

The Resonance of Christian Political Conceptions within International Humanitarian Law

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Abstract

This paper presents conceptions from the Christian tradition that have special resonance modern International Humanitarian Law. The object of this paper supplies a lens that enables readers to detect the formative influence of unique Christian concepts. The conceptions from the Christian tradition presented include the Augustinian perspective on mortal and eternal life, the conception of a fallen world contrasted with a utopian vision, love as a motivation for peace, an expansive view of human community, the concept of role appropriate morality and the significance of outward signs and symbolism in the context of armed conflict.



Introduction

Christian political thought was a key formative influence in the emergence and development of International Humanitarian Law (IHL). There are numerous examples of Christian figures who have played a role in how we think about war and the laws of war. Augustine of Hippo (C.E. 356-430) was an early contributor to just war theory.¹ Thomas Aquinas (C.E. 1225-1274) made highly influential and systematic contributions to just war theory.² Other Christian philosophers such as Thomas Cajetan (C.E. 1480-1547), Francisco de Vitoria (C.E. 1483-1546) and Francisco Suarez (C.E. 1548-1617) built on Thomas' foundation. Modern day scholars esteem Christian philosopher Hugo Grotius (C.E. 1583-1646) as "the father of modern international law" and credit him with developing many of the "building blocks" used in efforts to establish international order.³

This paper will not construct chains of thought from Biblical teachings to the present. Nor will it catalogue a list of Christian thinkers who deserve a place in the pantheon of founding fathers of IHL. Instead, this paper presents selected novel conceptions from the Christian tradition that have resonance within modern IHL. The intent is to provide the reader with a lens to detect the formative influence of unique Christian concepts.

This paper is a brief hermeneutical exercise that seeks to respond in part to Hans-Georg Gadamer's call for jurists to know the past in its continuity of the present in order to "ensur(e) the unbroken continuance of the law and preserving the tradition of the legal idea."⁴ In Gadamer's words "(a)pplying the law is not simply a matter of knowing the law. If one has to give a judgment on a particular case, of course it is necessary to know the law and all the elements that have determined it."⁵ Through grasping key Christian conceptions that informed the creation of IHL we can better understand and apply IHL today.

This topic provides limitless opportunities for scholarship, reflection and conjecture. However, limitations of time and space mandate discretion. The paper addresses six conceptions. The paper begins with topics grounded in perspectives of the nature of life on earth. Here the paper takes on an Augustinian

1 Oliver O'Donovan and Joan Lockwood O'Donovan eds, *Irenaeus to Grotius a Sourcebook in Christian Political Thought*, Eerdmans, Grand Rapids, 1999, p. 108.

2 *Ibid.* p. 327.

3 Simon Blackburn, *Oxford Dictionary of Philosophy, Second Ed.*, Oxford University Press, Oxford, 2005.

4 Hans-Georg Gadamer, *Truth and Method, Second, Revised Edition*, Trans. J. Weinsheimer and D. Marshall, Continuum, New York, 1999, p. 327.

5 *Ibid.* p. 330.

flavour as we address the implications of temporal and eternal worlds and a Christian pragmatism rooted in the conception of a fallen world. We then turn to conceptions that engender humanitarian fruit: the Jesuan directive for peace grounded in love and the Jesus' radically inclusive view of community and responsibility. Finally, we consider Christian ideology concerning role specific mores and the historic Christian concerns over outward symbols in the context of armed conflict.

The Reality of Death and the Augustinian Conception of Human Existence

In the Christian tradition mankind has two existences; the first is the temporal existence on earth and the second is the eternal existence after death that will take place in heaven or hell. This two-planed conception of life influenced the development of International Humanitarian Law.

