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THE ROLE OF FORCE IN THE INTERNATIONAL JURIDICAL ORDER

WILLIAM V. O'BRIEN*

IT HAS BEEN SAID THAT THERE NEVER was a good war or a bad peace. If that be true, the task of true internationalists is to work for the total elimination of war, that is to say, of all international force. In their understandable revulsion to modern wars many internationalists have indeed tended towards the position that to work for peace is to work for a world in which "armed force" will play no part, a world in which disputes will be settled peaceably and reasonably through international law and international organization. This point of view has influenced our thinking since the establishment of the League of Nations and despite many disappointments we continue to hear pleas for a world order free from the horrors of international conflict. Some of the most respected of our professional men and scholars are joining in the cries for "The Rule of Law in the International Community," "World Peace through World Law," and the like.

Walter Lippmann and Raymond Aron, among others, have remarked on our tendency to go to extremes with respect to questions of international relations, from total disarmament to total war, from unconditional surrender to bundles for defeated enemies. Perhaps there is an element of this kind of zig-zagging in the desire to change abruptly from a world of intense conflict to a world where everything will be solved by submission to laws. To dramatize this concept, the lawyers of the world recently gathered at Runnymede to commemorate the Magna Charta and the triumph of the "Rule of Law."

But what indeed was the scene at Runnymede? Did Good King John succumb to some "unite or perish" pamphlets and joyfully declare the Rule of Law throughout his domain? Indeed no! We are led to believe from our histories — not to mention numerous novels, movies and TV interpretations of the world of Robin Hood — that King John was a scoundrel of the first order who was *forced* to acknowledge the rights

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of those of his subjects who had the capacity and desire to *fight* for them. (You will recall that the Common Man was not greatly affected by the provisions of the Charter.) Moreover, knowing their man, the nobles at Runnymede made specific provisions for the enforcement of the compact in the highly likely event that the King broke it.

On the other hand, great minds from Pierre Dubois, Dante, Bentham, Kant, Ladd and Baroness Von Suttner to Hutchins have produced peace plans and international charters sufficient to fill volumes — without noticeably contributing to anything more than the history of ideas.

The problem of reconciling the desire for peace within the community — whether national or international — with the necessity for fighting for justice is not new. In our own national history we faced it at Philadelphia in the Constitutional Convention of 1788; we faced it at Fort Sumter in 1861; we faced it when we decided that we were not too proud to fight the “War to end Wars”; we faced it in the spring of 1940; in Korea in 1951 and, to an extent not entirely known, in the Berlin crisis of the past year.

Granted the sincere desire that we all have for an international juridical order, what is the role of force? Has it ceased to be relevant to our aspirations? I suggest that force is vitally important to the concept of an international juridical order in three ways: (1) as a reality to be faced; (2) as a legal necessity; (3) as a moral means to attaining the ends of the international juridical order.

First, international conflict and recourse to force continues to be characteristic of the world in which we live, regardless of

ephemeral “thaws.” World juridical order means the triumph of law and order over unrestrained international force. The triumph, like the triumph of fundamental rights at Runnymede, must come about, in the final analysis, as the result of the triumph of force utilized on behalf of justice over force opposing justice. Unfettered international force is a problem. To use the term of Charles de Visscher, it is a “reality” which we must face in order to achieve a true international juridical order. We must learn a great deal more about the enormous reality of our world, unpleasant as it is, just as the doctor and the social worker must learn more about human diseases and human want.

Second, the improving but still primitive international juridical order requires force to uphold it. The authors of the United Nations Charter realistically recognized this and fashioned the institutions and procedures for mobilizing force on behalf of the juridically organized international community. These institutions and procedures are a central, if not the central, part of the United Nations Organization. Let us therefore review the provisions of the Charter in order that we may obtain an authoritative view of the legal status of force.

Article 1, paragraph 1, states as one of the purposes of the Organization the maintenance of peace and security, by “. . . taking collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace” as well as providing for the peaceful settlement of disputes.

The Charter proceeds to develop a regime which divides international force

into three categories: (1) aggression; (2) collective enforcement action in support of decisions of the organization; (3) individual and collective self-defense.

The relevant provisions of the Charter concerning *aggression* would appear to be the following:

In Article 1, paragraph 1, there is as we have seen the reference to suppression of "aggression" and "other breaches of the peace."

Article 2, paragraph 13, requires that "all Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered."

