

MORAL EQUALITY OF COMBATANTS AND INVINCIBLE IGNORANCE:
TWO JUST WAR DOCTRINES IN WHICH
PACIFISTS HAVE A HIGH STAKE

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The Moral Equality of Combatants (MEC) and Invincible Ignorance (II) have stood as key doctrines for the architecture of war through the decades and centuries. MEC assesses the moral status of soldiers, while II rejects the right of soldiers to assess the justice of the particular war in which they are fighting. Both doctrines continue to generate much discussion among Just War scholars. Usually excluded from the ongoing discussion is the pacifist perspective. A conversation on war, especially one where all contributors claim a desire to see war end and peace succeed must include a multiplicity of perspectives beyond the pro-Just War scholarly perspective. Pacifism has a stake in the understanding of these doctrines and can contribute a useful critique. This paper examines both doctrines from a pacifist orientation and offers alternate viewpoints and doctrinal models.

INTRODUCTION¹

The two Just War doctrines, known as the *Moral Equality of Combatants* (MEC) and *Invincible Ignorance* (II), have generated renewed discussion and debate among Just War theorists and political philosophers. I published an article in the 2012/2013 volume of this journal that included sections on these two doctrines.² The latter article focused more broadly on whether soldiers had the right and the responsibility to make *jus ad bellum*³ decisions and whether they had the right to act on their judgement by refusing to fight if they decided that a war was unjust. One's perspective on MEC and II will

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fundamentally impact any conclusions about the larger issue of a soldier's rights and responsibilities. This piece continues that discussion by seeking to examine specifically how a pacifist observer might interpret these two Just War doctrines.

There is an important distinction between *jus ad bellum* discussions and the discussions of MEC and II. Much of the Just War Theory (JWT) or *jus ad bellum* discussion focuses on the moral justness of a particular war—is a particular political entity justified in going to war? MEC and II, on the other hand, are concerned with the justness or moral status of the soldiers,⁴ or combatants, themselves—do soldiers have moral agency? Are soldiers victims of their society and political leaders or of other circumstances? To what degree are soldiers morally culpable for their actions? This essay seeks to address the latter by attempting to locate this discussion within a pacifist orientation towards war. At the same time, it is recognized that determinations about the justness of a war or judgements regarding the moral status of the combatants are intertwined and frequently dependent on one another.

The spark for this examination arises from a comment made by David Rodin and Henry Shue in the introduction to their edited collection on *Just and Unjust Warriors: The Moral and Legal Status of Soldiers*.⁵ After acknowledging Shue's argument "that it is highly significant whether combat is compatible with human rights and the other fundamental principles of morality, but the nature of war is such that this is impossible,"⁶ they concede that, "one consistent position, therefore, is pacifism that rejects war on the grounds that it violates rights and many aspects of morality."⁷ In a collection considering the moral status of soldiers and reassessing the in/validity of the doctrine of the Moral Equality of Combatants (MEC) and how these should relate to the primary codes of *jus ad bellum* and *jus in bello*,⁸ any references to pacifism seem almost out of place. Perhaps the contributors to the volume edited by Rodin and Shue agree. After all, only a handful of other references to pacifism are made. These are never presented as contributing to the core of any argument, but rather tangential comments at best, with pacifism mostly discarded for its assumed inability to provide a credible perspective or viable contribution to the debate on the justice of warriors due, perhaps, to its categorical idealism and perceived absolutism. Ultimately, whether they wish to be intellectually situated there or not, all contributors accept the "realism" of Just War doctrine; although, in fairness, they would all wish to see war eradicated, unless "considered necessary," and their analysis is based

on using various Just War Theory-related doctrines to achieve reduction, if not the elimination, of conflict. It is frequently presumed that pacifism is philosophically unable to contribute anything substantial to the discussion due to pacifism's rejection of war and its insistence that all warfare is a moral failure. Can pacifism indeed not make a contribution to a discussion on the moral status of soldiers when it has already assumed that all participation in warfare is morally unacceptable? A question that needs to be answered, and one that will receive consideration below, is whether the pacifist insistence on the moral unacceptability of war as a tool for international, intercultural, or globalized interhuman relations also extends to a moral condemnation of all soldiers in all cases. Does the pacifist perspective of war as *malum in se* (i.e. inherently wrong by nature) require the inclusion of soldiers who fight in a war within the same summary judgement? Does the latter judgement hinge on perceived responsibility?

Before addressing these questions, it is important to decide what we mean by pacifism. The many varieties of pacifism and nonviolence are well discussed in the literature and require no repetition. We will summarily and simply say only three points here and discuss some variegated approaches and philosophical considerations in the subsections below. First, pacifism is a belief that rejects violence and warfare as legitimate options for humans who find themselves in disagreement and opts, instead, for peaceful and non-violent solutions to conflict. Second, incremental pacifism—or transitional pacifism—is the belief that pacifism is not focused only on the negotiated outcome, attained goal, or utopian ideal. Rather, incremental pacifism will support peacemaking initiatives that reduce conflict to permit nonviolent solutions to be pursued. The significance of incremental/transitional pacifism, in particular, will become obvious below. Finally, we must clarify that pacifism is, by definition, never really passive: it is the antithesis of passivism. It is focused on active engagement with all conflict participants—both the belligerents and those affected by the conflict, whether directly, indirectly, or inadvertently—to discover or develop nonviolent solutions to the conflict. In some cases, pacifists will undertake risks to the self in order to attain peace without visiting violence upon the other(s).