The preeminent Christian philosopher concerning the two planes of human existence is Augustine of Hippo. In his monumental work *City of God: Against the Pagans (De civitate Dei)*, Augustine writes of two cities: the earthly city and the heavenly city. The earthly city is "created by self-love reaching the point of contempt for God."⁶ This is a perishable city that looks for the glory of men and is corrupted by a lust for power and the subjugation of fellow men. In contrast, the heavenly city is eternal and created by the love of God.⁷

Augustine reasoned that the heavenly city is infinitely more valuable than the earthly city. This imbalance is grounded in both the incalculable discrepancy between the eternal and the temporal as well as the superiority of a realm established by the perfect love and peace of God over a dominion rooted in the lust of imperfect men.⁸ For Augustine, the proper perspective for a Christian concerning life on earth is grounded in an appreciation of these severe imbalances. Augustine presents Jesus as the ultimate example of a man who lived as a pilgrim on earth and a citizen of the city of above.⁹ Augustine calls upon Christians to adopt a pilgrim perspective commensurate with the rational appreciation of the infinite value of an eternal existence.

6 Augustine of Hippo, *City of God*, Bk. 14, sec. 28, Trans. Editors from *Bibliothèque Augustine*, in O'Donovan, above note 1, pp. 142-143.

7 *Ibid.*

8 *Ibid.* Bk. 15, sec. 4, in O'Donovan, above note 1, p. 146.

9 *Ibid.* Bk. 15, sec. 1, in O'Donovan, above note 1, p. 144.

Augustine's pilgrim perspective informs his position on earthly war. This perspective imbues this passage from Augustine's Letter *Against Faustus*:

"What is the moral evil of war? Is it the death of some who will soon die in any case, that others may be subdued to a peaceful state in which they may flourish? This is mere cowardly dislike, not any religious feeling. The real evils of war are love of violence, revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power; and such like; and it is generally to impose just punishment on them that, in obedience to God or some lawful authority, good men undertake wars against violent resistance, when they find themselves set in positions of responsibility which require them to command and execute action of this kind."¹⁰

Augustine appreciated the brevity of life and the inevitability of death. Moreover, Augustine did not view this earthly life as our only existence. As a result, death was not something to be avoided at all costs. Augustine did not consider the mere prevention of death sufficient basis for the avoidance of war. Instead Augustine looks to limit the evils of war that are rooted in sin and to proscribe war to those undertaken for proper causes.

Augustine's approach to war has strong parallels with the approach to war reflected in modern IHL. Like Augustine, the legal instruments of IHL do not seek to halt armed conflict. Instead, IHL's mandate is to lessen the horrors of war and the impact of war on the wider community. It does this by protecting the "people that are not or no longer fighting" and restricting "the methods and means of warfare employed."¹¹ IHL is directed at Augustine's "real evils" of war and not at war itself.

10 Augustine of Hippo, *Against Faustus*, Bk. 22, par. 1, Trans. R. Stothert and A Newman, in O'Donovan, above note 1, p. 119.

11 International Committee of the Red Cross, *International Humanitarian Law Answers to Your Questions, 2nd Ed.*, Geneva, 2002, p. 4.

This Fallen World and Utopian Visions

Augustine's *City of God* presents a partially bifurcated vision of the created order. Augustine's approach enables him to retain his belief in a perfect creator God while living in the reality of an imperfect world. The result is a broken present and a perfect future — a fallen world and a promised utopia.

Modern public international law discourse reflects a similar split view. In the context of IHL there is an appreciation of the state of war as a fallen realm. IHL does not cast a utopian vision. IHL operates on the assumption that war happens and that it happens chaotically, cruelly and imperfectly. IHL aspires to the objective of making the broken world of armed conflict more bearable. The human rights provisions that apply in armed conflict are limited to the so called "hard core"¹² rights such as the prohibition against torture and summary executions.¹³

The pragmatic approach of IHL stands in contrast with the more utopian vision cast by human rights law. At least on paper, the shared vision of fallen world is retreating to places of armed conflict. Human rights discourse since the issuance of the Universal Declaration of Human Rights espouses an optimistic view of what all humans should experience. These rights now include the right to food, shelter, education, culture, time off from work, health care and a clean and healthy environment.¹⁴

