

RIGHT INTENT: THOMAS AQUINAS AND THE WAR ON DRUGS IN LATIN  
AMERICA AND THE CARIBBEAN

A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF MASTER OF ARTS  
IN THE GRADUATE SCHOOL OF THE  
TEXAS WOMAN'S UNIVERSITY

DEPARTMENT OF HISTORY AND GOVERNMENT  
COLLEGE OF ARTS AND SCIENCES

BY

MICHAEL W. EDGHILL B.A.

DENTON, TEXAS

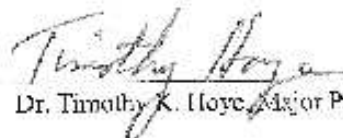
AUGUST 2016

TEXAS WOMAN'S UNIVERSITY  
DENTON, TEXAS


April 13, 2016

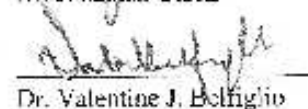
To the Dean of the Graduate School:

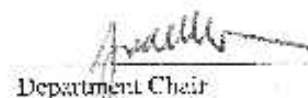
I am submitting herewith a thesis written by Michael W. Edghill entitled "Right Intent: Thomas Aquinas and the War on Drugs in Latin America and the Caribbean." I have examined this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts with a major in Government.

  
Dr. Timothy K. Hoyer, Major Professor

We have read this thesis and recommend its acceptance:

  
Dr. Jonathan Olsen

  
Dr. Valentine J. Boffiglio

  
Department Chair

Accepted:

  
Dean of the Graduate School

## DEDICATION

For my wife, Shirelle, and my children, Ethan, Andrew, Mary Kathryn, and Thomas.  
Your love, patience, and collective sacrifice made this work possible. I love you all so  
very much.

For my mother, Susan Edghill, whose faith in me has remained for all of these years.  
And for my father, William Edghill. It is by the grace and love of God that, through your  
illness, I found out so much about who I am. You remain in my heart and in my prayers.

## ACKNOWLEDGEMENTS

There are many people who, in various ways, have contributed to the completion of this work. First, I need to thank all of the members of the Graduate Admissions Committee for the Department of History and Government at Texas Woman's University. Despite my lackluster undergraduate record, you were willing to take a chance on me and allow me to prove that my academic abilities far exceeded what my early twenties presented. I am glad that, once I worked through my circumstances and fully matured, I was given this opportunity for myself and for my children to see. My gratitude extends to Dr. Timothy Hoyer for his guidance. You opened a door to political theory for me that I barely knew existed before. Your passion for education, intellect, dialogue, and encouragement were all necessary for me to dare to approach the philosophy of Aquinas. In doing so, it has enriched my life both intellectually and spiritually. -*Fides et Ratio*- My thanks for Dr. Jonathan Olsen who not only agreed to serve on my committee but helped arrange my work as a Graduate Assistant which was something I didn't think logistically possible when I started graduate school. Thanks also to Dr. Valentine Belfiglio for serving on my committee and for being so full of praise for my efforts early on in my graduate studies. It truly helped me to know that I was going to do just fine. Finally, none of this would have been possible without the unending love and support of my wife, Shirelle. It was her encouragement that allowed me to consider TWU in the first place, her advocacy that helped me gain consideration from the graduate admissions committee, and her sacrifice of her valuable time, that enabled me to try and put forth my best work in my studies while working 50-plus hours a week and trying to help raise our children. Grace truly has extended a sacramental love to us.

And for all of those who engaged in random conversations with me regarding this topic, who allowed me moments of respite in the process, and who otherwise simply offered me gentle encouragement: Thank you. Praise be to God.

## ABSTRACT

MICHAEL W. EDGHILL

### RIGHT INTENT: THOMAS AQUINAS AND THE WAR ON DRUGS IN LATIN AMERICA AND THE CARIBBEAN

AUGUST 2016

The purpose of this study was to examine the ‘just war’ doctrine of Thomas Aquinas and apply it to the drug wars in Latin America and the Caribbean in order to determine if the prosecution of these ‘wars’ is to be considered just. In order to do so, key components had to be examined and, in some cases, whole concepts required thorough analysis regarding how they are applied. This included evaluations of the nature of drug cartels, the concept of sovereignty, and various ‘just war’ theories. To effectively examine this topic, reading the works of Jean Bodin, Thomas Hobbes, and Thomas Aquinas was necessary as was research into different interpretations of ‘just war’ doctrine. Based upon the research and analysis, it was determined that the rhetorical phrase ‘war on drugs’ is wholly inappropriate and that the actions taken in the prosecution of this ‘war’ and not to be considered just.

## TABLE OF CONTENTS

	Page
DEDICATION .....	iii
ACKNOWLEDGEMENTS .....	iv
ABSTRACT .....	v
Chapter	
I. INTRODUCTION: THE 'WAR ON DRUGS' .....	1
II. ON SOVEREIGNTY .....	7
III. ON 'JUST WAR' .....	21
IV. ON THE HISTORY AND NATURE OF DRUG TRAFFICKING ORGANIZATIONS .....	33
V. ON THE 'JUST WAR' DOCTRINE OF THOMAS AQUINAS .....	55
VI. CONCLUSION .....	73
REFERERNCES .....	76

## CHAPTER I

### INTRODUCTION: THE “WAR ON DRUGS”

In 1971, the President of the United States of America, Richard M. Nixon, launched a crusade on behalf of the most powerful nation in the western hemisphere by declaring that drugs were “public enemy Number one” in the United States and that only an “offensive” against them would spare the country the dangers of rampant drug use amongst its citizens.

“I am transmitting legislation to the Congress to consolidate at the highest level a full-scale attack on the problem of drug abuse in America. I am proposing the appropriation of additional funds to meet the cost of rehabilitating drug users, and I will ask for additional funds to increase our enforcement efforts to further tighten the noose around the necks of drug peddlers, and thereby loosen the noose around the necks of drug users. At the same time I am proposing additional steps to strike at the "supply" side of the drug equation--to halt the drug traffic by striking at the illegal producers of drugs, the growing of those plants from which drugs are derived, and trafficking in these drugs beyond our borders.” *Richard Nixon, June 17, 1971*

What people now refer to as the “War on Drugs” began as a reaction to a drug consuming subculture that some political elites and the people that they represent feared was creeping further into the American mainstream. As such, only an all-out assault on

this threat would be sufficient to ensure that generations of Americans would not find themselves plunged into a dark and sordid society that lacked moral character and the values of purity and hard work that had been viewed as the backbone of a successful United States of America. We now find ourselves 40 years into this quixotic quest to eradicate drug consumption from the United States with few tangible results to show from it.