An additional clarification is warranted. As has traditionally been the case in discussion on these doctrines, the following discussion on MEC and II is considered within the context of two or more warring parties situated in opposition to each other, whether geographically or conceptually. This essay

leaves aside any consideration of soldier-peacekeepers seeking to interpose themselves between warring parties or otherwise deployed to stop fighting by warring parties. Furthermore, for clarity purposes, the discussion will presume the context of interstate conflicts, but the arguments could easily be extended to intrastate or extra-state conflicts.

PACIFISM AND THE MORAL EQUALITY OF COMBATANTS (MEC) DOCTRINE

“The MEC doctrine holds that soldiers are moral equals: each seeks to kill the other and has, therefore, forfeited the right not to be killed. Both are morally equal servants of a greater power: their state.”⁹ Michael Walzer is the protagonist of this thesis, which is seen as the “traditional” or “foundational” definition.¹⁰ There are, essentially, two parts to this thesis and each part projects a potentially competing response. First, soldiers on opposite sides of the conflict seek to kill each other and, as a result, all of them also become legitimate targets for killing by the other side. A pacifist viewpoint would insist that *everyone* has a right *not* to be killed and thus all soldiers are morally wrong when seeking to kill another person. However, soldiers are also morally *equal*—equally wrong—in that respect, although clearly for a different reason than Walzer articulates. Where Walzer claims each has forfeited the right not to be killed and is morally blameless when doing the killing as servants of the state, pacifists argue that even soldiers seeking to kill others retain the right not to be killed. This also means that soldiers do not have the right to kill and each soldier remains morally culpable when seeking to do so. Can one still refer to this as an expression of the MEC doctrine, since the moral *equality*—or immoral equality—remains and suggests that soldiers are equal in their culpability? Because the emphasis, both by Walzer and herein, is on the moral *equality* dimension, we will suggest that this is still an MEC position but simply the flip side of Walzer’s moral culpability definition. We might refer to this “flipped” articulation of the MEC doctrine as MEC2.

A second part of Walzer’s MEC doctrine insists that soldiers on both sides are morally equal servants of a greater power—their state. The implied emphasis is on servanthood, subjugation and, to some degree, powerlessness, or at least significantly circumscribed power regarding their fate. Soldiers are not the ones making the decision to be placed opposite an enemy, an enemy which finds itself in the very same predicament. Walzer goes so far

as to refer to the soldiers as victims: "They are entitled to kill, *not anyone*, but men whom we know to be victims. We could hardly understand such a title if we did not recognize that they are victims too."¹¹ While perhaps not the primary principle in Walzer's MEC thesis, it represents a fundamental acknowledgement that informs our consideration regarding MEC and the moral locus of the combatants. What, after all, can be the intended purpose of an ascription acknowledging the "mutual victimhood of combatants" (MVC)¹² if not to elicit empathy and perhaps even compassion?

The acknowledgement within the MEC doctrine of soldiers not only as state-contracted killers but also as state-enrolled victims does have distinct advantages when seeking to project understanding and empathy with soldiers from all sides in the conflict. Because the war is presumably not of their making, all soldiers are seen *equally* as "victims" of war and are *equally* "blameless," at least partially as we also concluded that soldiers are morally culpable. The mutually parallel circumstances provide for a mutual predicament. It also supports the "symmetry" thesis, which insists that *in bello* limits and humanitarian obligations are the same for combatants on both sides of the conflict.¹³ These *in bello* limitations can, at times, help sufficiently reduce the conflict's heat to allow intervention through non-military means, such as peace negotiations. A pacifist recognizes this as a potential window for incremental peace. The first step is always to seek means to reduce the heat of the conflict. Third, as some have suggested, it may be easier to restore peace if the combatants on the other side are also viewed as victims.¹⁴

Pacifists vacillate between two opposing and sometimes competing perspectives: soldiers are, most frequently, characterized either as moral transgressors or as victims. Historically, pacifism has usually been rooted in communities—most frequently within a religious community—and the most prevalent approach within pacifist religious groups has been to view soldiers as moral transgressors. In more recent times, increasing room has been made to also view soldiers as victims. The reasons for this shift can vary, but the dynamic of compulsion and coercive influence exerted upon unformed youth and children has certainly influenced that change. This has opened greater compassion and a fuller understanding of other influences that frequently play upon the lives and decisions of potential recruits.

The decision about whether to condemn or to exercise compassion has frequently rested on one simple, but decisive, question: do soldiers possess the agency to choose their role or are they compelled by a/the sovereign

state to fight without recourse to individual or personal consideration?¹⁵ Even in circumstances such as the latter, many pacifist communities would insist members refuse to participate in war, alongside an expectation for conscientious objectors to bear the consequences of their refusal, whatever those might be. At times, this extended to martyrdom. This has been particularly vivid in religious communities with a long-established pacifist tradition.¹⁶ Frequently, young members within the community, at least in some countries, have had the option of choosing not to fight by claiming conscientious objector status; refusal to participate did not always result in dire consequences. When, despite this option, they chose to enlist as soldiers, the community refused to treat them as victims. In the eyes of the community, they had a choice and opted for war.