Human rights instruments speak a better, more perfect world into existence. These documents do not speak of how things are but how things should be.¹⁵ This is particularly the case in the developing world where limited resources hamper the progressive realization of rights.¹⁶ This method of rights making has its own obvious Biblical parallels as seen in the first chapters of Genesis and John's Gospel where the spoken word is a creative force. Even where proclaimed rights cannot exist on the ground from a present logistical sense, there is a belief that by announcing such rights that society can hasten their existence. Thus we have a body of law that subscribes to a more utopian vision and its progressive achievement through law.

12 *Ibid.* p. 37.

13 AP I, Article 75; AP II, Article 6.

14 See e.g. The Universal Declaration of Human Rights (1948), The International Covenant on Civil and Political Rights (1966); International Covenant on Economic, Social and Cultural Rights (1966); The Convention on the Rights of the Child (1989).

15 Article 2 of the International Covenant on Economic, Social and Cultural Rights (1966).

16 See e.g. *Government v. Grootboom and Others*, 2001 (1) SA 46 (CC); ILDC 285 (ZA 2000).

The current relationship between the utopian vision of modern human rights law and the realism of IHL echoes a Christian world view. In the context of IHL mankind finds itself in a world well within "the pains of child birth."¹⁷ War remains firmly ensconced within this fallen world. However, at the same time the prophet Isaiah writes of a time when people will beat their swords into plowshares and the wolf will dwell with the lamb and the leopard will lie down with the young goat.¹⁸ It is the hope of Christians to see this vision of peace brought to this present earthly realm.

Meanwhile the encroachment of the utopian legal regime of human rights on the pragmatic regime of IHL is ongoing. This is taking place through the emergence of *jus contra bellam*. Under this doctrine the grounds for which one can go to war are limited. This emergent norm is rooted in the United Nations Charter which provides *inter alia* that "(t)he members of the Organization shall abstain, in their international relations, from resorting to the threat or use of force."¹⁹ Under the United Nations Charter war is generally prohibited except in the context of self-defense or in the context where collective action is authorized by the Security Council where combat is a coercive measure aimed at restoring or maintaining peace.²⁰ This doctrine arguably brings the optimism of human rights law into the context of the law of war.

Does this mean that Augustine's conceptions regarding war are less relevant in the current milieu of public international law? Before we dismiss the Augustinian view as regressive in light of the emergence of *jus contra bellam* we must first consult his writings. Although Augustine is not an optimist about life on earth, he views peace as the ultimate of the social order. According to Augustine "(p) eace is so great a good, that even in ephemeral earthly politics there is no more persuasive appeal, no more popular policy, no more valued achievement."²¹ For Augustine political models matter little as long as "they serve the one end of earthly peace, provided that they do not impede the religion which teaches the worship of the one supreme and true God."²² Moreover, while he is credited as a key progenitor of the just war school of thought²³ Augustine was certainly not hawkish. In Book 19 of *The City of God* Augustine writes "(b)ut the wise man,

17 Romans 8:22, English Standard Version, 2001.

18 Isaiah 11:6, English Standard Version, 2001.

19 UN Charter, Article 2(4).

20 UN Charter, Chapter VII.

21 Augustine of Hippo, *City of God*, Book 19, Section 12, in O'Donovan, above note 1, p. 153.

22 *Ibid.* Book 19, Section 16, in O'Donovan, above note 1, p. 160.

23 See e.g. F.L. Cross and E.A. Livingston, Eds., *The Oxford Dictionary of the Christian Church*, Third Ed., Oxford University Press, Oxford, 1997, p. 1719.

they say, will undertake just wars. As though just wars will not cause him all the more grief, if he is mindful of his own humanity! If they were not just, the wise man would not have to wage them; and then he would have no wars at all. It is the wrong done by the other side that drives the wise man to just war."²⁴ Clearly peace is the preferred state. The question then becomes whether the state peace can be achieved in this world without war or the threat of war.