Perhaps even more alarming to the standard bearers of this “war” would be the number of governments in the western hemisphere that have started to concede some ground in this campaign. Within the borders of the United States, through citizen initiatives, the states of Colorado, Washington, Alaska, Oregon, and the District of Columbia have all legalized the recreational consumption of marijuana. A broader look at the western hemisphere shows numerous countries including Argentina, Brazil, Colombia, Mexico, and Jamaica that have partially or fully decriminalized the possession of some if not most drugs in amounts that would be considered appropriate for personal use. Why have all of these governments been willing to move forward with legislation that makes licit what was previously illicit? Is it a societal acceptance of certain drugs as being okay? Is it a financial decision whereby governments can access increased revenues through taxes levied upon the sale of these drugs? Is it a pragmatic approach that allows these governments to peacefully coexist with the drug traffic organizations that make billions of dollars off of the sale of these drugs and ruthlessly unleash grotesque atrocities upon anyone or any organization that stands in the way of their



business? Or is it the realization that the cost of fighting this “War on Drugs” is not just measured solely in currency but in the lives of the innocent citizens of Latin America and the Caribbean who find themselves caught in the middle of what is not always simply a rhetorical war but a hot war between government forces who are trying to uphold the standards of treaties made with the United States that demand that they forcibly try to eradicate the drug trade within their borders and the drug trafficking organizations that are well equipped to defend themselves and their economic interests? While not dismissing the first two points as irrelevant, I choose to look at the latter two questions.

Rather than focusing on the drugs themselves and attempting to evaluate the medical benefits and risks associated with them, I shall focus on government actions as it concerns the drug trafficking organizations in Latin America and the Caribbean. A “War on Drugs” has been declared but it is hard to measure success and failure nor conclusively declare victory over an inanimate object or a concept. (i.e. - War on Drugs, War on Poverty, War on Terror) I will take some time to analyze how our definition of war can apply to the “War on Drugs” and whether that is an appropriate or inadequate conceptualization. In the interest of brevity however, I will suggest that perhaps the “War on Drugs” would be more properly termed the “War on Drug Cartels” or “War on Drug Trafficking Organizations”. As such, how the governments of the United States and their allies in Latin America and the Caribbean prosecute their war on these drug cartels becomes of interest on a couple of different fronts. One of these fronts requires an examination of drug trafficking organizations and how they function within their territory

of influence. Many of the most powerful, successful, and feared of these organizations appear to operate as if they were their own sovereign entity. What bearing does that then have on a “war” against them? The second front requires an examination of the way in which this “War on Drugs” has been prosecuted and the effects that it has had on the citizens of these territories. Has the cost borne by the citizens of Latin America and the Caribbean been worth the efforts to reduce the ability of consumers to get their hands on drugs? Do these efforts bear the mark of justice?

Let us return to the first point of inquiry mentioned and broaden the view of it for consideration. Is it possible to wage war on non-state actors? Non-state actors are simply organizations that have enough power or influence that they must be treated and related to by individual states in international relations in a fashion that is typical when dealing with a fully sovereign and independent state. Yet, these non-state actors have no official autonomy or recognized sovereignty within any state in which they operate and often their operations cross state borders. Certain multinational corporations fit this criterion as do certain humanitarian aid focused NGOs (non-governmental organizations). The more common focus on non-state actors in the field of international relations however is on the violent non-state actors. Transnational drug trafficking organizations quite possibly fall into this category of non-state actor. Terrorist organizations such as al-Qaeda, Boko Haram, and al-Shabab are prescient examples of violent non-state actors. As such, while not having a state of their own, could these organizations be considered to be sovereign powers because of the power and influence they wield within certain territories? Could

then certain drug trafficking organizations be considered sovereign powers as well?

These questions require us to analyze the concept of sovereignty which this work will do.

We then return to the second point of inquiry mentioned and consider whether the efforts of the “War on Drugs” are indeed just. To do so, we must take into consideration both the objective of the “war” efforts and the effects of these “war” efforts on the ordinary citizens of Latin America and the Caribbean. Of course, if it is an evaluation of whether or not actions are just that is the question, then we are required to consider what is just in warfare? This requires an analysis of just war theory which this work will also do.

Both justice and just war theory are topics that have been addressed since the very beginnings of political theory. Plato and Aristotle both offered definitions of what is to be considered just. Cicero gives us one of the earliest efforts in defining what is just in warfare. Over the centuries, what constitutes a just war has been theorized and re-theorized by a number of well-respected philosophers. Therefore, in order to attempt an evaluation of whether the “War on Drugs” is a just war or not, we must determine whose theory of just war we will be holding as the standard. For the purposes of this work, the just war theory of Thomas Aquinas will be explored and then applied to the “War on Drugs” in order to then offer a conclusion as to whether this American-led effort could be considered a just war.

What will be shown through this evaluation is that, for Thomas Aquinas, the question of whether the “War on Drugs” is just or not comes down to the question of

intent. Is the intent of the United States of America, in attempting to eradicate the drug supply, a superior good in consideration of the other negative effects that the citizens of Latin America and the Caribbean experience due to these efforts? Are the actions motivated by right intent? This examination of Thomas Aquinas will show that, in order to be guided by right intent, the motivations of the actor who wishes to wage war must be guided by a spirit of charity and love of neighbor. The far-reaching purpose for this work is to create a renewed examination of the “War on Drugs” and whether or not the common good is truly sought as is so often proclaimed.

## CHAPTER II

### ON SOVEREIGNTY

For centuries, war has been characterized by acts of aggression and defense between two or more sovereign states. Even within the context of internal civil wars, the warfare takes place between two disparate groups who are attempting to assert their authority and sovereignty over a certain portion of defined territory. In all modern cases though, warfare is recognized as being engaged in by two distinct governing entities claiming sovereignty over a certain territory. This has been a universally understood definition since the Peace of Westphalia in 1648. However, it is quite possible that this is a misunderstanding of the nature of the Peace of Westphalia that has emerged over time and has ultimately redefined itself.