Walzer's description of soldiers as victims is a dynamic that can and has been embraced by pacifists, especially in recent decades: soldiers on both sides have been compelled to fight by states that have condemned them to gladiator status. This is why the articles of International Humanitarian Law (IHL) that call for the humane treatment of both non-combatants and soldiers who are *hors de combat*—"out of the fight" due to shipwreck, injury, surrender or capture, i.e., POW status—are welcomed; they are "synapses of peace and humanity" in the midst of the brutal horror of war. IHL still does not fully address the predicament of coerced combatants, however. The mutuality of the MEC doctrine is more appealing if combatant victimhood can be included under its umbrella, the Mutual Victimhood of Combatants forming one of several expanded understandings of moral equality. Such an interpretation injects a common humanity and, in many respects, a shared predicament into an enmity that is frequently presented as an unbridgeable breach. This, as Scott Sterling has suggested,¹⁷ opens the door for "love of the enemy" and the possibility of healing and provides at least some basic building blocks of peace, at least for those elements dependent on the combatants and not upon the sophistry of the state's nationalistic propaganda. This is also why pacifists are increasingly prepared to see soldiers not only as transgressors but as victims, especially as they seek to recruit them to the pacifist cause.

What then, from the pacifist viewpoint, are the problems of the Walzerian perspective? First, there is Walzer's tacit assumption that soldiers are obligated to fight and have no say in determining the justice of war; they must obey their state and its leaders. It is their job and one that is not

meant to be challenged. According to Walzer, soldiers have an obligation when it comes to *jus in bello* and the conduct of war, but they have no say regarding *jus ad bellum* and the justness of the war itself.¹⁸ We leave aside here that many scholars, myself included, increasingly insist that IHL and *jus in bello* codes related to the conduct of the war are also included in the determination of *jus ad bellum* factors.¹⁹ Furthermore, it can be argued that Walzer's description was articulated within the context of conscription, a prevalent feature of twentieth century wars,²⁰ especially as experienced in the United States during the Vietnam War. Pacifists, on the other hand, while sometimes compassionately seeing soldiers as victims, also emphasize the moral agency of combatants and they do so more than any other doctrine of war and conflict. After all, how can one convince soldiers not to fight if one does not believe in their agency to make this decision? This will become particularly clear in our subsequent discussion of the *Invincible Ignorance* doctrine; soldiers are citizens and have both a constitutional right and a moral responsibility to decide the justness of war and make their decision based upon careful analysis. Along with the right comes the moral culpability for those decisions, although the question remains whether they bear greater, lesser, or equal accountability compared to their fellow citizens who agitate for the war or their state's decision-making leadership who decide to launch the war and conscript the soldiers.

The critical issue is the apparent incongruity inherent in pacifism's support for soldier agency regarding *jus ad bellum*—their judgement on the war and their independent decision-making capacity in response—while also articulating soldier victimhood: are victimhood and moral agency not irreconcilably contradictory? Doctrinaire pacifists do not find so but insist on living creatively within this paradox. Especially in its religious origins and formulations, pacifism would grant that victimhood embraces the errors that people make, even when exercising their own free agency. Soldiers are, after all, specimens of humanity like all other members of the global community—sons, daughters, sisters, brothers, etc.—and carry the same strengths and suffer the same weaknesses as everyone else. More specifically, soldiers fight for many reasons, not all of which we can list here, but a few examples will suffice:

- (a) Some are still compelled to fight in situations such as government conscription laws in many countries, coercive recruitment of child soldiers, and recruitment of youth before maturity;

- (b) Some join the fight without full consideration, perhaps because they lack the guidance and support which would help them to discern and see viewpoints that would relieve them from the obligations of war. They might just “go with the flow;”
- (c) Some have been convinced or misled by others, believing the war to be “right;”
- (d) Some choose to fight after careful thought, study, and consideration, believing with full conviction that they are doing the right thing (but may still be in error);
- (e) Some are victims of relationships that compel, and sometimes coerce, them to join the war: their parents, for example;
- (f) Some are victimized by patriotic nationalist propaganda;
- (g) Some fight because their friends are fighting. Camaraderie remains a powerful motivator;
- (h) Some fight for promises of a job that pays. This has also been referred to as “the poverty draft;”
- (i) And some join the fight for the promises of an education. This is a strong motivator where poverty, once again, exerts a powerful influence.

The list is by no means exhaustive and could go on. The methods of compulsion and persuasion are numerous and diverse and they are integrally connected to the rest of society. Thus, some pacifist religious perspectives allow for, nay emphasize, the failure within humanity and of state and society; these are more, or at least equally, inclined to blame a society that promoted the war than the soldiers who fight in it. This partially removes the paradox. Soldiers can be seen as victims of humanity's addiction to war and soldiers are seen as being compelled by a multiplicity of societal factors to service humanity's addiction to war. Agency is never without complexity and often not really “free” agency because it is always connected to the society in which individuals have been nurtured and supported. In this way, one could indeed argue that soldiers carry no more blame for participating in war and conflict than the rest of the society which promotes and enables it. One might even argue for less blame of the soldier if powerful enablers are deemed carrying greater culpability than the “the poor sod”²¹ who ventures out on society's behalf. Again, this does not discharge soldiers of their obligation to exercise their agency, but this responsibility also falls to the national and

global society in which soldiers find themselves as citizens and “servants”: it is the responsibility of society to engage the soldiers and rescue them from the MEC predicament of being compelled to fight and kill others who find themselves in an identical situation. Agency and victimhood are not always as distant and disentangled as an initial glance might suggest. It is the same sociopolitical community that enables and mandates both.

The “traditional” Walzerian view has faced additional challenges from all sides. Not all can be covered here, but a few key objections advanced by various scholars can be presented. As described earlier, the challenges hinge on one key issue: are both sides in a war equally just or, as some might say, *can* both sides in a war be equally just? Or, for the purposes of our examination, can the *combatants* really be morally equal?²² Many philosophers of Just War theory believe that it is theoretically and practically impossible for both sides to be equally just or morally equal. Some, like David Rodin, also suggest that an asymmetry of justness and consequent legitimacy should result in one side being granted greater rights to prosecute the war and the other receiving lesser rights to do so.²³ Pacifists find both Rodin’s conclusion—moral asymmetry—and prescription—one side’s moral legitimacy to make war—to be fundamentally in error. Instead, they would reject an adjudication in favour of one fighting party over the other since both combatants would be perceived as being equally unjust by engaging in war. Even if one side could be declared more just on a comparative scale of justness, it still does not legitimate their war-making, since war is fundamentally unjust and *malum in se*, a declaration that negates any superior moral legitimacy.