Peace: Motivations and Means of Realization

The Christian conceptions referenced above concern a fallen present and a perfect future. However, Christian teachings and doctrines also concern the active realization of peace on earth. As John the Baptist preached to the multitudes before the public ministry of Jesus "(r)epent for the kingdom of heaven is at hand!"²⁵ Jesus spoke about "the kingdom of heaven" as something that was eminent and possible and not other worldly.²⁶ Jesus' kingdom of heaven" is not "merely a model of perfection" but is "something we can take part in building here and now."²⁷ Jesus instructs his disciples to pray for God's kingdom to come on earth²⁸ and to seek first the kingdom of God.²⁹ Notably, when Jesus speaks of what "the kingdom of heaven is like" he seeks to set his listeners "on the path of ordering human affairs in accordance with the principles of the 'kingdom.'"³⁰

If this kingdom is realized on earth what will it look like? Certainly a kingdom of heaven would be one of peace. This raises the question: where is this kingdom? The world has yet to achieve a permanent peace since the conclusion of Jesus' ministry on this earth.

This question is at the root of a spirited disagreement expressed in the writings 16th Century theologians Martin Luther (1483-1546 CE) and Desiderius Erasmus (1466/69-1536 CE). For his part, Luther had low expectations regarding the accomplishment of a kingdom of heaven on earth prior to the second coming of Christ. In *From Temporal Authority: To What Extent Should it be Obeyed* Luther writes that the problem is that there are "few true believers, and still fewer who

24 Augustine of Hippo, *City of God*, Book 19, Section 7, in O'Donovan, above note 1, p. 160.

25 Matthew 4:15, English Standard Version, 2001

26 Tod Lindberg, *The Political Teachings of Jesus*, HarperCollins, New York, 2007. pp. 132-134.

27 *Ibid.* p. 133.

28 Matthew 6:9-13, English Standard Version, 2001.

29 Matthew 6:33, English Standard Version, 2001.

30 Lindberg, above note 36, p. 133.

live a Christian life, who do not resist evil and indeed themselves do no evil."³¹ As a result Luther's world would always violence and fear to maintain human relations.

Erasmus embraced a more optimistic and humanistic view. He saw the potential for true Christian practices to meaningful impact political realities within the largely Christian Europe of the his time. In his *Complaint of Peace*,³² Erasmus quotes the words of Jesus from John 14:27: "I give you my peace, I leave you my peace." For Erasmus this parting gift of Jesus should have currency in the world. Erasmus further references John 13:34-35 when he notes that Christians are to define themselves in the public eye by the way they love each other.³³

Erasmus exhorts Christians to promote peace. He writes "(l)et us all combine against war, all be watch-dogs and speak out against it. In private and public they must preach, proclaim, and inculcate one thing: peace. Then if they cannot prevent a conflict to settle the issue, they must certainly not approve or take part, lest they should be responsible for giving a good name to so criminal or at least to questionable a practice."³⁴ When peace fails to prevail and war becomes unavoidable, Erasmus writes that "it should be conducted in such a way that the full force of its calamities must fall on the heads of those who gave cause for it."³⁵ Erasmus asserts that a status quo should be established that will prohibit the standard grounds for warfare in his era. Erasmus asserts "(t)here should be agreement between the parties once and for all on what each of them should rule, and once territories have been assigned to them, no alliance should extend or diminish these and no treaty tear them apart."³⁶

The ideas of Erasmus share a remarkably commonality with our modern international legal regime. As mentioned in the previous section, the second half of the 20th Century saw the rise of *jus contra bellam* as an international norm. Moreover, modern nation states, especially within the theatre of Europe, have largely accepted the current borders of existing states.