In examining the Peace of Westphalia, one can see that its core purpose is to maintain peace and avoid warfare in Europe. Therefore, in order to do so, the right of a sovereign ruler to govern over his territory without interference or threat from the sovereign of another territory is offered mutually on the basis of reciprocity. By respecting the sovereign rule of others, it is expected that peace can be maintained among those who govern the disparate territories of Europe. The major concept of consequence that ends up proceeding from the Peace of Westphalia is the understanding, therefore, of what constitutes a “just war”. If, as was designed, all rulers recognized as sovereign over

their territory maintain the respect afforded the other recognized sovereign rulers, then there would be no warfare. If, however, a sovereign ruler violated the conditions of the Peace of Westphalia and invaded the accepted territory of another, then warfare prosecuted by the invaded sovereign ruler would be considered a “just war”. It is in the light of this revolutionary ordering of European governing society that the “just war” doctrine of Hugo Grotius is born and with this new doctrine came a whole new definition of what sovereignty means.

For the purposes of this study though, let us return to that concept of sovereignty itself and re-examine it. A conceptual analysis of sovereignty will allow us to give new consideration to whether drug trafficking organizations may in fact be considered sovereign authorities and, as such, appropriately subject to the tactics of warfare from other sovereign authorities.

The concept of sovereignty itself was addressed extensively in the mid-sixteenth Century by French philosopher Jean Bodin in his *Six Books on the Commonwealth*. Due to his voluminous contribution on the topic, we will explore with great depth the philosophy of Bodin. In Book I, Chapter I, Bodin defines a commonwealth as a rightly ordered government over a number of families and those things which are of a common concern by a sovereign power. (Bodin, 2009) He further clarifies, however, that there is a distinction between right ordered government and the rule of any band of pirates or thieves stating:

“The law has always distinguished robbers and pirates from those who are recognized to

be enemies legitimately at war, in that they are members of some commonwealth founded upon the principle of justice that brigands and pirates seek to subvert. For this reason brigands cannot claim that the conventions of war, recognized by all peoples, should be observed in their case, nor are they entitled to those guarantees that the victors normally accord to the vanquished..." (Bodin, 2009, pg. 43-44)

How this consideration of sovereignty and right ordered government applies to drug trafficking organizations would, therefore, be predicated upon the principle of justice. Are the actions of drug cartels in any way just? Conversely, are the laws themselves, instituted by governments claiming sovereignty, that seek to criminalize certain narcotics and trafficking activities, just laws?

Bodin concurrently addresses the concepts of sovereignty and the commonwealth throughout his work. As with most philosophers who attempt to approach the concept of sovereignty, it is somewhat necessary to do so because if one is to consider what constitutes a sovereign authority, then it requires a simultaneous consideration of what the sovereign authority has authority over. For Bodin, that sovereign authority exists over the commonwealth which has three key elements to its existence: the sovereign authority discussed, family, and common concern. Addressing the common concern, it is revealed, is of high importance to Bodin. This is seen in his insistence that the sovereign authority must maintain the administration of justice, the provision of the necessary means of subsistence, and the defense of his subjects or else the sovereign authority would be considered one that is disordered. (Bodin, 2009) Again, in considering the sovereignty of

drug trafficking organizations, the question must then be asked of whether these organizations seek to provide for those things that are of common concern? Do they administer justice, provide for the defense of people, and provide people with the means of subsistence?

Later on in Book I, Bodin examines how sovereign power is to be vested in the one or the many who will be administrators of governance over a population. Bodin begins by asserting that natural law dictates that families are the primary societal unit and, as such, there is an absolute and sovereign power vested within the family unit. He insists that it is only because of the threats of force and violence that heads of household give of their sovereign authority to one sovereign. (Bodin, 2009) Those who have given up their authority to one sovereign of their own free will are to then be considered citizens due to the nature of how sovereign authority was first vested and then freely given. (Bodin, 2009) Once establishing how sovereign authority is created within a commonwealth, Bodin then gets into a much deeper analysis of the nature of sovereignty itself in Chapter VIII of Book I.

Sovereignty, according to Bodin, must be both absolute and perpetual. He makes this point very clear as he states:

“If such absolute power is given him simply and unconditionally, and not in virtue of some office or commission, nor in the form of a revocable grant, the recipient certainly is, and should be acknowledged to be, a sovereign. The people has renounced and alienated its sovereign power in order to invest him with it and put him in possession, and it



thereby transfers to him all its powers, authority, and sovereign rights over what he formerly owned.” (Bodin, 2009, pg.67)

The sovereign therefore has absolute authority for to be subject to the commands of another in any way would deny the nature of the sovereignty that has been vested in him. Put another way, no one subject to the law can make, amend, or abrogate the law. The only lawmaker must be one who exists above the law. (Bodin, 2009) This does not, however, mean that the sovereign exists above all law with no consequences whatsoever for his actions. The sovereign is still subject to the laws of God and to natural law. When considering the nature of sovereignty as defined thus far and applying it to drug trafficking organizations, we must then contemplate the nature of absolute authority and examine whether these organizations exercise absolute authority or not. Equally important is the question of whether or not they consider themselves subject to the law of God and natural law.

A strong delineation exists for Bodin between what he considers to be law and what he considers to be a covenant. While the sovereign is not subject to the law, he is to be considered subject to abide by covenants made between the sovereign and his subjects. This is how Bodin rationalizes and understands the relationship between the sovereign rulers of contemporary European powers and their elected or appointed governing bodies. The Parliaments and Estates that govern over tax law and other such matters of positive law exist as a part of a covenant between the sovereign and his subjects. Therefore, they

are vested with the authority to make law yet the sovereign is not bound by the law.

(Bodin, 2009)

It is in Book I : Chapter X where Bodin continues on this theme of the nature of sovereignty as absolute. He again reiterates that sovereignty is absolute since no one can both make the law and have the law imposed upon him. “Just as Almighty God cannot create another God equal with himself, since He is infinite and two infinities cannot coexist” likewise the sovereign prince cannot make a subject equal to himself. (Bodin, 2009, pg.81) Bodin then offers a clearer way to determine whether one is to be considered truly sovereign or not. He establishes 4 attributes that would be common amongst all who are to be considered true sovereigns of their territories.