Another revision to the MEC doctrine has been attempted by Jeff McMahan, who suggests that soldiers are indeed morally unequal, but must be treated as legally equal—legal equality of combatants—in order to contain the increased chaos that might result from an attempted unequal application of *jus in bello*.²⁴ The pacifist counter-argument insists on a single morality based upon a single human reality which, ultimately, is rooted in a common humanity. Yet another approach has been attempted by Henry Shue who, like the above-articulated pacifist counter to McMahan, also insists on a single morality for all.²⁵ Instead, Shue argues for two different contexts: war and ordinary life. The same morality will be applied differently, according to the demands and reality of the differing moral contexts. It is in this context that Shue concedes the greater consistency of pacifism, which holds that human rights do not change according to context.²⁶ For pacifists, there is

a single global/universal moral context which provides for a single moral equality that, as stated above, is rooted in a common humanity.

This discomfort with MEC is not limited to Just War scholars. Many soldiers cannot imagine conceding that their adversaries might be equally as just or unjust as they.²⁷ For some, it is precisely the perceived *justness* of their side against the *unjustness* of the other side, sometimes described using various categorical delegitimizing terms such as “evil,” “murderous,” “fanatical,” “terrorist,” “illegal,” and “fascist,” that provides the motivation to engage in warfare. Of course, soldiers on both sides of a conflict cling to this perception and therein lies the perennial problem: all sides see their cause as just, their actions as legitimate, and their opponents as wholly unjust. The latter is not surprising, since the enemy is seen as “those trying to kill me and my comrades.” Clearly, some or most soldiers reject the MEC doctrine and even openly deride the possibility that combatants on both sides are *moral equals*. Those who argue for the greater legitimacy of their side and their cause may also be less likely to see themselves as victims of their own state since they have consciously expressed themselves regarding the moral superiority of their cause.

Are soldiers really moral equals or moral *unequals*? Pacifists begin with an initial proposition that both/all sides in a war where people are seeking to kill each other are acting unjustly and are, therefore, fundamentally unjust. The sophistry of determining which side is more just is an exercise in which pacifists feel less compelled to participate. This does not, however, mean that pacifists do not engage in the debate of *jus ad bellum* to assess the legitimacy of a war. While it may seem contradictory once again, pacifists have increasingly entered this debate, primarily for two reasons. First, by discussing the un/justness of war, they seek to encourage soldiers to discover the injustice of the fight according to *jus ad bellum* principles and to consider selective conscientious objection. Raising a combatant’s awareness to consider the unjustness of the conflict, and declaring that this conflict does not meet the required *jus ad bellum* standards, purposefully encourages the combatant or soldier to think, evaluate, and consider the many standards of justness contained in *jus ad bellum*/Just War principles; they may then own the process and exercise agency, both by taking an active role in determining the justness of war and by acting upon the conclusions. It is, for pacifists, also an exercise in nurturing incremental pacifism.

A second motive for pacifists to undertake a comprehensive analysis

of contextualized *jus ad bellum* reasoning is to demonstrate that all wars are fundamentally unjust. By taking the *jus ad bellum* principles seriously and comprehensively applying them to a conflict, pacifists seek to demonstrate and argue their case that, if *jus ad bellum* precepts are applied according to their intent, then war itself must be declared unjust. It is simply no longer possible for a war, which is by definition chaotic and utilizes weapons with immense and frequently uncontrollable destructive power, to abide fully by all Just War principles, especially when considering the principles of distinction between combatants and non-combatants and proportionality.²⁸

Based on our discussion above, we can summarize the following points related to a pacifist engagement with the MEC doctrine:

- (a) As articulated by Walzer and others, The Moral Equality of Combatants maintains that soldiers fighting on each side have forfeited the right not to be killed because each side is trying to kill the other. A pacifist orientation cannot accept this and insists that the right not to be killed is the moral right of every human being; it is a basic human right that cannot be extinguished by war.
- (b) The Walzer formulation of the MEC doctrine also maintains that, because soldiers on both sides are servants of their state, those acting on the state's behalf are considered personally blameless for their actions, unless engaged in war crimes and other actions forbidden by *jus in bello*. Pacifism argues that soldiers are not permitted to kill others and that they remain morally accountable for their actions when doing so. This does not mean that the state and its representative leaders are not accountable—they are, and perhaps even more so—but soldiers never relinquish their own agency or their moral accountability.
- (c) While both scholars and combatants alike have argued for a differentiated justice between opposing sides in warfare—one side is more justified in waging war than the other—a pacifist assessment maintains that both sides in war remain *morally equal* (morally wrong) and morally accountable for their actions.
- (d) The pacifist conception of a moral equality of combatants, summarized in the three points above, is also defined as a MEC doctrine, not because soldiers have equally forfeited the right to be killed and been granted permission to kill the other but precisely because they are equally not permitted to do so. In order to distinguish

between these two competing MEC doctrines, we will call the classical version articulated by Walzer and others as MEC1 and the pacifist version we have described as MEC2. Part one of MEC2 can be articulated as follows: “Soldiers are moral equals: each retains the fundamental human right not to be killed and each is, therefore, morally wrong when seeking to kill the other.” MEC2 retains the understanding that the moral standing of soldiers is the same for both/all sides of the conflict.

