

## Ad Fontes: The Question of Rebellion and Moral Tradition on the Use of Force

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“Stab, smite, slay!” These are not the words of Bashar al-Assad telling his forces how they should deal with the Syrian rebel movement, or indeed those of any other contemporary political leader, but rather the words of Martin Luther exhorting the German nobility to a harsh



Saint Bartholomew's Day Massacre (1572). By Francois Dubois.

response to the peasants' rebellion of 1524–1525.<sup>1</sup> His writings show that he sympathized with many of the peasants' grievances so long as these did not issue in rebellion, but when they turned to force of arms, he responded sternly. This was not a peculiarity of Luther. Consider the following from an English courtier, Thomas Churchyard, writing admiringly of the treatment of Irish rebels in 1579 by Sir Humphrey Gilbert, commander of the English army sent to put down the rebellion:

*He further tooke this order infringeable, that when soever he made any ostyng [military campaign], or inrode, into the enemies Countrey, he killed manne, woman, and child, and spoiled, wasted, and burned, by the grounde all that he might, leavyng nothing of the enemies in saffetie, whiche he could possiblie waste, or consume.<sup>2</sup>*

Nor was this way of thinking about how to deal with rebellion limited to the sixteenth century. Consider these passages from Thomas Aquinas's *Summa Theologiae*—the first from “On Strife”:

*Strife seems to be a kind of private war. [As such,] strife is always sinful. . . . For if an officer of a prince or judge, in virtue of their public authority, should attack certain men and these defend themselves, it is not the former who is said to be guilty of strife, but those who resist the public power.<sup>3</sup>*

And this from “On Sedition”:

*Sedition is contrary to the unity of the multitude, viz., the people of a city or kingdom. . . . It is evident that the unity to which sedition is opposed is the unity of law and common good, whence it follows manifestly that sedition is opposed to justice and the common good. . . . It is a mortal sin.<sup>4</sup>*

The only exception Aquinas made was for the case of tyrannical rule, where he argued that subjects are not bound to obey tyrannical orders from the ruler.<sup>5</sup> Still, Aquinas argued that subjects should simply withhold obedience to wrongful orders, not rise in armed rebellion. While in extreme cases it is not a sin to overthrow a tyrant, it is subordinate rulers who should take the lead in this task (here Aquinas anticipated Calvin on the overthrow of an unjust ruler by “lesser magistrates”), not the people at large. The underlying reason is the responsibility the subordinate rulers have to use their ordering power in the service of justice and peace; other people may have the individual right of self-defense, but they do not have this larger responsibility for the common good, given that the overthrow of a tyrannical government by popular uprising may lead to social and political chaos and even worse injustice than that under the tyrant. Thus, Aquinas argues, the situation must be extreme to justify the overthrowing of a tyrant: “If there be not an excess of tyranny it is more expedient to tolerate for a while the milder tyranny than, by acting against the tyrant, to be involved in many perils which are more grievous than the tyranny itself.”<sup>6</sup> The reasoning here is not simply a defense of political order as such, but an acknowledgment of the centrifugal forces always present in communal life and the danger they may pose to justice and peace.

Continuing our probe backward in time, we may also recall Augustine’s counsel to the Roman authorities that they should use armed force to put down the rebellious Donatists, not because they were heretical Christians, but because they were engaged in acts constituting rebellion.<sup>7</sup> More fundamentally, Augustine argued that a just use of armed force was possible only on the authority of government; private persons had no right to resort to force.<sup>8</sup> This became one of the core requirements for a just war (*bellum iustum*) among the canonists of the twelfth and thirteenth centuries and in Thomas Aquinas’s summary of the three requisites for a just war: sovereign authority, a just cause defined by the obligation to vindicate justice, and a right intention that included both the avoidance of wrong dispositions and the overall end of peace. These three requisites corresponded directly to the three defining goods of politics—order, justice, and peace—which Augustine had drawn from classical political thought, and which medieval theorists, working from Augustine, made the center of their conception of politics.