Paragraph 4 states that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

In principle, therefore, the precedents of the League Covenant, the Kellogg-Briand Pact, and other international conventions "outlawing" war are brought to fruition in a flat proscription against individual recourse to international force. In principle, all such unilateral uses of force are outlawed and branded as illegal acts of aggression.

But there remain, under the Charter, two kinds of situations in which the use of international force is permitted, if not demanded.

First, it is envisaged that force may very likely be required to enforce the provisions of the Charter, just as force is required in all juridically organized communities. We have noted the allusions in Article 1 to the suppression of aggression and the mainte-

nance of security. Article 2, paragraph 2, places an obligation on all members to "... fulfill in good faith the obligations assumed by them" and one such obligation is to "... give the United Nations every assistance in any action it takes in accordance with the present Charter," while refraining "... from giving assistance to any state against which the United Nations is taking preventative or enforcement action."

There follow in Chapter VII, Articles 39-50, detailed provisions for "Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression." Particularly noteworthy is Article 42 which states: "Should the Security Council consider that measures provided for in Article 41 [Coercive measures not involving the use of armed forces, such as the interruption of economic relations, communications, and severance of diplomatic relations] would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations."

Articles 43-45 call upon the members to contribute to UN Forces. Articles 46-47 envisage a Military Staff Committee to plan and coordinate UN efforts.

Finally, spontaneous acts of legitimate self-defense are approved by Article 51 which, as the years have gone by, has turned out to be one of the most important provisions of the entire Charter. Article 51 states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs

against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international Peace and Security. Measures taken by the Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

An interesting question which I shall only raise here for mature consideration is the following: Does Article 51 in effect *grant* the right of self-defense to the members as an exception to the general proscription against recourse to force, or does it rather *recognize* an antecedent "inherent right"? In any event, extreme positivists cannot be happy over the French version of this term, "*le droit naturel de defense legitime*."

We know, of course, that the system has not worked as planned. The Security Council has been rendered virtually helpless by the rift between the Free World and the Communist World. Since the Korean War we have been obliged to fall back upon the somewhat awkward arrangements of the Uniting for Peace Resolution whereby the General Assembly recommends (but does not order) joint action against an aggressor. But action through the Assembly is subject to the hazards of ever-shifting political maneuvering within the Assembly. There is no effective Military Staff Committee, nor any plans. On the other hand, the Suez crisis produced the United Nations Emergency Force. But so far the UNEF has been restricted to a kind of military police function of supervising and enforcing truce arrangements. Nevertheless, had one of the belligerents in the Middle East

resisted the UNEF we might well have had a war directly involving the United Nations as such, rather than an Article 51 situation as we had essentially in Korea.

We have said that force is, first of all, a problem for the international order. Then we have seen that force is a legal necessity for the enforcement of the international juridical order, a necessity clearly recognized in the United Nations Charter. We now turn to a third aspect of force, as a moral means which may be used on behalf of justice and the international common good.

Long before the institutions of modern international law and organization developed the distinction between legal and illegal recourse to force, Scholastic Doctrine recognized a parallel distinction between just and unjust wars. The similarities between the modern international law of force and the Just War Doctrine are such that some authorities have referred to the former as a modern *bellum justum*.¹

Like the UN Charter, the Scholastic Doctrine of the Just War begins with the proposition that recourse to force is not in general permitted as a means of settling international disputes. St. Thomas, for example, begins his discussion of this subject by asking whether it is always a sin to make war.² The answer is that war is permitted, but only under certain conditions. There must be a grave cause, a real necessity for

¹ McDougal & Feliciano, *Legal Regulation of Resort to International Coercion: Aggression and Self-Defense in Policy Perspective*, 68 YALE L.J. 1057, 1065-68, 1071-74 (1959).

² AQUINAS, SUMMA THEOLOGICA, II-II, q. 40; cf. VANDERPOL, LA DOCTRINE SCHOLASTIQUE DU DROIT DE GUERRE 16-23 (1925).

taking up arms to remedy the injustice, the probable consequences of the war must be in proportion to the injuries suffered or to be suffered, and the just belligerent must pursue his action with "right intention."³

There is a clear parallel between the Just War Theory and Article 51 of the UN Charter with respect to self-defense. What of enforcement action on behalf of the international community? There was nothing comparable to the UN in the late Middle Ages, although we could say that Christendom during the centuries of the Crusades was a relatively coherent community. But, organization features aside, it is interesting to note that in addition to the defensive just war, Scholastic Doctrine also recognized the institution of the war of vindictive justice, fought not so much as a matter of strict defense as on behalf of justice itself and the international common good.⁴

The Theory of the Just War is familiar to most of us but the question arises as to the continued validity of that theory and its relevance to modern war. A partial answer is to be found in the pronouncements of Pope Pius XII.