- (e) The admission that soldiers can also be the state’s victims is embedded in MEC’s acknowledgement that soldiers are servants of the state. This is acknowledged by Walzer. We would add that victimization by the state can be extended to victimization by society as a whole.²⁹ The victimization of soldiers is not limited to one side but is again a mutual experience. Hence, we refer to this as the “Mutual Victimhood of Combatants” or MVC, which is also an integral part of MEC2. This allows us to add the MVC understanding as part two to the MEC2 definition (in number four above), as follows: “Both are also morally equal servants, citizens and victims of their own state and society.”

The above conclusions regarding a pacifist response to the classical MEC1 doctrine via a MEC2 doctrine allow us to draw a few additional corollary statements about a pacifist response to war:

- (f) Also found in MEC1, a critical feature of the pacifist MEC2 doctrine is its *symmetry*, which in turn allows for a greater application of *jus in bello*, as *jus in bello* benefits both sides equally. As a result, both sides in the conflict have equal humanitarian obligations towards the other within *jus in bello*, including the arguably limited protection of combatants. As described in detail above, combatants on both sides are victims of their situation—where someone else is seeking to kill them—and thus deserving of compassion and care, even though they possess agency and are simultaneously perpetrators of actions unsupported by pacifist principles.
- (g) Due to the symmetry provided by MEC2, again also found in MEC1, a more successful *jus in bello* application provides for the greater protection of non-combatants, an important feature of IHL. After all, pacifists are non-combatants who wish all people held this view. This is also why pacifist support for International

Humanitarian Law is seen as a partial and incremental step towards of peace. Support for non-combatants also extends to those who are *hors de combat*, whether as prisoners of war, shipwrecked sailors, or injured combatants. The more persons that can be peacefully removed from the fight, the fewer available to engage in warfare.

- (h) Perceptions and arguments regarding degrees of “justness,” “rightness,” and comparative morality, and the relative applicability of each, matter little in a context where all is overshadowed by a much greater injustice being perpetrated by all participants and their citizen-enablers: the use of warfare to resolve differences and to impose one’s corporate/national will on others. Is the real purpose of comparative moral calculations an attempt to grant a window of permission and justification to “our side” for engaging in war? We return to an assertion made earlier: Pacifism’s moral universality is rooted in a common humanity. For pacifists, this human bond of equality and of justice, defined above as MEC2, is paramount and reduces the debate on comparative justness and rightness to mere sophistry.
- (i) Last, seeing both sides as victims of war, instead of primarily as perpetrators, is helpful for post-conflict peacebuilding and a successful application of *jus post bellum*. Ultimately, the goal of peace is to restore relationships and rebuild the bonds of a common humanity. One must hasten to add here, however, that seeing soldiers, combatants, and warriors as victims also requires the other members of each respective society to acknowledge their complicity in the creation and prosecution of the conflict. Soldiers, and indeed all combatants, cannot and do not operate without a community of support and enablement. This recognition can assist in a greater understanding of soldiers as victims not only of “the other side” but of their own society, even beyond the leadership that may have officially compelled them to fight. It can also encourage each society as a whole to address these issues within the broader community and thus ensure that soldiers are not too easily marched off to war.

PACIFISM AND THE DOCTRINE OF INVINCIBLE IGNORANCE

The Invincible Ignorance (II) doctrine holds that “soldiers cannot know whether their cause is just or not and thus cannot base their participation in war on this knowledge.”³⁰ Francisco de Vitoria presented this view in 1529, but it was surely present long before.³¹ To summarize Vitoria: “princes” should rule; soldiers should fight. Each had a job to do and the job of soldiers was not to meddle in the business of rulers; soldiers followed orders. Soldiers were “invincibly ignorant” and could not know and were not intended to know the reasons why rulers decided for war.³² Significantly, these statements from Vitoria provided a convenient “out” as soldiers could be excused if they fought in an unjust war.³³ Moreover, both ruler and soldier could blame each other for injustice in war: rulers could blame soldiers for *jus in bello* transgressions and soldiers could blame rulers for *jus ad bellum* violations.

Although Vitoria’s pronouncements on this theme have frequently been approvingly quoted over the centuries, especially for support in articulating a soldier’s unquestioning duty, they do a disservice to Vitoria. Vitoria’s statements and principles seem quite unambiguous when taken alone. Vitoria, however, was not nearly so clear, nor quite so single-minded on this subject. He emphasized five additional and often ignored points which project quite another perspective. These statements arose from Vitoria’s realization that both sides believe their cause to be just and, therefore, “belief” in the justice of one’s cause is insufficient. Therefore, according to Vitoria:

- (a) Judgement of “someone wise” is important, even if the wise person is from the other side.³⁴
- (b) If the war “seems patently unjust to the subject, he must not fight, even if he is ordered to do so by the prince.”³⁵
- (c) If one’s conscience suggests the war is unjust, one should refuse to fight, even if the conscience is wrong.³⁶
- (d) If powerful “arguments and proofs of the injustice of war” existed, even lower class soldiers and subjects could not claim ignorance.³⁷
- (e) Vitoria “especially condemned wilful ignorance.”³⁸

These five points seem significantly at odds with Vitoria’s popular historic and oft referenced formulation of *Invincible Ignorance*. He not only allows for fallibility of judgement on the part of both prince and soldier but emphasizes the importance of personal conscience for all involved. He also seems to permit judgement regarding both *ad bellum* and *in bello* issues

by those who were sent off to fight. He even condemns “wilful ignorance,” a disposition that has been frequently supported in order to adhere to the Invincible Ignorance doctrine and is in concert with what has occasionally been labeled as “blind obedience” to authority. The latter harkens to the ten types of ignorance delineated by Andrew Sola,³⁹ which have often been appealed to, not only by combatants but especially by those citizens and governing leaders who want soldiers to do the job they are commanding them to do without asking additional questions. Dan Zupan, for example, supports the Invincible Ignorance formulation as historically attributed to Vitoria by emphasizing that it is difficult for soldiers to know whether their cause is just and soldiers must “mind [their] own business.”⁴⁰ The latter, in Zupan’s mind, does not extend to a soldier evaluating the justice of the war in which she or he is fighting.