On this conception, while the three goods were all understood as interrelated— a peaceful society had to be one that is justly ordered, a just society had to be one manifested in a peaceful order, and so on—order was in a real sense *primus inter pares*, first among equals, because only through order could justice and peace be established. Without it there was no possibility of achieving justice, and thus no prospect for peace. This is the conception that lies behind Augustine’s discussion of the peace that may be established by just war in the City of Earth: not *pax*, which is the final peace of the City of God, that is, the full manifestation of justice in the form of the saints together with God in the heavenly realm outside of time, but rather a more limited but real kind of peace, the “tranquility of order” (*tranquillitas ordinis*). The lack of complete justice in the City of Earth was accepted because of the value of the degree of real justice and peace it achieved, manifested in social and political “tranquility.” The medieval thinkers who gave the idea of just war a systematic, coherent shape in treating the requisites for a justified use of armed force prioritized the authority of a sovereign ruler—a ruler above whom no one else had authority—because they understood such a ruler as having the responsibility of responding to violations of justice (some “fault” that manifested injustice) that undercut domestic peace. Together, these three goods defined the common good of a community, as medieval political thought understood it, and this common good was understood to rest above all on the sovereign’s maintenance of a just and peaceful order.

Martin Luther and Thomas Churchyard, early in the modern period, were heirs to this way of thinking about government and the good of political communities. While their language on how rebels should be treated rings more harshly than that of Augustine or Thomas Aquinas, and while in Churchyard’s case it reads more as a defense of order as such than of the effort to achieve or maintain justice that legitimates order, it is consistent with the earlier conception of the limits on the right to use armed force and the importance of order in securing the common good of society. Moreover, we should not forget that for Aquinas sedition, which includes incitement to rebellion and rebellion itself, is a mortal sin. For him that was saying enough.

But from roughly the middle of the sixteenth century through the first third of the seventeenth, or, more specifically, from the Spanish Neo-Scholastic Francisco de Vitoria through Hugo Grotius, a succession of writers on politics and war moved to reconceptualize the location of the authority to undertake war, and in doing so reshaped the understanding of the relative roles of the governing authorities and the populace as a whole within a political community. This reconceptualization, which focused on the justifying cause for resort to war, is clearest in the writings of Grotius. Aquinas had listed two justifying causes for war—recovery of that which has been wrongly taken and punishment of wrongdoing—both of which referred directly to the conception of the sovereign’s responsibility to set right violations of justice so as to ensure the common good. The meaning of justice, and thus both these ends, was understood as defined by natural law. Aquinas did not mention defense as a just cause, because earlier canonical thought had established that every individual has the right of self-defense. What *bellum iustum* was about was the need to use armed force after the fact of a violation, because the right of self-defense did not extend to the recovery of things wrongly taken or punishment of the violator; this right belonged to the public authority, not to individuals. This conception stood well into the modern period and is visible in both Luther and Churchyard.

However, with other early modern thinkers, including Vitoria and Grotius, this idea was rethought as the concept of natural law was tested—first by the encounter with the Indians of the New World and then, even more seriously, by the breakup of the unity of the Christian society of Europe due to the Reformation. In this new context, justice could seem to be in the eye of the beholder, as both Catholic and Protestant princes claimed to be enforcing justice in using force against religious dissenters. What remained was the idea that each individual, by natural law, has the right of self-defense against attack. The prince’s right to use armed force was accordingly reframed as being delegated to him by the people of his political community to act on their behalf for their defense. This is the origin of the distinctively modern idea that defense against aggression is the basic justifying cause for a state’s resort to war.

What of the matter of rebellion? On the older conception, the sovereign could use force against behavior that he understood as endangering the order, justice, and peace of his political community. But the division of Europe into Protestant and Catholic polities changed that, since now the use of force could be directed by the authorities against religious dissent in the name of maintaining public order. The redefinition of the right to use armed force came in reaction to this division. It is instructive that Grotius began to write on the laws of war in support of the “ancient rights and privileges” of the (Protestant) Dutch against the overlordship of the (Catholic) king of Spain in the Netherlands. For him, the Catholic king did not have the right to employ armed force to impose the Catholic religion on the Protestant Dutch, but rather the Dutch had the right to defend themselves against such force. That is, his focus on defense as the only justifying cause for war, and on the right of the prince to use force as delegated to him from his people to act on their behalf, was set out in the context of an ongoing rebellion against the ruling authority—a rebellion that Grotius believed justified.