- 1) The sovereign has the ability to make law binding on all subjects in general or on each in particular with the consent of no one.
- 2) The sovereign has the ability to make war and peace.
- 3) The sovereign has the powers to institute the great officers of the state.
- 4) The sovereign is the final resort for appeals from all other courts.

(Bodin, 2009) It is in providing us with these attributes that Bodin offers us a clearer way to examine drug cartels and determine if they are to be considered sovereign entities or not. Do they make laws and are those laws binding? Do they have the ability to make war and make peace? Do they institute officers and do they abide by any form of a court system to adjudicate disputes?

In Book II, Bodin moves on from the nature of sovereignty to defining how sovereignty is classified. Initially, it appears that Bodin simply adopts the Aristotelian view of how to define sovereign rulers by accepting the classifications of the rule of one, the rule of a minority, and rule shared by the people. Bodin then breaks with Aristotle by rejecting the notion that there would be any other delineations of sovereign rule based on distinctions of good rule versus bad rule. As such, rather than asserting 6 different types of sovereign rulers, Bodin defines sovereignty only 3 ways. There is a caveat offered however, as Bodin returns to agreement with Aristotle in offering that a 4th type of sovereign rule; that of the mixed regime; is possible. (Bodin, 2009) Moving on, the sovereign rule of one, the monarch, becomes the focus of Chapter II of Book II. Bodin classifies monarchy further based on mode of operation. It does create for a different classification of sovereign rule. It is simply a classification based upon how the sovereign rules over his subjects. According to Bodin, sovereign monarchs are all either royal monarchies, despotic monarchies, or tyrannical monarchies. While the distinction between despotic and tyrannical might seem to be merely semantics and, as such, unnecessary, Bodin marks a clear distinction between what he considers to be the characteristics of a despotic sovereign monarch and a tyrannical sovereign monarch. The despotic monarch is master of both the possessions of and the person of his subjects by right of conquest in a just war. Under the rule of a tyrannical sovereign monarch, the laws of God and nature are wholly disregarded. Free subjects are treated as slaves and all property is treated as if it belongs solely to the sovereign monarch. (Bodin, 2009) If drug

trafficking organizations are to be considered as possible sovereign rulers, how might they be classified according to Bodin? As most drug trafficking organizations comply with the directives of one head of the organization, could they be considered a sovereign monarchy? If considered a sovereign monarchy, would they be considered despotic monarchies or tyrannical monarchies?

Bodin's conclusions regarding sovereignty are very similar to that of the ancients. He concludes, as did Plato, that monarchy is the best form of government. This is due to how the nature of hereditary monarchy lends itself to establishing absolute and perpetual sovereignty in one authority. Bodin completes this assertion by returning to the fact that monarchy best reflects the family, which has only one sovereign head of the household. Following it to its natural end, the structure of the family reflects natural law itself and is therefore the proper end of societal structure. As such, the best form of sovereign rule should reflect that. (Bodin, 2009)

Despite the substantial contribution of Jean Bodin as it concerns the nature of sovereignty, arguably the most notable discussion of the nature of sovereignty begins with Thomas Hobbes. It is in Part II : Chapter 17 of *Leviathan* that Hobbes addresses the creation of the commonwealth and the nature of sovereignty itself. According to Hobbes, the commonwealth only comes into existence due to the fact that sovereign authority is transferred from every man to a common power on the condition that every other man transfer his sovereign authority to that same common power. This action is a covenant between men, entered into for the sake of defense against foreigners, protection from

injuries from one another, and to secure their own right to be industrious and enjoy the fruits of their labor. (Hobbes, 1968) All who have then enjoined themselves to the covenant submit their will to the judgments of a common power and whoever holds this common power is considered to be sovereign. According to Hobbes, there are two ways in which sovereign power is obtained. One is commonwealth by institution and this he refers to as political commonwealth. This is the commonwealth that Hobbes speaks of whereby people come together and voluntarily give of their power to the same common power as has already been described. The other way in which sovereign power is obtained is commonwealth by acquisition. This is the case when one makes others submit their will under threat of violence. (Hobbes, 1968) This is a foundational Hobbesian premise as it returns us to the basis of Hobbes's philosophy regarding why people live together in society in the first place. Regardless, it leaves one to wonder how this Hobbesian philosophy would embrace or reject drug trafficking organizations as sovereigns. Is it possible to consider that these organizations are party to a covenant has been entered into by free people? Is this sovereign power obtained by institution or sovereign power obtained by acquisition?

Similar to Bodin, Hobbes recognizes three forms of sovereign power in the commonwealth: monarchy, aristocracy, and democracy. Hobbes, as did Bodin, rejects the other classifications offered by Aristotle because he considers terms like tyranny and oligarchy simply those used by the discontented under a form of monarchy or aristocracy. (Hobbes, 1968) After classifying the forms of power in the commonwealth, Hobbes then

returns to a consideration of sovereignty. In his return to the topic of sovereignty by way of acquisition, Hobbes writes:

“A commonwealth by acquisition, is that, where the sovereign power is acquired by force; And it is acquired by force when men singly, or many together by plurality of voices, for fear of death, or bonds, do authorize all the actions of that Man, or Assembly, that hath their lives and liberty in his power.” (Hobbes, 1968, pg.252)

He further continues:

“His power cannot, without his consent, be transferred to another: He cannot forfeit it: He cannot be accused by any of his subjects of injury: He cannot be punished by them: He is judge of what is necessary for peace: and judge of doctrines: He is sole legislator; and supreme judge of controversies; and of the times and occasions of war and peace” (Hobbes, 1968, pg.252)

In it apparent that, for Hobbes, it does not matter much whether one is sovereign by way of institution or by way of acquisition. Once sovereignty is established, it is absolute.

Further into this discussion, it is found that Hobbes shares similar opinions with Bodin as it regards despotic sovereign rule. He suggests that sovereign dominion gained by a victor over the vanquished is often referred to as despotic. On this point, Hobbes does not even attempt to argue because he considers despotic sovereign rule as legitimate. In his view, to avoid death, the vanquished covenant with the victor, by way of word or deed, that as long as his life and the liberty of his body remain his, the victor can use him in whatever way he wishes. In other words, the vanquished, by way of covenant, become the servants

of the victor. Although it may be termed despotic by some, Hobbes considers it to be a covenant and, as such, absolute sovereign rule. The significant difference between this and slavery is that slaves were taken captive and did not enter into a covenant. Therefore, rebellions of slaves against their masters is legitimate rebellion. Conversely, rebellions of servants against a ruler they consider to be a despot is not legitimate because they have entered into a covenant. (Hobbes, 1968) As we consider drug trafficking organizations, would Hobbes consider them to be sovereign rulers despite the fact that many consider them to be despotic thugs with no legitimate authority? Has sovereign authority, in fact, been established by covenant?

