

The Laws of War in International Thought, Pablo Kalmanovitz (Oxford: Oxford University Press, 2020), 208 pp., cloth \$95, eBook \$94.99.

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Every so often a book comes along that proves you wrong in the best possible way. I have argued in previous work published in this journal that historical approaches to thinking ethically about war are in danger of eating their own tail. The concern, as I have stated it, is that historical excavations of the just war tradition are turning in ever tighter, more esoteric circles that shed only diminished light on the issue at hand—the rights and wrongs of war. Pablo Kalmanovitz's *The Laws of War in International Thought* makes a mockery of these worries. A work of the finest quality, it offers a fresh, interesting, and generative new history of the legal and ethical regulation of warfare in international society.

Part critical history of international law, part contextualist history of international political thought, and part constructivist theorization of the norms that govern the legal regulation of armed conflict, this book offers an “intellectual history of the laws of war before their codification” (p. 3). Kalmanovitz is a scholar with a deep understanding of both the historical and philosophical underpinnings of “the regulation of state force in the law of nations” (p. 10). Here, he offers a beautifully constructed meditation on the “constitutive vocabularies” that subtend the laws of war today (p. 3). Attentive to the interplay of “moral conscience, . . . sovereign invocations of military necessity, and claims of humanity” (p. 16), the book traces the change and continuity that animate the evolution of the rights of

war from the fifteenth century through to the present day.

What sets this book apart is its focus on the idea of “regular war.” In contradistinction to the idea of just war, which crystallized in medieval scholastic thought and canon law, the idea of regular war was largely developed in humanist commentaries on Roman law. This difference in origins translates into doctrinal divergence. Just war thinking assumes a penal account of the right to war, which supposes that states may resort to war to restore order where it has been violated by a malefactor. Equating the use of force with an act of law enforcement, this way of thinking about the right to war places the principle of just cause at the center of the frame. Often characterized as the “cops and robbers” paradigm, it ties the right to war to the prosecution of a just cause against a wrongdoer. The idea of regular war departs from this conception. Acknowledging that it is sometimes difficult to know on which side just cause lies in any conflict, and cautioning that each side is always likely to think its own cause is just, it proposes a more agnostic approach to the right of war. On this view, the right to war should be viewed not as a mode of law enforcement, but, more neutrally, as a function of the license states possess to ensure their own self-preservation. Parties to a regular war are thus cast not as cops and robbers, but as rival belligerents that are equally entitled to press their claims by force. This subtle difference has significant implications for how we think legally and ethically about war.

Regular war is not a new concept, of course. It has been discussed previously in short essays and chapters by, among others, Gregory Reichberg and Peter Haggenmacher. But this is the first book-length excavation of it. How Kalmanovitz unpacks it is interesting. He charts the development of the idea of regular war over time; considers its *ad bellum*, *in bello*, and *post bellum* dimensions; and illuminates its impact on the course of the legal regulation of war from the early modern period right through to today. His findings are fascinating. For example, Kalmanovitz's analysis reveals how ideas developed by thinkers such as Hugo Grotius and Emer de Vattel not only fed into the development of notions such as the "moral equality of combatants" but also facilitated efforts to expand and fortify the laws of armed conflict in the nineteenth and twentieth centuries.

The book comprises five substantive chapters. Chapter 1 is a superbly crafted exegesis of the scholastic just war doctrine articulated by Francisco de Vitoria and Francisco Suárez. It suggests that the roots of the idea of regular war can be discerned in the "contradiction between sovereign decision and the objectivity of just cause" inherent in this doctrine (p. 39). Chapter 2 attributes the first formal effort to advance a doctrine of regular war (albeit called "solemn war") to Hugo Grotius. It shows how Grotius sought to circumvent the tensions that bedevilled scholastic just war thought by harnessing it to the concept of solemn war and yoking them together as a single system of law. Chapters 3 and 4 examine the systematization of the regular war idea in the legal thought of Emer de Vattel and Christian Wolff, while chapter 5 carries the story into nineteenth-century efforts to humanize war. These discussions are insightful, and they invite new ways of thinking about the