Let us scroll ahead to the present day. When we think about the justification for armed intervention provided by the concept of the “responsibility to protect,” it necessarily implies the right of the affected populations to resist such maltreatment by their government by means up to and including armed rebellion. Such is the present-day legacy of the kind of thinking employed by Grotius. Here the protection of the basic rights of the people is understood as a bedrock principle of public order (and justice and peace), justifying international actions including the use of armed force across state borders for the protection of a threatened populace, even though such action would under other circumstances be understood as a violation of state sovereignty. This reasoning was explicit in the case of the Libyan revolution.

Present-day moral thinking, too, has significantly tilted toward favoring the right of rebellion. This appears in various ways. Most, if not necessarily the best, contemporary moralists writing about just war list the just war criteria as beginning with “just cause” (rendered in terms of the international-law limit to self-defense against aggression); and they subordinate “competent” or “legitimate” authority (rendered as a *pro forma* requirement) to second or third place. Since many such moralists want to use this way of thinking about the just war criteria to limit or forbid states to resort to arms, the idea that a government should have the right to use force to vindicate justice is effectively off the table for them. Preference for the disadvantaged and for human rights in general translates into a positive attitude toward popular rebellions, even when the likely outcome may include the overthrow of one kind of authoritarian government by another kind. Support for the victims of oppression, in some circles, even trumps the reluctance to grant the state any right to use armed force except in response to armed attack, as in the 1997 resolution of the General Convention of the United Presbyterian Church to support humanitarian intervention by armed force, but only in cases when no national interest is being served.

In moral thought there has been only a limited effort to defend the importance of order as necessary for justice and peace. In just war thinking a major example remains the 1970 book *Movement and Revolution* by Peter Berger and Richard John Neuhaus. Berger and Neuhaus argued that the leadership of a just revolution must enforce a just order among those participating in the revolution, and must offer a reasonable prospect of a just order in the society as a whole if the revolution succeeds. Such reasoning is true to the classical model shaped by the medieval canonists and summarized by Aquinas, where the role of sovereign government is prioritized as necessary for a just and peaceful society, but it sets a far higher bar for the justification of revolutionary activities than that set by the aim of protecting fundamental human rights, as in the responsibility to protect idea. Moreover, where the very idea of justice is contentious, as in the case of the Taliban in Afghanistan or the radical Islamist rebels in northern Mali, surely more needs to be said about what, exactly, the standard of “a reasonable prospect of a just order in the society as a whole” means. By contrast, the Arab Spring revolutions in Tunisia, Egypt, and Libya were all undertaken by disparate groups of people with somewhat different identities who were united only in the purpose of removing the existing regime. In such cases, the only way to apply the standard of “a reasonable prospect of a just order in the society as a whole” is not prospective but retrospective. That is, the rebels in these cases were first of all aiming at the overthrow of unjust rulers, and thus an unjust order; yet it may not be clear while the fighting is going on that the rebels are acting to create a just order to replace the overthrown unjust one. That can only be determined in hindsight once a new order has been established. The same is the case with the ongoing revolution in Syria. While this standard holds up an important moral end, it gives no clear guidance for judging a particular resistance or revolutionary effort while it is under way. It remains to be seen where moral thinking on this matter will come out.

#### ASSESSING ISLAMIC MORAL TRADITION

At the beginning of this essay I briefly alluded to President Bashar al-Assad’s harsh treatment of Syrian opponents of his regime. Given how Western thinking on order versus the right of rebellion has developed, what can be said about the normative Islamic moral tradition on politics?

First, classic Islamic law on the *dar al-islam* defines a society that is religiopolitical in nature, in which the rule of Islamic law defines the proper order of the society for all its members, and in which the role of the ruling authority, defined as a ruler who has succeeded to the religious and political authority of the prophet Muhammad, is to ensure that all members of that society behave according to the divinely given law. Moreover, the ruler has the responsibility both to defend that law and the society it defines against external threats, and to spread the rule of that law throughout the rest of the world, characterized as the *dar al-harb*, the realm of conflict or war, which is defined as such because it lacks the proper order given in Islamic law. Clearly, the good of order has first priority here, and justice within society depends on this order.