Through this re-evaluation of the definition of sovereignty, it becomes apparent that our current understanding of sovereignty has changed from previous dialogues and understandings on the nature of sovereignty and what made one a sovereign ruler. For the likes of Bodin and Hobbes, sovereignty was simply an evaluation of who had legitimate, recognized authority over a certain segment of people. It did not even matter whether that authority was classified as legitimate or illegitimate based upon whether it complied with natural law or not. So long as the authority was recognized by the people who were ultimately governed by that sovereign ruler, and that rule was absolute, the ruler would be considered sovereign. Compliance with natural law was only to be considered as it regards the classification of the sovereignty.

Our current understanding of sovereignty has its roots in the concurrent period of the Peace of Westphalia and the work of Hugo Grotius. The evolution of our

understanding of sovereignty was chronicled by Luke Glanville in “The Myth of Traditional Sovereignty”. It was Hugo Grotius who offered that the state could be considered similar to an individual. Therefore, sovereign power for a nation of people should reside in the civil state with power organized and exercised according to the customs of the aforementioned nation. (Glanville, 2013) Furthermore, just as individuals have a right to defend themselves and chastise aggressors, so too does the sovereign of a civil state have the right to defend his state and punish violations of natural law. (Glanville, 2013) This was an extension of Pope Innocent IV’s proclamation in the 13th Century that gave authority to punish violations of natural law. Grotius extended that authority to sovereign heads of state so that it was justified for sovereigns to punish piracy, cannibalism, and tyranny. Furthermore, by logical extension, sovereign heads of state had the authority to rescue the oppressed. (Glanville, 2013) As opposed to the understanding of sovereignty offered by Bodin and Hobbes, Grotius saw violations of natural law not as mere distinctions in classifications of sovereignty but as grounds for the removal of the sovereign authority.

The next transition point in the evolution of our understanding of sovereignty came from the works of Emmeric de Vattel. It was de Vattel who took up the position of Grotius regarding natural law and challenged it. However, rather than favoring a return to the philosophies of Hobbes and Bodin, de Vattel insisted that defending natural law would too often lead to a violation of state independence and natural liberty if it were strictly enforced. He was not rejecting natural law. Rather, this was a pragmatic



conclusion that he drew based upon his philosophy of the relationship between natural law, sovereignty, and the civil state. de Vattel posited that natural law should form the basis of positive law. If a civil state exercised its authority by governing itself according to natural law without any assistance or interference from outside of the state, then the state may be considered sovereign. It was these sovereign and autonomous states that de Vattel saw as the foundational pillars that would facilitate associations between people in society. Consequently, the world must consist of a number of equally sovereign state entities with voluntary and reciprocal recognition of sovereignty. (Minkinen, 2007) de Vattel insisted that a moral person, fluent in and respectful of natural law, would be able to conclude whether a sovereign power was carrying out their internal obligations regarding preservation and perfection of the state. Therefore, in an effort to reduce incidences of warfare over claims of the violation of natural law, de Vattel suggested that states recognize the independence of other states. In other words, the sovereign ruler of one state should, for the most part, respect the sovereign rule of the authority of other states. The exceptional case which would allow for a violation of the independence of another sovereign state would be to rescue the oppressed. (Glanville, 2013) It has been this understanding that the independence of the state, natural liberty, and that a mutual respect for sovereign state authority should take precedence over issues of natural law that has become the foundation of our current understanding of sovereignty. An understanding that is based more upon mutual recognition and reciprocity than upon the concept of sovereign rule as something that should be absolute based upon a covenant

established by the sovereign authority with those governed by that authority. In fact, political independence itself has become viewed as a human right dictated by natural law. (Minkkinen, 2007)

In a unique twist, there is a recent trend in our understanding of sovereignty that is considered ‘ethical sovereignty’. It carries on and extends the views of de Vattel and others concerning the place of the civil state. In the view of ‘ethical sovereignty’, the state is the servant of the people and state exists to ensure that the individual can freely pursue their own interests. (Minkkinen, 2007) While rejecting the foundation of the Westphalian system and of Hugo Grotius in which the sovereign of the state was to be respected, there is a renewed focus on natural law over the sovereignty of the state or of the sovereign authority of the state. The ‘right to intervene’ is based on natural law and is a modern concern of both the United Nations and those of the ‘ethical sovereignty’ persuasion. In a modern context, when individuals are at risk due to the actions of the sovereign ruler of a state or due to the inability of the state to act in defense of the individual; what modern political scientists might call a failed state; there is a widely accepted ‘responsibility to protect’ or, what Grotius would may have termed the right to rescue the oppressed. (Minkkinen, 2007)

### CHAPTER III

#### ON 'JUST WAR'

In most any armed conflict of the modern era, those who stand in opposition to the actions of the perceived aggressor in the conflict will proclaim that the war being waged is “unjust”.

“For more than a thousand years there has been a doctrine and Christian definition of what a just war is all about. I think this effort and this plan to go to war comes up short of that doctrine. First, it says that there has to be an act of aggression; and there has not been an act of aggression against the United States. We are 6,000 miles from their shores. Also, it says that all efforts at negotiations must be exhausted. I do not believe that is the case. It seems to me like the opposition, the enemy, right now is begging for more negotiations. Also, the Christian doctrine says that the proper authority must be responsible for initiating the war. I do not believe that proper authority can be transferred to the President nor to the United Nations.” *Ron Paul, October 8, 2002*

The concept of justice in warfare is a widely held standard. While some would claim that no form of warfare is ever justified, the majority of opinions hold that warfare itself, or at least certain actions in the context of warfare, may be considered just and right dependent upon the circumstances and conditions surrounding the events. For one to evaluate

whether actions of or in warfare are just or not is predicated upon a universally held standard for what is to be considered just. The search for universally held standards or truths is the core of philosophical thought and the relationship between those truths and the realm of politics is what makes up political philosophy. In order to evaluate the concept of just war, we must therefore take the time to examine how political philosophers have theorized and defined what is to be considered just war throughout history.