Zupan’s insistence on Vitoria’s Invincible Ignorance⁴¹ is problematic on many levels. First, if soldiers “lack certitude on the just status of their cause, they should not be engaged in war-related acts, lest they act unjustly.”⁴² Second, as Joseph Miller emphasizes,⁴³ if ignorance is the intended position and applies to both soldiers and civilians, it is “tantamount to an admission that a democracy cannot ever formally justify a war.”⁴⁴

At first glance, Invincible Ignorance can be a seductive doctrine. For both MEC1 and MEC2 adherents, Invincible Ignorance provides a nice fit. It easily permits soldiers to be viewed as victims and not responsible for their actions; they are acting on commands from a “higher [political] authority” and any appeal to the (in)justice of the commanded acts is not within their purview or their realm of responsibility. Even for those pacifists who treat soldiers as victims of coercion or compulsion, this can seem like a tempting doctrine at first. However, that would undermine and contradict another inherent and foundational tenet of pacifism: all persons should act justly and take responsibility for their actions. It speaks to the second half of the so-called paradox described in the earlier part of this essay. Combatants are, at the same time, both victims and responsible persons with *jus ad bellum* agency: pacifism seeks always to increase the agency of soldiers/combatants. As stated above, it is only with a belief in the agency of soldiers that they can be convinced to accept a pacifist orientation regarding war. Therefore, the doctrine of a promoted Invincible Ignorance is wholly incompatible with Pacifism.

One might surmise that these assertions regarding a pacifist response to

Invincible Ignorance are by now universally accepted, making the “pacifist” counter-arguments redundant and the doctrine of Invincible Ignorance a convenient “straw figure.” After all, would not everyone desire more informed combatants? Along with their fellow non-combatant citizens, should not all combatants-as-citizens be engaged in discussing and determining the justice of a particular war? Unfortunately, this is not the case. Arguments against “Informed Intelligence” are frequently made. Some distinguish between lower level combatants—soldiers—and higher level combatants—officers—as a Canadian court case did, claiming ignorance and moral blamelessness for one and moral culpability for the other.⁴⁵ For the societal reliance on war to change, dialogue must increase and all citizens, including combatants, need to be involved in the dialogue.

Our discussion above allows us to make the following five summary points regarding pacifism and the doctrine of Invincible Ignorance:

- (a) Regularly ignored, Vitoria’s alternate statements that emphasize the importance of conscience and individual citizen and soldier agency regard, which have been summarized into five points above, and his ultimate rejection of “wilful ignorance” are certainly more acceptable to the pacifist mindset than his statements supporting II. Vitoria’s alternate points are, however, also incompatible with a doctrine of Invincible Ignorance. While Vitoria was arguably of two minds of the issue, it is more likely that the usual appeal to Vitoria as a fixed proponent of Invincible Ignorance is a convenient partial reading and needs to be abandoned. Vitoria’s mind permitted much greater complexity on the issue than has historically been assumed.
- (b) Education and the dissemination of knowledge regarding the consequences and impact of war have been longstanding principles and goals of pacifism. It is assumed that greater knowledge and education will increase understanding of the complexities of conflict and, ultimately, an enhanced assessment of personal responsibility. Critically, pacifists are convinced that, in direct contrast to ignorance, education and understanding will result in decisions for peace. Pacifism always seeks to replace imposed Invincible Ignorance with the promotion of “Informed Intelligence.”
- (c) Pacifists will encourage societal discussion, debate, and democratic participation on the questions of war for all citizens, especially

including the nation's soldier-combatants. Pacifists believe that good public debate, as opposed to jingoistic promotion of a nation's war aims, can be an inoculation against war and provide an additional opening for alternative peaceful responses to conflict. This can only happen in a society where concepts of ignorance are eschewed in favour of openness and where doctrines of Invincible Ignorance for soldiers are rejected, once again, in favour of "Informed Intelligence."

- (d) Pacifists will seek to treat all participants in war as human beings with a voice to be recognized in the debate regarding the conflict. The centuries-old and perhaps millennia-old practice of setting soldiers aside and requiring them to profess, or at least feign, ignorance regarding the justice of war (*jus ad bellum*) and to act accordingly has resulted in great harm to the soldiers involved. It is possible that the high rates of PTSD and suicide seen in military circles today can, in part, be ascribed to this tendency of forcing soldiers to profess ignorance and undertake actions that their deepest innate selves might be questioning and about the justice of which they are not convinced.
- (e) Soldiers, like their fellow citizens, are more educated than they have ever been in history. Education and "Informed Intelligence" also means providing input and decision-making on issues related to the justice of war. Greater knowledge might also lead more soldiers to conscientiously object to a conflict—selective conscientious objection—which pacifists would see as a good thing. Once a step of selective conscientious objection has been taken, a more widely embraced objection to war and conflict might also be more readily chosen.