Erasmus was also prescient in terms of effective paths to peace. For Erasmus peace can be produced through consciousness. Erasmus believed that if people could understand who they are in relation to other people they can see the folly

31 Martin Luther, *Temporal Authority: To What Extent Should it be Obeyed*, Trans. J. J. Schindel, revised by W. I. Brandt, in O'Donovan above note 1, p. 587.

32 Desiderius Erasmus, *The Complaint of Peace*, Trans. Betty Radice, O'Donovan note 1, p. 574.

33 *Ibid.* p. 575.

34 *Ibid.* p. 579.

35 *Ibid.* p. 578.

36 *Ibid.*

of war and the praiseworthiness of peace. Erasmus saw negotiation and the permanent recognition of borders and nation states as a path to peace. He also believed that the people who pay the price of war have less desire for war. This position is a justification in the modern movement to universalize democracy.

Even the context of Erasmus's impassioned call for peace strikes a chord with the modern era of international relations. Like the context that birthed the United Nations, Erasmus' *Complaint of Peace* came in the wake of terrible warfare. In this sense both efforts arguably arise out of the "last days" phenomena that has driven legal revolutionary change within the Christian world over the past two millennia.³⁷

That said, the official motivation behind the UN Charter's limitations on war are distinctive from Erasmus. The UN Charter is grounded in the obligations that all nation states owe each other based on a recognition of shared humanity. The UN Charter's Preamble speaks of "sav(ing)" future generations from the "scourge of war," "reaffirm(ing) faith" in human rights, establishing conditions where there can be "justice" and "respect" and promoting "social progress."³⁸ The Preamble also calls for people to "practice tolerance and live together in peace with one another as good neighbors."³⁹ However, the UN Charter's Preamble does not speak of love.

Interestingly, the one place that love is mentioned in the UN Charter is in reference to peace. Article 4 of the UN Charter provides that "(m)embership in the United Nations is open to all peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations." Thus peace itself is the object of love. However, people and nations are not referenced as objects of love.

Love is an unspoken force within both international human rights law and IHL. International institutions are there in part to build relationships. Human relationships engender common affection and affinity. Many of the humanitarian initiatives fostered and promulgated by the United Nations such as UNICEF and the Development Goals are arguably motivated by love. Certainly the birth of the modern IHL movement is grounded in the love that Henry Dunant had for the men that he encountered suffering in the wake of the Battle of Solferino.

37 Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition*, Harvard University Press, Cambridge, 1983.

38 UN Charter, Preamble.

39 *Ibid.*

Yet despite the transformative and motivating power of love, we choose to replace references to love with less emotive language such as respect for human dignity, diversity, tolerance and common humanity. If we choose not to speak in terms of love we must recognize that weakness of lesser motivation and weaker words. Christianity enabled Erasmus to speak of the importance of love in the context of armed conflict without reservation. It is unfortunate that the current norms of human rights discourse prohibits us from mentioning love by name in any official context. This vacuum should be acknowledged and addressed in an open and frank manner at the international level.

The Human Community

The Christian tradition is a prominent source of the modern world's expansive view of the human community. There are two key aspects of this foundational thread. First there is the concept of the *Imago Dei*; the idea grounded in Chapter 2 of Genesis whereby humanity is created in the image of God. The implications of human kind status as special image bearers of God in the context of human rights is a fairly well-trodden topic.⁴⁰ The second key aspect is the expansive view of human community found within the teachings of Jesus. We will focus on that second aspect of the Christian tradition in this section.

The teachings of Jesus espouse a radically expansive view of human community. Jesus called upon his followers to "love your enemies."⁴¹ Jesus noted that there is nothing special about loving those that love you; the challenge is loving those that hate you.⁴²

Jesus' expansive approach to community is brought out in the parable of the Good Samaritan found in the Gospel of Luke.⁴³ The prelude to this parable is a poignant question. A lawyer asks Jesus "who is my neighbour?"⁴⁴ Jesus responds with the story of a man who is beaten and left to die is not assisted by the members of his own community. Ultimately it is an outsider, a Samaritan, who aids the injured man. This outsider is motivated to act out of compassion.⁴⁵

40 See e.g. Jürgen Molinmann, *On Human Dignity: Political Theology and Ethics*, Trans. M. Douglas Meeks, Fortress Press, Philadelphia, 1984; Robert Kraynak, *Christian Faith and Modern Democracy: God and Politics in a Fallen World*, University of Notre Dame Press, Notre Dame, 2002.