One of the most well chronicled and examined thinkers in consideration of what is to be thought of as just in warfare is Saint Augustine of Hippo. Around the year 400, Augustine completed the work *Contra Faustus*. In this work, Augustine considers the Biblical account of Abraham attempting to sacrifice his son in order to please God. The question approached by Augustine is whether or not this heinous act of violence that was intended by Abraham was a good thing or a bad thing. On the one hand, Abraham is about to violently execute his son but on the other hand, he is proving his fealty and obedience to the Lord. Augustine defends the actions of Abraham in this instance because he offers that three things must be taken into consideration in order to judge the intended action of Abraham. One must consider the act itself, the agent of the act, and the authority for the act. In this instance, Abraham had divine authorization for his actions and, as such, his actions were commendable for his faithfulness to God. (Langan, 1984) It is this same unit of measure that Augustine uses again to judge that the Mosaic Wars of the Israelites were all justified. As a people loyal to God, if the Lord authorizes the

Israelites to make war, then the act itself and the agents of the act must be considered in light of that reality. For Augustine, the “real evils in war are love of violence, revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power.” (Langan, 1984, pg.22) It is the disordered and selfish desires of man that are the greatest cause of injustice in warfare.

In evaluating Augustine’s Just War Theory, John Langan narrowed down the voluminous thoughts of Augustine on warfare to what he considers to be its principle elements. (Langan, 1984) One principle is that warfare is punitive and not to be considered defensive. A punitive action attempts to right a wrong that has been committed. The use of the concept of self-defense is then misplaced since what happens in actuality is that a person feels that a wrong has been committed because they have been assaulted. Their reaction is not self-defense but, rather punitive as it seeks to right the wrong that has been perpetrated.

Another principle is that for something to be deemed evil in war, that judgment is based upon the attitudes and desires. Returning to the previously stated point, it is when the attitudes and desires of the individual are disordered and seek selfish interests instead of the common good that we can determine something to be evil in warfare.

A third principle in Augustine’s Just War Theory is that there must be appropriate authorization, whether it be divine or human, for the use of violence to be considered justified. As with Abraham and Moses, it was the appropriate authority, God Himself, that made their actions justified. Other principle elements offered by Langan include the

interpretation of evangelical norms in terms of inner attitudes rather than action, a dualism with regard to certainty of the superiority of spiritual goods, and the acquiescence to authority on decisions of moral judgment.

The fact that Augustine has such a depth to his justification for war does not indicate that he embraced warfare. On the contrary, Augustine's primary concern was for the spiritual welfare of people and his primary hope was for the conversion of their minds and hearts. If we again return to the Biblical accounts of the Israelite people, the divine authorization for warfare was often the end result when others refused to convert or to accept the Israelite God. Rather than allow these others to continue to worship false gods and possibly spread their idolatry to future generations, thereby putting others at risk for the welfare of their eternal soul, it is preferable that war be waged on those who refuse to convert or to accept the Israelite God. In this way, Augustine justifies violence as the lesser of two evils. (Langan, 1984) Contextually, therefore, one can see that Augustine is not in favor of warfare but does see certain justifications for it.

Further reading from Augustine in Book XIX of *City of God* reveals the depth of his conviction regarding the nature and ends of warfare.

“It is therefore with the desire for peace that wars are waged even by those who take pleasure in exercising their warlike nature in command and battle. And hence it is obvious that peace is the end sought for by war. For every man seeks peace by waging war, but no man seeks war by waging peace.” (Langan, 1984, pg.28)

It is peace that Augustine seeks. But he is very clear, as previously mentioned, that there are greater evils when considering the eternal soul than earthly warfare. Not all peace is a righteous peace. True and ultimate peace is only possible when all live in accordance with the will of God. This correct ordering of each individual within their own life will move all people closer towards their ultimate end, unity with God, and will concurrently bring about the supreme good of ultimate peace. (Langan, 1984)

While many would be tempted to jump from the writings of Augustine to Thomas Aquinas in tracing the history of ‘Just War’ doctrine, even within the history of the Catholic Church, there are significant contributions between the two. Around the year 1140, the canonist Gratian wrote the *Decretum*. This sacred document was a collection of canon law up to the time, of papal rulings on various issues, and of writings of the Church fathers and early theologians. Within the *Decretum* one can find a small section; *Part II, Causa 23, Question 2, Canons 1 & 2*; which is addressed as “On War”. In this commentary on war, it is suggested that Gratian relied heavily on the works of both Augustine and Isidore of Seville in elaborating on war would constitute a just reason for engaging in acts of warfare. Gratian identifies defense against attack, the recovery of stolen persons and/or property, and the punishment of those who commit evil acts as the clearly understood justified reasons for acts of warfare. Within the period of a century, it is believed that this definition of clarification of “just war” doctrine was elaborated upon by Pope Innocent IV.

Pope Innocent IV, who held the Chair of Peter in the mid-1200s, differed from Augustine in his interpretations as it regards what it means to partake of an action of warfare in self-defense. As revealed earlier, Augustine did not truly consider defense to be an adequate justification for warfare as all defense was really a punitive action. Innocent IV made a point of distinguishing between war and defense. (Johnson, 2008) He offered that defense was always justified and, specifically, that even professed religious could defend their property if necessary. Perhaps the most distinguishing characteristic that separates Innocent from Augustine is the difference that exists between what appears to be Augustine's view on punitive action and Innocent's claims. Pope Innocent made clear that one could defend themselves on the spot if threatened with their life or their property but may not be justified in seeking to go beyond and punish the evildoer, even if the intent was to deter another attack. (Johnson, 2008) It must be mentioned that while on the surface this may appear to be a stark contrast in philosophies, it is perhaps a much more shallow chasm. The caveat to all of Augustine's opinions on what actions are justified is that all individuals act in a way that seeks peace. That, even in warfare, individuals fight seeking a resolution of true and lasting peace. Therefore it must be considered that Innocent's opinion that going beyond what is necessary in order to punish the evildoer is not justified may not be inconsistent with Augustine's position that all engaged in warfare do so in seeking peace.

It was roughly 20 years after the end of the papacy of Innocent IV that Thomas Aquinas was composing his master work that is the *Summa Theologica*. It is within this work, we



find what may be considered the most enduring doctrine on what constitutes a “just war”. The “just war” doctrine of Thomas Aquinas, which shall be our major consideration for this work, is addressed in *ST II:II, Question 40*.