We began this essay by describing the perceived pacifist paradox of viewing soldiers as citizens with personal agency and also as victims of state-societal manipulation and coercion. The former brings with it the notion of responsibility and accountability, including the responsibility to decide on the justice of their own participation. The latter acknowledges the forces that have unwittingly (frequently by the soldiers themselves) or coercively (by state or community) placed soldiers into a situation that they might not have chosen had they been fully included in the study and analysis relative to the justice of the conflict and been granted the agency to act on their

conclusions. Both non-combatants and combatants alike are victims of conflict; ultimately, everyone is a “victim” when it comes to war. There are no victors in armed conflict.

These reflections insist that pacifism has something to contribute to the dialogue when the doctrines of the Moral Equality of Combatants and Invincible Ignorance are considered. The result is a “flipped” version of MEC, named MEC2, which maintains the agency and culpability of combatants, a simultaneous recognition of the Mutual Victimhood of Combatants (MVC), an insistence on “Informed Intelligence” for soldiers, and rejection of Invincible Ignorance when considering *jus ad bellum*. A key pacifist contribution arises from the insistence on societal openness, boundary-crossing dialogue, and universal agency, all rooted in a shared humanity. This dialogical inclusion must also bridge ideological divides and pacifists must continue to engage Just War doctrines and institutions, including the military. It is only when the community begins to work and think together as a whole that the scourge of war can be eliminated.

END NOTES

1. An earlier version of this paper was presented at the Canadian Peace and Conflict Studies Conference, held at Canadian Mennonite University, on 19 June 2015. Special thanks are due to one of the peer reviewers for his/her suggestions, which have helped me clarify many of the points herein. Nevertheless, the views expressed herein, including any remaining shortcomings, remain my sole responsibility.

As a committed pacifist, much of what follows is written in part as a reflective personal analysis in response to the traditional doctrines of MEC and II and the renewed debate that has ensued more recently. In the interest of full disclosure, I will also add that a dearly beloved member of my immediate family is engaged as an officer and combatant within a military organization (Canadian Army).

2. See Edmund Pries, “A Soldier’s Right Not To Fight: Breaching the Insuperability of Military Oaths,” *Peace Research: The Canadian Journal of Peace and Conflict Studies* 44, no. 2 (2012) & 45, no. 1 (2013): 31-87. The section examining the doctrine on the Moral Equality of Combatants (MEC) begins on p. 50, while the discussion of the concept of Invincible Ignorance (II) starts on p. 54.

3. *Jus ad bellum* refers to the law—or the justness, rightness—of going to war, also known as Just War Principles or Just War Theory.
4. In this essay, we will limit our descriptive titles to define the persons doing the actual fighting in war and conflict to the terms “soldiers” or “combatants.” “Soldiers” is the formal, traditional, term and is generally understood, although some insist that soldiers are defined by their work on behalf of a “legitimate authority” that has conscripted or commissioned them. The term “combatants” is more widely accepted as a term that includes persons who are independent actors and may or may not be acting on behalf of a “legitimate governing authority” as it is traditionally defined. We will use the terms “soldiers” and “combatants” interchangeably. Others, like Rodin and Shue in the work described above, use the term “warriors.” We will refrain from that term in this essay, but recognize that it could be yet another term used interchangeably with soldiers and combatants.
5. David Rodin and Henry Shue, “Introduction,” in *Just and Unjust Warriors: the Moral and Legal Status of Soldiers*, eds. David Rodin and Henry Shue (Oxford: Oxford University Press, 2008). The title of the work is clearly derived from Michael Walzer’s foundational work, *Just and Unjust Wars* (Basic Books, 1977).
6. Rodin and Shue, “Introduction,” 11.
7. Rodin and Shue, “Introduction,” 11.
8. *Jus in bello*, or law in (or: of) war, refers to the body of law that governs *how* a war is fought. It is also frequently a reference to International Humanitarian Law or IHL (Geneva and Hague Conventions and other associated conventions and protocols). The latter is also called the Law of Armed Conflict (LOAC) in some jurisdictions (primarily in the United States).
9. Pries, “A Soldier’s Right Not to Fight,” 50. For further elaboration on the MEC definition, see the articulation of this doctrine provided by Michael Walzer, discussed in Pries, 50-2.
10. Walzer, *Just and Unjust Wars*, 36-41. All discussions on MEC and on the justice and morality of war and of its combatants, at least that I have seen, reference the defining work of Walzer.
11. Walzer, *Just and Unjust Wars*, 36. Emphasis in original.

- 12.. The “Mutual Victimhood of Combatants” (MVC) is my terminology in describing Walzer’s acknowledgement—not Walzer’s—although, admittedly, my description and focus on this aspect takes this aspect or doctrine further than Walzer might do so.
13. See Pries, “A Soldier’s Right Not to Fight,” 50-2.
14. See Pries, “A Soldier’s Right Not to Fight,” 50-2.
15. This principle extends far into history. In the western [Christian] tradition, it has frequently been attributed to Augustine of Hippo. Robert L. Holmes, in an excellent essay on Augustine’s approach to pacifism and the justice of war, points out that Augustine held to a personal pacifism, but promoted the state as representatives of God. It was, therefore, not only permissible for soldiers to fight, if commanded by the state; they were required to act obediently in fulfilling their combat duties, even if the state was in error. See, “St. Augustine and the Just War Theory,” in *The Ethics of Nonviolence: Essays by Robert L. Holmes*, ed. Predrag Cicovacki (New York: Bloomsbury Academic, 2013).
16. For example, Mennonite communities in Canada and the United States frequently excommunicated the young men who enlisted for war. The argument was that they could claim conscientious objector status, and many did, but many also did not. Particularly during the two World Wars, the reasons for joining the military were many, including the desire to “fit in” with the rest of the community; an agreement with the cause of the war, as articulated by the government and a desire to do their part; or a response to the wider community that frequently expressed strong disdain for those men who refused to join the war effort. For the young men, then, it could, at times, be a horrible dilemma: rejection either by the community in which they were raised or rejection by the wider community in which they resided. As a member of the Mennonite community, I am familiar with the numerous stories, both from the men who “joined up” and those who chose the CO option.
17. See my comments re Sterling in Pries, “A Soldier’s Right Not to Fight,” 51.
18. Walzer, *Just and Unjust Wars*, 36-41.