As Father Murray brought out so well,⁵ the thinking of the late Holy Father on force in the international community must be understood against the background of his abhorrence of war and his zeal to pro-

mote the international juridical order. Indeed, may not these views of Pius XII carry all the more weight precisely because of their "tortured" and reluctant character? Further, while the pronouncements on war of Pius XII are eminently in accord with the traditional Scholastic Doctrine of the Just War, they take on a heightened importance precisely because they were enunciated by the first Pope of the Atomic Era.⁶

The thinking of Pius XII with respect to recourse to force seems to come down to the following propositions:

(1) Aggressive war is a sin and, legally, an international crime.⁷

(2) But "stringent" self-defense is permitted, even to the extent of ABC (Atomic-Bacteriological-Chemical) War.⁸

(3) Moreover, "law and order have need at times of the powerful arm of force."⁹

(4) When the international community is threatened with "grave injustice" it must be defended and, in the light of recent history (particularly the events of 1956), Communism presents such a threat.¹⁰

(5) Following traditional doctrine, the conditions of a just war (either of "stringent" defense or on behalf of a threatened international juridical order) are: major injustice, real necessity, proportionality,

³ Cf. EPPSTEIN, *THE CATHOLIC TRADITION OF THE LAW OF NATIONS* 65-123 (1935); INTERNATIONAL UNION OF SOCIAL STUDIES, *CODE OF INTERNATIONAL ETHICS* 106-162 (Eppstein trans. & ed. 1953); ROMMEN, *THE STATE IN CATHOLIC THOUGHT* 641-71 (1947); FENWICK, *INTERNATIONAL LAW* 49 (3d ed. 1948); VANDERPOL, *op. cit. supra* note 2.

⁴ VANDERPOL, *op. cit. supra* note 2.

⁵ See MURRAY, *MORALITY AND MODERN WAR* (1959).

⁶ *Id.* at 9-10.

⁷ See Allocation to the World Medical Congress, September 30, 1954, in AAS 46 (1954); cf. MURRAY, *op. cit. supra* note 5, at 10,22.

⁸ *Ibid.*

⁹ Allocation to the Military Mission of the U.S.A., October 8, 1947; cf. MURRAY, *op. cit. supra* note 5, at 10.

¹⁰ Allocution, October 19, 1953; Christmas Message, 1956; cf. MURRAY, *op. cit. supra* note 5, at 11.

and limitation of the use of force.¹¹

It is to these last two conditions, proportionality and limitation of the use of force, that I wish to turn my attention. While a *moral imperative* obliges us to develop the institution of limited war, including limited nuclear war, it seems to me that an important corollary of this thesis is a corresponding imperative to develop realistic principles and rules for the regulation and limitation of modern warfare, including nuclear warfare. In this connection, it is clear from the study of the historical development of the law of war that the central problem is that of defining "proportionality" in concrete belligerent situations.¹²

In the light of the foregoing, therefore, I suggest that the problem of force in the international community is not the total elimination of force. Rather, the problem is one of organizing the international juridical community in such a way as to begin to approach the goal of that relative "monopoly of force" in the hands of the organized community which is characteristic of of true juridical order.¹³ I might add that insofar as the tempo of progress towards such an order is concerned, that I am among the conservatives who feel that we are just beginning and that we have a long road ahead. Illusions as to the imminence of an advanced international juridical order are in fact a serious handicap to realistic internationalists who are working towards that goal.¹⁴

¹¹ See MURRAY, *op. cit. supra* note 5, at 11-15.

¹² *Id.* at 18.

¹³ KELSEN, *PRINCIPLES OF INTERNATIONAL LAW* 13-15 (1952).

¹⁴ Address delivered at the 31st Annual Conference of the Catholic Association for International Peace, October 25, 1958, in ROBERTS, *THE INTERNATIONAL POLITICAL COMMON GOOD* (1958).

If it be granted that international force is a reality which must be faced under all three of the aspects which we have seen, what can be done to improve the situation? First, we must obviously strive to prevent recourse to force. We must, obviously, bend every effort to improve our institutions for pacific settlement of international disputes and to develop international cooperative efforts designed to attack the basic causes of international conflict.