Through his dialogue on ‘just war’, which shall be detailed later in this work, we understand that there are three basic principles that Aquinas establishes for a “just war”. They are the sovereign authority to prosecute a war, the just cause for war, and the right intention in entering into war. Due to the time period and history of the evolution of “just war” doctrine within the Catholic Church, it has been suggested that in developing his own “just war” doctrine, Aquinas did not rely directly on the work of Augustine. Rather he may have relied upon the *Decretum* of Gratian and only those parts of Augustine that were influential in the *Decretum* are those that were reexamined and applied by Aquinas. (Johnson, 2008)

We will return to the basic principles of the “just war” doctrine of Aquinas but it is valuable to consider a deeper understanding and, therefore, contemplate what may have brought Aquinas to his “just war” doctrine. Much thought was given to this by Dr. Darrell Cole, currently of Drew University, in his work entitled *Thomas Aquinas on Virtuous Warfare*. In this work, Cole goes into detail to prove how charity is consistently the motivating factor for all of Aquinas’s opinions. This opinion, offered by Cole, offers the same consistency that we have seen in the opinions of Innocent IV and Augustine as has been previously detailed. Cole argues that Aquinas creates a synthesis of Augustine and Aristotle by illustrating that even in warfare, it is actions of virtue that are both

possible and desirable. (Cole, 1999) It is the virtue of charity itself that makes all of the other virtues; including temperance, prudence, courage, and justice; possible in the first place for without a spirit of charity, one cannot approach the other virtues. When applied to warfare, it is the virtue of charity applied that allows the soldier to continue to pursue his ultimate end which is unification with God. For if a soldier acts in a spirit of charity, which may be defined as love of neighbor (that which Christ offered in the Gospels as the greatest commandment), then his actions are likely justified for they are rightly motivated. This is why Aquinas does not devote any of his energies to addressing *jus in bello* (justice in war) and rather focuses his attention on *jus ad bello* (justice of war). For if the motivations for one engaged in warfare are righteous and motivated correctly, one need not concern himself with how one will conduct themselves in the war. It is the consideration of getting into war in the first place that predominates the offerings of Aquinas.

It is truly this concept of charity, characterized as love of neighbor, that allows Aquinas and numerous other Christian and non-Christian philosophers to defend engaging in war as a possible good that is justified. In fact, within a Christian paradigm, it should be considered that a failure to aid the innocent victims of violence, when the capacity exists to do so, would violate the mercy that Christians are called to show to the poor and to the oppressed in their hour of need. (Cole, 1999) With that said, the *jus ad bello* philosophy of Thomas Aquinas bears striking similarities to the modern day concepts of the right to intervene and the responsibility to protect that are often invoked

and advocated for by supporters of military action through international organizational authority on the basis of humanitarian need. Although there is striking similarity in the 'just war' philosophy of Aquinas and modern philosophy regarding the responsibility to protect, it would be a mistake to determine that meaningful contributions to our understanding of 'just war' ended with Thomas Aquinas.

Arguably the most influential thoughts that influenced the modern dialogue on what constitutes a 'just war' were those of Hugo Grotius. In the 17th Century, Grotius attempted to navigate a middle path between idealism and realism. His work regarding 'just war' was an attempt to find an amenable meeting point between natural law and positive law. To that end, he concludes that natural law only forbids those things which are clearly destructive to society. (Forde, 1998) Rather than seeing natural law as a reflection of rightly ordered living which would lead people to virtue, Grotius reduces natural law down to only those things established within the natural world that help to keep the peace. In keeping with the spirit of his times, as evidenced by the Peace of Westphalia, Grotius sees keeping the peace and the maintenance of internal sovereignty as the overwhelming goods of the day. He rejects the classical worldview and Christian worldview of objective rights in favor of subjective rights. In other words, for natural law to continue to be relevant to civilized man, it must adapt itself to the contemporary condition of man. (Forde, 1998) All natural law, for Grotius, now passes through the medium of the human will before becoming positive law. (Forde, 1998)

This philosophy of Grotius as it applies to ‘just war’ is built upon the Hobbesian concepts of sovereignty and consent. It is consent rather than rationality within natural law that governs the laws of the nations. Therefore, it is these compacts of sovereignty more than natural law that governs the rights and responsibilities between citizens and governments. As this applies to ‘just war’, the distinction is clear. Natural law, as offered by Aquinas, would protect a foreign nation making war to save a people from oppression and would therefore be considered justified. However, to the mind of Grotius and like-minded philosophers, the oppressed people would have no right to rebel in the first place because they had contracted out their right to rebel by acquiescing to the sovereign.

With this philosophy that places more importance in the consent to the sovereign than it does in appealing to natural law, a couple of things become apparent as it concerns the thoughts of a ‘just war’ philosophy. One is that, as seen before, it has been determined that within the defined territory of any sovereign ruler, the sovereign authority of that ruler is absolute by way of consent. Therefore, with no legitimate or justified cause for war existing under the internal sovereignty of the governing authority, the only possibility that exists for a justified war would have to come from external sources. Another apparent conclusion is that if one is to believe that internal sovereignty exists absolutely for the aforementioned reasons, then all people that agree philosophically with the premise must then concede that for an outside authority to attempt to undermine the consensually agreed upon relationship of internal sovereign authority through invasion or subversion would be unjustified. The hindsight of almost

400 years makes it clear to see the confluence of thought existent in Europe at the time with the works of Hobbes, Bodin, Grotius, and the political creation that was the Peace of Westphalia.