But what if there is injustice? One finds three answers. First, if the injustice takes the form of rebellion against the rule of the Prophet’s successor and the law of Islam, the rebels are to be treated as part of the *dar al-harb*, and they may be the object of *jihad* of the sword. Second, if the injustice takes the form of rebellion against some interpretation of Islamic law by the ruler or authorities serving him, then this presents a different matter, that of the *akham al-bughat*, or “rulings concerning rebellion.” If the rebels form a coherent group and follow a different but defensible understanding of Islamic law from that being imposed on them, and their overall aim is reconciliation within the community as a whole, then the authorities must treat them with moderation, negotiate with them, and seek reconciliation themselves. The third answer is that adopted by the sizeable Shia minority within the majority Sunni, and Sunni-ruled, Caliphate. In Shia doctrine the caliphs are unjust rulers who do not deserve to be obeyed because they do not genuinely stand in succession to the authority of the Prophet. In the failure of reconciliation, Shia Muslims should follow “protective dissimulation,” appearing to obey the unjust ruler but at the same time withholding genuine assent.

This is the basic shape of classical Islamic jurisprudence regarding government and rebellion. For reasons internal to Islamic law the law itself has not changed, even though circumstances have changed. Thus, there is considerable tension between the classical conception of government and rebellion and present-day Muslim practices and thinking. Most majority-Muslim states today are governed by rulers who do not stand as successors to the Prophet (the notable exception is Iran, whose clerical leaders profess to be acting on behalf of the absent Twelfth Imam, who is in “occlusion” until the end of the world comes near).

Criticism of secular rulers, who do not rule in service to Sharia law, has been one of the principal features of radical Islamism, as notably given expression in the pamphlet *The Neglected Duty* by Muhammad Abd al-Salam Faraj. This so-called “creed of Sadat’s assassins” cites various elements of the Islamic tradition to justify armed rebellion against such rule, with the goal being to establish government strictly in accordance with Sharia as the radicals understand it. Radical Islamists have formed a part of all the rebellions of the Arab Spring, with the establishment of the radical understanding of Sharia among their goals, but other groups contributing to these revolutions have had other goals, as Nigel Biggar’s contribution to this roundtable exemplifies for the case of Syria. More generally, Muslims are enjoined, as a requirement of their faith, to uphold justice and to work for justice where there is injustice. Exactly what this may mean in a revolutionary context remains contended.

Reflection on moral traditions of the past is valuable as a reminder both of important moral principles, some of which at least may have receded from view over time despite their perennial importance, and also of how differing perspectives and perceptions of needs at given times (including our own) may shape moral priorities and decision-making. Robust moral judgment is still needed to determine what to draw from such reflection and how to deal with the consequences of different conclusions. Being a moral person is not easy. Being a person charged with the responsibilities of government, in which one has responsibilities for the well-being of one’s own society and for contributing to the welfare of societies as a whole, is harder yet. Reflection aimed at understanding historical moral traditions is a tool that can contribute importantly to this process.

1. From Martin Luther, “Against the Robbing and Murdering Hordes of Peasants,” in Helmut T. Lehmann and Robert Schultz, eds., *Luther’s Works, vol. 46: Christian in Society III* (Philadelphia: Fortress Press, 1967), p. 54. ↩
2. Thomas Churchyard, *A Generall Rehearsall of Warres* (London: Edward White, 1579), Sig. Q. ii. ↩
3. Cited from Gregory Reichberg, Henrik Syse, and Endre Begby, eds., *The Ethics of War* (Malden, Mass.: Blackwell Publishing, 2006), pp. 182–83. ↩
4. *Ibid.*, p. 185. ↩
5. *Ibid.*, p. 195. ↩
6. *Ibid.* ↩
7. Augustine in various places; see *ibid.*, pp. 81, 86–89. ↩
8. *Ibid.*, pp. 81–82. ↩