But, second, given the very modest progress made to date towards a true international juridical community, given the absence of anything like a community monopoly of force and, specifically, given the continuing threat of Communist aggression, we must also be prepared for situations in which our primary limitation on force has failed. If this comes to pass we are obliged to do our utmost to see that international conflicts of whatever kind are carried on, at least on our part, in accordance with the principles of proportionality and right intention. But neither proportionality nor right intention are self-evident in practice. It is necessary to provide more explicit guides in the form of principles and rules governing the conduct of war. These normative guides are necessary whether the conflict be an old-fashioned "war," a "police action," a "revolution" or any other form of large-scale violence. The task does not end with efforts to prevent international conflict; the Christian tradition (which lies at the basis of the positive laws of war) requires that international law and morality penetrate into the heat of battle.

Admittedly, this is a most difficult task. Many have said that it is inherently hopeless, that war and law are incompatible. The first line of rebuttal is that rules of war

have been observed and to some extent continue to be observed. Still we must admit that the rules which are observed have increasingly tended to be limited to non-decisive aspects of war and that the principal means of modern war remain virtually unrestrained by law. This unhappy state of affairs is in great measure explained by the technological and ideological characteristics of modern total war. But we cannot avoid the conclusion that it is also due in part to the neglect of the laws of war by internationalists since the end of the First World War.¹⁵ So it is that we are confronted with a situation where we must, to all practical purposes, begin from the beginning if we are to build a realistic body of principles and rules governing the utilization of force in the international community.

In confronting this enormous task we face a number of perplexing problems, even before we come to grips with the substantive military, technological, political and moral problems that are the heart of the matter. It seems to me that the first and in a way, overriding, problem is that of finding an academic, professional, or intellectual "home" for studies of the regulation of international force. The laws of war concern military matters and it is to the credit of the United States armed forces that they have made an outstanding record in the development of international law. The great tradition of Francis Lieber has been carried on by the Army in its field manuals and the tradition of international law studies at the Naval War College in Newport is justly celebrated. But the regu-

lation of means of warfare ultimately involves policy decisions, based upon the highest considerations of national interest and, we trust, of morality. It is not within the province of the military to speculate about such matters and they do not.

The laws of war appear to be a field for legal study, but here again we have problems. The modern lawyer is accustomed, on the whole, to highly developed, advanced legal systems where the principal problems have been resolved and the task is one of applying well-established concepts and rules to new circumstances. A typical lawyer's reaction to a plea for a revival of the laws of war is to recommend a thorough study of existing conventional law, leading to a "restatement" or "codification" of the law. Alternately he may suggest that treaty proposals be drafted for submission to the great powers. Students of modern war try in vain to explain that there is not much left to "restate" or "codify," that the old legal order governing international force collapsed when its material and moral foundations and assumptions collapsed under the impact of total war. Finally, it is hard to get recognition of the simple fact that we cannot draft proposals until we know what we really want to propose and that most of the questions raised by modern means of warfare are as far from receiving coherent answers as they were in 1918 or 1945.

What is needed today is not a team of experts in legal research on loan from the West Publishing Company to codify the laws of war but rather imaginative legal pioneers, possessed of a good working knowledge of military science and international relations, who can chart some promising courses which nations with a con-

¹⁵ O'Brien, *The Meaning of "Military Necessity" in International Law*, 1 *WORLD POLITY* 109, 110.

science might follow in their international and defense policies.

We turn next to moralists and to organizations such as the CAIP itself which are vitally concerned with the problems of limiting international force. Here the most frequent response is the plea of lack of expertise in either the field of military science or of law. Moreover, those who are dedicated to peace find it most difficult to turn their thoughts to the unpleasant possibilities suggested by the very idea of laws of war.

And so it goes, with the result that serious study of the laws of war has been most unusual in our times. To the student of the subject it seems that he always speaks to the wrong audience. A military audience is indulgent but limitation of violence is either a matter for "higher authority" or for private contemplation in the post chapel on Sunday. The legal audience wants to restrict the discussion to strictly legal matters such as the effects of a state of war on contracts with an enemy alien. Quite frequently the audience of religious organizations finds the whole subject unpleasant, beyond their knowledge, and vaguely treasonable to their aspirations for world peace and order.

