men to reject the whole in disgust, and to view Jesus himself as an imposter.” No doubt, Jefferson felt inclined to reject the “whole” Jesus. He even produced his own version of the Gospels, removing those passages with which he was not comfortable.

Prothero is at his best when treating the evolution of Jesus’ image in artist renderings, movie scripts and literary depictions. The most important period of such evolution occurred at the beginning of the twentieth century, when preachers, politicians and citizens alike began lamenting the “feminization” of Jesus by “Social Gospellers” by focusing on his “self-sacrifice” and “domestic piety.” In April 1899, G. Stanley Hall, president of Clark University and one of America’s foremost psychologists, warned that the U.S. was suffering from a “epidemic of effeminacy,” a fear Prothero attributes to the rising belief in Social Darwinism brought on by reflections on the fall of the agrarian-based Confederacy, the rise of industry and large corporations, and with it the proliferation of white collar jobs, which saw male muscle atrophying behind office desks, not to mention the increasing number of women in the workplace.

Also in 1899, then New York governor Teddy Roosevelt, fresh from his military campaign in Cuba, lamented the ‘over-civilized man’ and the ‘cloistered life which saps the hardy virtues in a nation.’ According to Roosevelt, the very fate of the nation was at stake: “If the country were to generate another generation of ‘weaklings’ who ‘fear work or fear righteous war . . . [the United States] would vanish from the earth.’”

Such warnings led to a flurry of literary activity, which produced such titles as *The Masculine Power of Christ* and *Manhood of the Master*, as well as an editorial from *Century* magazine calling for a more ‘vigorous, robust, muscular Christianity...devoid of all the et cetera of creed.’ Prothero adds, “Doctrine was for sissies, and the meek weren’t going to inherit the earth.”



satirical cartoon by David Horsey

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*David Griffith lives and writes in South Bend, Indiana. His most recent work, "A Good War Is Hard To Find," can be read at [Godspy.com](http://Godspy.com)*

# ***A Letter From a Young Activist***

## ***“The Lunch Room Riot”***

### ***Dear Friends,***

I want you to know about a counter-recruitment protest I organized at my high school.

Well, it didn't go so well. The Navy came to our school and I made a bunch of posters that said things like, "I am not your tool for war," "Don't ask your children to fight your war," and even as simple as, "Not a tool." My friend Nate stood with me and we remained silently by the Navy table. Needless to say, lots of the other students had things to say. "What the hell is that?" "You're stupid!" and "Bush is awesome!"

But Nate and I stood there, stared straight ahead and held our signs. That is until our administration came up. We were told to put our signs away, that we couldn't do that. Nate politely brought up the fact that we still had civil liberties. He was cut off and told, "That civil liberty crap won't work here," and we were asked to come down to the office.

We approached our principal and he told us the same thing, that we couldn't hold signs, but next time to come talk to him. If he pre-approves the signs, he said, it'll be okay, as long as we don't say anything to the recruiters. I asked him, "Well, can we do this in the next lunch?" And he said no, so I asked, "Well, what if I go back down to the lunch room and hold my sign anyway?" I was told that I would get written up for insubordination.

So Nate and I ventured back down to the lunch room and all of my signs were gone. The Vice-Principal had confiscated them. So I walked up and politely asked if I could have my signs back, and I was told no. So I asked again politely and finally he gave them back. But by this time, people had seen our signs and were starting to get worked up. Some were shouting, "Rebecca, you are awesome," and other positive things, while some had nasty things to say. One of the senior Varsity football players got up in my face and tried to take my signs. Nate put his arm out to defend me, and although nothing was said to Nate, the football player had some vulgar things to say to me.

Nate and I proceeded to the middle of the lunch room and I started talking about the "No Child Left Behind Act" and how we have to let recruiters in our schools in order to receive funding, and also about how the schools give out our information to recruiters. This got even more people interested, and then we started taping signs onto our shirts, because they never said we couldn't do that. There's always a loophole. We got about 50 kids to wear the signs. That made me feel really good.

I was escorted out of the lunch room in front of half of the high school. Then I was given a Saturday Detention and was told to leave the property for my role in the "lunch room riot" and because "nobody can be in two lunches."

At least I got some more people involved and more people are aware of our program. And this won't be the last protest either: I'm also fighting the detention.

***Sincerely,  
Rebecca Cleveland  
Dowagiac, Michigan***

## **Start a local CPF chapter, counter-recruit!**

A few of you have asked how to form a Catholic Peace Fellowship chapter in your area. We encourage you to gather a group of three or more people interested in being a counter-presence to military recruiters in local high schools, counseling soldiers and civilians about conscientious objection, and educating your community about Church teaching on war, peace, and conscience. Once you have done that, contact us to register your chapter, to receive materials, and to schedule a training for your group.

CPF has also begun its own campaign of counter-recruitment in high schools. Resources are available in the "classroom" section of our website. Look this summer for *Consider This Before You Enlist*, a poster we are developing and will send to Catholic high schools across the country.

**[www.catholicpeacefellowship.org](http://www.catholicpeacefellowship.org)**



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In the beginning... Tom Cornell (l) and Jim Forest at the CPF New York City office in 1965.