41 Matthew 5:43-44, English Standard Version, 2001.

42 Matthew 5:44, English Standard Version, 2001.

43 Luke 10:30-37, English Standard Version, 2001.

44 Luke 10:29, English Standard Version, 2001.

45 Luke 10:33, English Standard Version, 2001.

Jesus shows through this parable that we can define the scope of our community through our actions as opposed to our group identity.

If we reexamine the Preamble of the United Nations with this parable in mind the language of obligation becomes more powerful. The directive to "live together as good neighbors" in the Christian tradition means something very different from building good fences. The Jesusian concept of neighbour means that nations owe each other an obligation of care and empathy that goes beyond tolerance.

The Good Samaritan parable is about awareness. Are you aware about who your neighbor truly is? The parable foists this awareness on Jesus' listeners who become accountable to the parable's clear moral and social implications. The action of the Samaritan is not just a good deed. It is a moral "injunction" that all followers of Christ are called to meet.⁴⁶ Once you are aware of who your neighbour is you must alter your actions.

This emphasis on awareness as an agent of moral action is found in other Jesusian teachings on community. Jesus wanted his disciples to understand the purpose of the law and not just the law itself. Those that understand the spirit of the law can also recognize the benefit of adherence to the law to the wider community.⁴⁷

This brings us to a second key element for effecting positive social change. For Jesus the key to societal change was a willingness to act right first.⁴⁸ Jesus tells his followers to act with radical generosity toward others regardless of the way others are treating you. We see the call to act first without expectations of reciprocity in the radical teaching to give up both one's tunic and cloak when someone asks you for just your tunic and the directive to walk two miles if someone requires you to walk one.⁴⁹ Under the politics of Jesus the radical choice of turning the other cheek⁵⁰ is a powerful means for changing human relations and not a matter of selfless submission.⁵¹

We see the tools of consciousness raising and the importance of acting first within the Golden Rule. Christ tells his followers "(i)n everything, therefore, treat people the same way you want them to treat you."⁵² The Golden Rule

46 Lindberg, above note 23, p. 184.

47 *Ibid.* p. 99.

48 *Ibid.* p. 100.

49 Matthew 5:40, English Standard Version, 2001.

50 Matthew 5:39, English Standard Version, 2001.

51 Lindberg above note 23, pp. 242-248.

52 Matthew 7:12; Luke 6:31. New American Standard Bible (1995).

is grounded in consciousness because it calls upon people to think about the perspective of others. The Golden Rule is about acting first. Followers are not asked to do unto others as they have done unto you. Instead, a follower is to act in a manner that will benefit others with the hope that other actors will do the same.

The parallels between these two aspects of the Golden Rule and IHL are striking. As discussed in the preceding section IHL is a consciousness movement. Henry Dunant understood the power of consciousness. In 1859 Dunant wrote *A Memory of Solferino* to tell the story of the horrors of unhinged combat and raise the world's attention to "a question of such immense and worldwide importance, both from the human and Christian standpoint(.)"⁵³ Now the International Committee of the Red Cross (ICRC) spreads knowledge and awareness of IHL in the hope that the knowledge and awareness to improve conduct in the theatre of conflict.⁵⁴

In addition there is the component of acting first with integrity to effect change. Actors in conflict are asked to act rightly regardless of the conduct of other actors. By following the law parties to an armed conflict hope that their compliance will be reciprocated by adversaries. However, parties follow the law regardless of the conduct of their adversaries. Just as the Golden Rule does not have an exception for instances where the others have behaved badly, there is no exception under IHL based on the noncompliance of adversaries.