The truth of the matter, of course, is that *all* of these groups have their contribution to make. The military must tell us what the strategic and technical considerations are; the lawyer must help us to formulate our principles and rules and institutions; and, above all, the moralists and the informed lay community must help us to find the right practical answers from the general precepts of our moral code. No one group, nor any individual, can be expected to have a complete grasp of all facets of

these complex problems. But we must all do our best, cooperating as much as possible, to create a climate of opinion, both in high places where policy is made and throughout the informed public, which will promise a more efficacious attempt to control international conflict.

There are other problems involved in the study of legal limitation of force in international relations which may be appropriately raised here. The serious student of the subject is constantly obliged to divert his efforts from the grim problems of his field to a kind of never-ending apologetics concerning the very existence of the Law of War. Some of the most recurring objections are the following:

(1) Efforts designed to prevent war, to "outlaw" force, are inherently opposed to efforts to regulate war. Why "regulate" criminal behavior? The Laws of War belong to the past, when all states had the unlimited sovereign right to go to war. Now that that right no longer exists, there is no need for codes of conduct in time of war. Moreover, talk of the Law of War is subversive to the efforts to eliminate war.

In a somewhat more subjective form, this viewpoint is represented by the reproach which a lady from the Red Cross directed to a professor during a seminar on International Law at Georgetown in 1946. "If you men," she observed, "would only stop talking about war so much perhaps we would not have so many wars."

Unfortunately there does not seem to be any conclusive evidence that "talking about wars" has a controlling effect on their occurrence. The French talked about wars in a most excited and vehement fashion from 1871 to 1914 and if one could say that the result was World War I, it could as well be

argued that the result was 43 years of peace which is not such a bad record. On the other hand, no peoples tried so hard to avoid war or even to give serious thought to preparations for defense than the English and French between the two world wars. Need we mention in addition to Belgians, Dutch, Danes, Norwegians and others?

In any event, under the United Nations system there is still considerable room for large-scale fighting in the world. Whether we call it war, aggression, police actions or whatever, all of the perennial problems of what used to be called war arise—prisoners of war, protection of the sick and wounded, protection of peoples under military occupation, natural rights, as well as the ultimate problem of limiting the means of war themselves. It will not do to say that the war never should have occurred, or that it is only a police action against misguided war criminals and aggressors. Human beings on both sides of the conflict will be suffering and *any* mitigation of that suffering is urgently wanted, no matter how modest (and, it might be added, no matter what the motivation behind these mitigations).

It is gratifying that the vast majority of international law authorities have recognized that the question of the legality or illegality of recourse to force does not and ought not affect the operation of the laws of war once combat is joined. Prisoners have a right to protection whether they are ordinary belligerents, policemen, aggressors, or partisans. Nuclear weapons have exactly the same characteristics whether they are used by saints or sinners. There are enormous problems involved in the government of occupied areas, problems

for the occupant as well as for the occupied peoples. All of these matters are long overdue for serious consideration. To say that such consideration is in competition with and contradictory to efforts to prevent the outbreak of international violence is to place an almost overwhelming pressure on our infant institutions for the preservation of peace.

Underlying this whole misconception is a deeper error, the idea that international politics, so-called power politics, are irrevocably prejudicial to international law and order.

Encouraged by super-realists on the one hand and over-zealous internationalists on the other, students of international relations and the general public are led to believe that power politics and world law and order are mutually exclusive concepts. Common sense alone refutes this all-too-prevalent attitude. Law and order, in *any* community, operate *on* political and other realities. If law and organizations are out of touch with these realities their effect will be small. Moreover, power politics is not wrong in itself. All societies operate as arenas of power politics. Power politics become bad (or as we say, "Machiavellian") in their employment for evil purposes. It is precisely the function of international law and order to aid in diverting international politics and power from evil or unworthy objects and to channel these forces insofar as possible towards the international common good.

In order to carry out this mission, international law and order requires power political weapons. This should not be surprising. The same thing is true in domestic society. In a mature, successful state such as the United States, politics and "politicking"

go on incessantly. Moreover, "power" and "force" of all kinds are applied to the operation of government, as Federalist No. 10 predicted. Finally, even in so advanced a juridical order as the United States it is sometimes necessary to resort to brute force in order to uphold law and order.

International law and order have to be *enforced* and enforcement means force. Just as in the domestic order it takes "power politics" ("politicking," lobbying, threatening, compromising, and sometimes downright conflict) to make law and order prevail, so must power politics be mastered and harnessed on behalf of the international juridical order.