19. Including *jus in bello* in *jus ad bellum* has increasingly been argued by many. Recently, Anthony Coates has emphasized this point: "Is the Independent Application of *jus in bello* the Way to Limit War?" in *Just and Unjust Warriors: the Moral and Legal Status of Soldiers*, ed. David Rodin and Henry Shue (Oxford: Oxford University Press, 2008), 180-8.
20. While formal conscription has been eliminated in many western countries, other means of compelling young women and men to fight have taken over, including the "poverty draft"; for some this is seen as their only option to escape deprivation. Similarly, others join for promises of an otherwise unaffordable college or university education. The prevalence of socioeconomic military "conscription" is not felt to the same degree in all countries.
21. Walzer, *Just and Unjust Wars*, 36, uses the "poor sods" expression when referring to the mutuality of the soldier predicament on both sides: "These human instruments are not comrades-in-arms in the old style, members of the fellowship of warriors; they are 'poor sods, just like me,' trapped in a war they didn't make."
22. As indicated in the Introduction to this paper, we leave out any discussion regarding the comparative justness of peacekeepers and belligerents. Assumed in this discussion are two or more opposing belligerents.
23. See Pries, "A Soldier's Right Not to Fight," 51-3; David Rodin, "The Moral Inequality of Soldiers: Why *jus in bello* Asymmetry is Half Right," in *Just and Unjust Warriors: the Moral and Legal Status of Soldiers*, eds. David Rodin and Henry Shue (Oxford: Oxford University Press, 2008), 44-6.
24. Pries, "A Soldier's Right Not to Fight," 52-4 and Jeff McMahan, "The Morality of War and the Law of War," in *Just and Unjust Warriors: the Moral and Legal Status of Soldiers*, eds. David Rodin and Henry Shue (Oxford: Oxford University Press, 2008), 20-2.
25. See Pries, "A Soldier's Right Not to Fight," 53-4; Henry Shue, "Do We Need a 'Morality of War?'" in *Just and Unjust Warriors: the Moral and Legal Status of Soldiers*, eds. David Rodin and Henry Shue (Oxford: Oxford University Press, 2008), 87-9.

26. Shue, "Do We Need a 'Morality of War?'" 87.
27. See my discussion on the arguments of US army officer, Peter Kilner, in Pries, "A Soldier's Right Not to Fight," 58-9.
28. Opponents to conflict have also demanded a fuller application of other Just War principles, for example the principle of "last resort," as a way of restricting or removing the legitimacy of a particular war.
29. While not explicitly discussed above, this definition of victimhood can be extended to non-state actors since societal pressures are not limited to formal state structures.
30. See Pries, "A Soldier's Right Not to Fight," 54.
31. See Francisco de Vitoria, "On the Law of War," in *Political Writings*, ed. A. Pagden and J. Lawrence (Cambridge: Cambridge University Press, 1991), 306-13.
32. Vitoria, "On the Law of War," §20, 21, 24, 25: 306-8.
33. See Pries, "A Soldier's Right Not to Fight," 55.
34. Pries, "A Soldier's Right Not to Fight," 55; Vitoria, "On the Law of War," §20, 21: 306-7.
35. Pries, "A Soldier's Right Not to Fight," 55; Vitoria, "On the Law of War," §22: 307. Vitoria strongly emphasized this point.
36. Pries, "A Soldier's Right Not to Fight," 55; Vitoria, "On the Law of War," §23: 308.
37. Pries, "A Soldier's Right Not to Fight," 55; Vitoria, "On the Law of War," §26: 308-9.
38. Pries, "A Soldier's Right Not to Fight," 55; Vitoria, "On the Law of War," §26: 308-9.
39. Pries, "A Soldier's Right Not to Fight," 55-6; Andrew Sola, "The Enlightened Grunt? Invincible Ignorance in the Just War Tradition," *Journal of Military Ethics* 8, no. 1 (2009): 50-61.
40. See Pries, "A Soldier's Right Not to Fight," 56-57; Dan Zupan, "A Presumption of the Moral Equality of Combatants: A Citizen-Soldier's Perspective" in *Just and Unjust Warriors: the Moral and Legal Status of Soldiers* eds. David Rodin and Henry Shue (Oxford: Oxford University

Press, 2008), 214-25.

41. Pries, "A Soldier's Right Not to Fight," 57.
42. Pries, "A Soldier's Right Not to Fight," 57.
43. See Pries, "A Soldier's Right Not to Fight," 57; J. Joseph Miller, "Jus ad bellum and an Officer's Moral Obligations: Invincible Ignorance, the Constitution and Iraq," *Social Theory and Practice* 30, no. 4 (October 2004): 461-5.
44. J Miller, "Jus ad bellum and an Officer's Moral Obligations," 465.
45. Pries, "A Soldier's Right Not to Fight," 63-6.