Like IHL⁵⁵, Christian doctrine on right action also includes the prospect of later accountability. In Matthew Chapter 25 Jesus speaks of a time when the sheep will be separated from the goats with implications of eternal judgement.⁵⁶ The grounds by which judgement will be meted out concern the way that people treated certain unfortunate and needy members of society. Jesus says that he will recount whether you cared for the hungry, the thirsty, the stranger, the unclothed, the sick, and the imprisoned. It requires little imagination to add the injured soldier and other protected persons under IHL to that list. Jesus says that to the extent that you did these things to least of these people you did them to Jesus himself. Those who acted rightly towards this marginalized members of the human community will be rewarded with eternal life and those that did not will go away to eternal punishment.

53 Henry Dunant, *A Memory of Solferino, English Version*, American Red Cross, Reprinted by the International Committee of the Red Cross, Geneva, 1986.

54 International Committee of the Red Cross above note 11, pp. 14-15.

55 Articles 49, 50, 129, 146 common to the four Geneva Conventions.

56 Matthew 25:31-46, English Standard Version, 2001.

The story of the sheep and the goats raises the bar of accountability and community. Under the dispensation set out in Matthew 25 the way one treats one's neighbour is the way that person treats Christ. Here the creative order of man created in the image of God comes full circle. Moreover, one's eternal destiny lies in the balance. At this point the Christian's incentives for right actions towards others goes beyond the incentives that can be posited by the ICRC for compliance with IHL. Nonetheless, the core message with regard to action is the same — treat others in bad circumstances as you would want yourself to be treated.

The Concept of Role Morality

IHL is built on the concept of role based morality; the right actions of an individual are defined by that individual's role and the role of others that the individual comes in contact with in the course of armed conflict.⁵⁷ Obligations, protections and limitations under IHL vary depending on whether scenarios involve soldiers, civilians, health care workers, members of the ICRC Delegation, *hors de combat*, spies and/or prisoners of war.

Although Christianity has a universal quality it also has a strain of political pragmatic thought that allows for situational values based on social roles. We see this concept brought out in Augustine's *Letter to Macedonius* where Augustine writes that his role as a bishop is to pardon and seek mercy while Macedonius, a provincial governor, is charged with maintaining order and effecting earthly justice.⁵⁸ Augustine writes "surely it is not without purpose that we have the institution of the power of kings, the death penalty of the judge, the barbed hooks of the executioner, the weapon of the soldier, the right of punishment of the overlord, even the severity of the good father."⁵⁹ Thus Augustine finds good in the governor's use of violence and severity to achieve tranquility.⁶⁰

Augustine expounds on his role based approach to morality in connection with military service in other writings. In his *Letter to Count Boniface* Augustine recounts the favourable Biblical depictions of the warrior king David, the Roman Centurion appearing in Matthew Chapter 8 who comes to Jesus seeks healing for his servant, and the Roman soldier Cornelius from Acts Chapter 10 who is

57 International Committee of the Red Cross, above note 11, pp. 16-17.

58 Augustine of Hippo, *Letter to Macedonius*, Trans. Sister W. Parsons, in O'Donovan above note 1, pp. 119-131.

59 *Ibid.* p. 125.