contribution that these two figures made to how we think about the legal and ethical regulation of war. Remarkably, this book treats the writings of the fifteenth and eighteenth centuries with equal acuity and is sensitive both to the links and tensions connecting them. This yields rich results. Where most histories of the law and the ethics of war present the writings of the scholastics and the early modern jurists as discrete entries in a chronological narrative, Kalmanovitz's analysis reveals not only how each cannot be fully understood apart from the other but also how the relation between them is the key to understanding the form that the law of armed conflict takes today.

Greedy for more, I would have liked to see Kalmanovitz extend his analysis to account for three related lines of inquiry. In the first instance, I would like to learn more about the nature of the relation between the ideas of just war and regular war. Is regular war a rival to the just war idea or merely a variant on it? Is it exogenous or endogenous to the just war tradition? It seems to be a part of that tradition—one of its tributary streams—but Kalmanovitz does not treat it as such. Instead, he treats it almost as a parallel development, set apart from mainline just war thought. It is not clear to me why this is the case. Second, does regular war successfully escape the pathologies that inhere in just war thinking, or does it simply cover over them? My sense is that it exposes the problems that follow from indexing the right to war to just cause, but does not resolve them. Perhaps, though, this is the point. Kalmanovitz's analysis of Grotius and Vattel suggests, I think, that the idea of regular war is not an alternative to that of just war, but a necessary way of balancing it. This idea merits further development. Finally, I would have appreciated another

chapter devoted to examining the contemporary debate between Walzerian and revisionist just war theorists in light of the categories elaborated by Kalmanovitz in this study. It would have been fascinating to learn more about how Kalmanovitz sees these various positions fitting together (or not). Does, for instance, the idea of regular war cohere with certain aspects of Walzer's just war theory, and to what degree is the opposition today between Walzerians and revisionists a reformulation of the divide between regular war and just war traced in this book? These concerns appear almost to prefigure elements of Kalmanovitz's analysis, but he does not address them directly. It will be interesting to see if he engages them in his future work.

It is rare to find a book that opens up a new horizon on a well-established field of inquiry. Yet *The Laws of War in International Thought* does exactly that. Essential reading for any scholar interested in the laws and ethics of war, this superb book reopens the questions pertaining to the relation between the laws of war and the just war tradition, revealing that there is still plenty of life in the old dog yet.

—CIAN O'DRISCOLL

Cian O'Driscoll is associate professor of international relations at the Coral Bell School of the Asia Pacific at Australian National University, located in Canberra, Australia. He has written extensively about the ethics of war and the just war tradition. His most recent monograph is Victory: The Triumph and Tragedy of Just War (2019).

No Refuge: Ethics and the Global Refugee Crisis, Serena Parekh (New York: Oxford University Press, 2020), 272 pp., Cloth \$24.95, eBook \$16.99.

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In *No Refuge: Ethics and the Global Refugee Crisis*, Serena Parekh masterfully accomplishes a goal that often eludes many publicly engaged philosophers: to advance an insightful, original argument on an important moral issue that is both accessible to a general audience and illuminating to theorists who are deeply immersed in the relevant academic debates. Much has been written about the so-called European refugee crisis, wherein the arrival of large numbers of Middle Eastern and African asylum seekers prompted European countries to rethink their moral obligation to help all refugees who arrive on their territory.

Parekh, however, directs our attention to a second, less visible refugee crisis, namely, the abysmal conditions that refugees must endure before—or most often, *instead of*—reaching a Western country where they can claim asylum. This crisis emerges from the very structure of the international refugee protection system—and we (wealthy liberal democratic states and their members) are responsible for addressing it.

As Parekh understands it, the second refugee crisis is that “refugees around the world are legally unable to get refuge, that is, they are unable to access the minimum conditions of human dignity while they