(2) It is interesting to take note of another objection which has been raised against the thinking of Father Murray, Kissinger, and others with respect to limited nuclear war and the whole idea of controlled international violence. It is said that talk about limitation and regulation of modern nuclear war or, indeed, of any war, is *too rational, too removed from reality*. How can we discuss such a chaotic and horrible subject as though it were a chess problem or an exercise in pure logic? The world is not rational, war is not rational, the terrible forces which may be unleashed are irrational and beyond control. It is foolish to try to solve these problems by intricate reasoning. Besides, how can you be so dispassionate in the face of such human suffering?

Such attitudes are understandable. We revolt from the very discussion of modern total war. Yet there are those who cannot afford the luxury of revolting and throwing up their hands. The members of the National Security Council, who have a much more detailed knowledge of the facts — or

ought to, must make decisions based on those facts. Our military leaders must live with the facts of total war every minute of the day. Every responsible statesman and decision-maker is in fact daily engaging in a kind of grim "brinkmanship" (an activity publicized but hardly invented by the late Secretary of State John Foster Dulles). Are our moral and intellectual leaders permitted to find such problems too revolting to discuss realistically? And if there is discussion is it seriously contended that it should not be carried on with all the accuracy and clarity which language and logic can supply, or that it should not be as free of subjective, emotional considerations as possible?

General U. S. Grant hated war. He particularly hated to see men killed and wounded. He had no stomach for it. Yet he had a job to do and he believed that the job could best be done by the simple strategy of attrition, so he closed his eyes to the casualty lists and kept hammering away until Lee collapsed. Would the Army of the Potomac, would the Union, have been better served if Grant had succumbed to his human feelings of compassion and disgust in the sight of the carnage that he himself was ordering?

What then can Catholic thought contribute to the problem of force in the international juridical order? In general we may answer by saying that Catholic thought must develop a coherent Theory of Force. Those of us who have attempted to apply the concepts of the Doctrine of the Just War and the statements of Pope Pius XII to the practical problems of limitation of modern international conflict have found that there is an enormous gap between our existing theory and the realities that confront the statesman and the soldier. We must pro-

gress beyond such general concepts as proportionality and right intention and discuss the proportionality of specific means of warfare in an historic or hypothetical context sufficiently concrete to permit us to say: "This is the kind of thing which is not proportionate, but that means in that context would be proportionate. This belligerent did not have right intention in the end but he would have been in consonance with right intention if he had stopped here."

This means that we have to rise above our penchant for turning up our noses at the thought of force and power politics. Both are everyday necessities in the best of organized communities. We must learn more about these "realities" of international relations and when we have mastered them we must enrich our sound basic principles with the practical knowledge that we have gained about the world in which those principles must be applied.

It is along these lines that the Institute of World Polity at Georgetown and cooperating scholars are working. We are studying the practical problems of prisoners of war, guerrilla warfare, submarine warfare, nuclear warfare in its many possible forms, and belligerent occupation with a view to assessing the possibilities for bringing international ethics and international law back into the void of modern total war. We are well aware of the heavy odds against us, but we do not feel that they are necessarily greater than those confronting other internationalists who take on the great problems of international economic, social, health, moral and intellectual reform. And we feel that, whatever our doubts as to our competence in such complex and critical matters, we are laboring in an honorable tradition that includes some of

the finest products of Scholasticism, and in more recent years, a succession of Georgetown professors of International Law which includes Professors James Brown Scott and Ernst Feilchenfeld.

Yes, we must work for the improvement of the young juridical institutions of our international order, not only within the UN system but also in the several regional systems, the Organization of American States and NATO in particular. We must bend every effort to narrow the area wherein unfettered international conflict reigns by expanding the scope and increasing the efficacy of the institutions of international law and international organization. But we must realize that working for the international juridical order does not stop with mere enthusiasm and support for international institutions. It entails the realization that there is a duty to join, if necessary, in coercive measures on behalf of the juridically organized community. The international juridical order is not advanced by acquiescence in brutal injustices, as Pius XII saw so clearly. And once the possibility of recourse to force is raised we are obliged to give much more attention to the policies and principles which ought to govern the use of coercive measures on behalf of the international juridical community. This in turn requires strenuous efforts to bring the generalities of our doctrine much closer to the realities of modern international conflict.

Not long ago I attended a Confirmation ceremony for adult converts at St. Matthew's Cathedral. Appropriately, Bishop Hannan, formerly of the Airborne Infantry, presided. Against the background of continued headlines announcing Communist

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