60 *Ibid.* p. 127.

influential in the decision of the early Church to spread a non-legalistic Gospel to the gentiles.⁶¹ Augustine views Christian soldiers as a category of Christians who as described by the Apostle Paul in 1 Corinthians 7:7 as having "his proper gift of God, one after this manner and another after that."⁶²

This Augustinian line of thought was taken up by Martin Luther in the 16th Century.⁶³ Per O'Donovan, the Luther saw the Christian "as two persons: a *Christ-person* subject only to Christ's commands and a *Weltperson* caught up in the network of social obligations."⁶⁴ For Luther the endorsement of role based morality was grounded in the belief that all vocations can serve a Godly purpose. Luther did not believe that God's work was limited to the work of priests and nuns. It follows that all roles have value in society that add value are proper roles to be filled by Christians. Luther went as far as saying that Christians should seek employment as hangmen as long as "you find that you are qualified."⁶⁵

Luther did not think that the example of Christ's own life limited the employment options of his followers. Luther writes:

"Christ pursued his own office and vocation but he did not thereby reject any other. It was not incumbent upon him to bear the sword, for he was to exercise only that function by which his kingdom is governed and which properly serves his kingdom. Now it is not essential to his kingdom that he be a married man, a cobbler, tailor, farmer, prince, hangman, or constable; neither is the temporal sword or law essential to it, but only God's word and Spirit. And in this office where he also exercised then and still exercises now, always bestowing God's word and Spirit. And in this office the apostles and all spiritual rulers had to follow him. For in order to do their job right they are so busily occupied with the spiritual sword, the word of God, that they must perforce neglect the temporal sword and leave

61 Augustine of Hippo, *Letter to Boniface (Letter 189)*, Trans. J. G. Cunningham, in O'Donovan above note 1, pp. 134-135.

62 *Ibid.* p. 135.

63 Fellow Reformation era theologian John Calvin also endorsed a pragmatic role based approach to ethics in the interest of a proper functioning earthly society. See O'Donovan, above note 1, p. 665 for an overview of Calvin's social role based approach to morality.

64 O'Donovan, above note 1, p. 583.

65 Luther, above note 29, in O'Donovan, above note 1, p. 588.

it to others who do not have to preach, although it is not contrary to their calling to use it, as I have said. For each must attend to the duties of his own calling."⁶⁶

This Christian tradition championed by Augustine and Luther is consistent with the role driven morality that provides the ethical architecture for modern IHL. The cultural pervasiveness of this line of thinking created an environment open to the pragmatic and situational approach of IHL.

The Deep Significance of Symbols and Marks of Distinction

Another aspect of Christian political thought which has resonance within IHL is the importance of symbols and marks of distinction. Early Christians within the Roman empire struggled with the wearing of the military "chaplet" as ceremonial dress as it raised questions of allegiance.⁶⁷

The prominence of the chaplet dispute in the early Church is reflected in the writings of Tertullian. In his work *The Military Chaplet* Tertullian attempts to provide guidance on an issue of symbolism and military dress that has captured the interest of the Christian community. Although it should be noted that Tertullian writes that the bigger concern is the matter of Christian service in the military he felt compelled to engage the issue of allegiance and symbolism.

Issues of symbolism and identity retain their currency and resonance in modern International Humanitarian Law. This is reflected in the ongoing efforts of the ICRC to sensitize the public to the fact that its red cross emblem does not connote a religious allegiance or affiliation as well as the efforts undertaken to develop special marks of distinction for nations in the Islamic world, Iran, Israel and Eritrea.

This final issue has less philosophical weight than the other conceptual heritages noted above. Nonetheless, the facts that matters of symbols and identity in the context of armed conflict are viable topics within the long-standing Christian tradition gives us added perspective as to why the issue of symbols remain relevant and important.

66 *Ibid.* p. 589.

67 O'Donovan, above note 1, p. 3.

Conclusion

It would be difficult to overstate the role of Christian ideologies and beliefs in the emergence and development of IHL. From the faith-based motivations of Henry Dunant to just war theory, the relevance and resonance of the Christian tradition is pervasive. At the core of the Christian religion are key conceptions about humanity and its functions and purposes on earth that have shaped the laws that we now describe as human and humanitarian. The Christian political imagination has also proven to be fertile ground to the development of a legal regime that differentiates moral obligations based on the roles and pragmatism. Knowledge of Biblical principles and the heritage of Christian political philosophy can meaningfully inform our understanding of IHL and its genesis.