It is due to this sense of logic and order that the ‘just war’ philosophy of Hugo Grotius is focused more on *jus in bello* than on *jus ad bello*. Based on our understanding of the prevailing thoughts of the time, it is apparent that the conversation and consideration of what should be considered a just cause of war would be rather limited. With the understanding that the state itself is analogous to the human person, the sovereign state may go to war in defense of its people and its sovereign territory, motivated by self-defense in the same way that an individual may resort to violence in order to protect the integrity of the self. In considering the human nature, Grotius concedes that both sides likely consider themselves to be justified in entering into conflict and therefore consider themselves right and righteous in their cause. One may, through their own interpretations of actions, consider themselves to be acting in accordance with justice as it regards engagement in conflict. Once engaged, the concept of justice in war is to be considered for even if the cause for war was justified there is still the prosecution of the war that could fail to be just. Grotius, again referring to the human condition in that both sides would believe themselves to be right, grants that both belligerents in a war have the justified right to kill, to plunder, and to acquire territory as would naturally be held as the legitimate spoils of war. (Forde, 1998) Unlike the philosophical predecessors who focused their efforts on what was a just cause for war, Grotius simplifies the concept

of what is to be considered a just cause and focuses his attention on what is just in war. Later philosophers, including modern theorists, have gone on to consider what should be considered just action after war. But the thoughts offered by Grotius, especially his philosophy regarding sovereignty and its implications for warfare, created a simplified 'just war' doctrine that only seemed to allow for justified war in the case of a violation of territorial sovereignty. This new foundation for 'just war' doctrine carried on through the centuries, including being the philosophical underpinning for the 1928 Pact of Paris and Article 2 of the United Nations Charter. (Johnson, 2008)

## CHAPTER IV

### ON THE HISTORY AND NATURE OF DRUG TRAFFICKING ORGANIZATIONS

The focus of this work has been to re-examine the concept of the ‘War on Drugs’ through the lens of ‘Just War’ doctrine by looking at the various concepts invoked by the phrase. One concept is of course the nature of sovereignty for if we are to look at war, one would naturally consider sovereign states to be the primary actors. Additionally, it was important for us to re-examine the evolution of ‘Just War’ doctrine throughout history to be able to place ourselves in proper context for the use of the phrase. Lastly, we will need to examine drug trafficking organizations (DTOs), in order to properly understand how they have evolved into their current place in the geo-political landscape so that we may simultaneously and accurately relate the concepts of sovereignty and ‘just war’ to them. Let us therefore begin with the concept of the ‘War on Drugs’ and its relation to sovereignty.

When the term ‘war’ is invoked, it is typically in relation to armed conflict that is engaged in between two sovereign states. Historically this has been the case. However, the 20th Century witnessed the term ‘war’ used in vernacular application to numerous ideological conflicts and, in the United States, to designate that the many resources of the American government would be applied to try and rid society of a cultural ill. To the first application, we reference the ‘Cold War’ between the United States and the Soviet

Union. While not a direct armed conflict between two sovereign states, it was a clear ideological conflict that witnessed two sovereign states engage in a proxy war across the globe for half a Century. In this case, the application of the term 'war' is used in close correlation to the historical application of the term. To the second application, there are three famous instances of the United States government using the term 'war' to designate a concerted effort on behalf of the government to confront a societal ill. There was the Johnson declared 'War on Poverty', the Nixon declared 'War on Drugs', and the Bush declared 'War on Terror'. In each of these cases, a 'war' was declared, not on a living combatant or sovereign state, but on an inanimate object or concept. This defies the broadly, historically understood concept of war. How does one fight a 'war' on poverty? The government can create programs to assist the impoverished but who or what are the 'war' efforts opposing. Similarly, how does one fight a 'war' on terror? Conceptually, this would be akin to fighting a 'war' on joy. Based on the actions of the American government, it would appear that the more appropriate use of the term 'war' for the Bush Administration would have been a declaration of 'war' on United States government designated terrorist organizations. Likewise, if we consider the 'war' on drugs declared by President Nixon, we find that the American government has not been actively pursuing hostilities against the substance of cocaine or the substance of marijuana. Rather, the government has been engaged in aggressive police actions to limit the availability of narcotics deemed illegal by United States Code and punitive measures to punish those who trade in these same narcotics domestically. On the international level,



the United States government has poured valuable resources into supporting other sovereign states who share a similar mindset and philosophy as it regards certain narcotics and the need to eliminate them for the good of society. Therefore, we must conclude that the ‘War on Drugs’ is not a ‘war’ in accord with the historically held concept. Rather, a clearer definition would be that the United States government is engaged in a ‘war’ on drug trafficking organizations.

As we have clarified that it is these drug trafficking organizations which a war is being waged against, we return to the concept of sovereignty. Since ‘war’ is typically a term applied to conflicts between two sovereign states, we must consider whether or not there is the possibility that these drug trafficking organizations share the characteristics commonly held by sovereign states and may, therefore, be considered sovereign entities in their own right making the application of the term ‘war’ more appropriate.

In the Spring 2010 edition of *Americas Quarterly*, Vanda Felbab-Brown, who is a Fellow at the Brookings Institute, authored a concise overview of the evolution of drug trafficking organizations in her work *Narcotics International, Inc.* In the opening paragraph, she writes,

“Drug trafficking is not only the most lucrative manifestation of organized crime, but also one of the most insidious in terms of the challenge it represents to states around the world. Frequently associated with violence, the drug trade is one of the principal sources of human insecurity throughout Latin America. Drug-trafficking organizations (DTOs) have emerged as primary threats to democratic governance—either because they

undermine the ability of states to exercise sovereignty through the corruption of law enforcement and the political process, or because they are active competitors for the political allegiance of the population.”

The use of the phrase “active competitors for the political allegiance of the population” lends itself to the consideration that drug trafficking organizations may, in fact, be political sovereign entities seeking to expand their sovereign rule. The authority of the rule of most drug trafficking organizations often stems from absence of a superior authority. Drug trafficking organizations find the support of populations where the formally recognized sovereign government is either absent or, when it is present, repressive. Often these populations live without the basic public services that formally recognized sovereign states supply for their population. In the absence of public goods and services delivered by the sovereign state, drug trafficking organizations use their funding gained through the illicit trade of narcotics to do things such as open clinics, build infrastructure, and vigorously enforce order. As a result, these local populations recognize the authority and governing edicts of these drug trafficking organizations rather than the laws and mandates of the formally recognized sovereign state. (Felbab-Brown, 2010)

The relationship between these, typically, impoverished populations and the drug trafficking organizations extends beyond the use of funds made from the drug trade to provide these services. It is often in these same areas, where the sovereign state government has, at best been unable to or at worst ignored, the needs of the people that

they have resorted to growing the crops that can be turned into illegal narcotics. With little to no access to public goods or public services and little to no economic opportunity, poor farmers will grow what they can in order to turn a small profit in order to live. In this way, the relationship becomes stronger as the drug trafficking organization, not the formally recognized sovereign state, becomes the backbone that supports the economy, infrastructure, and public goods for the people. In many ways, this relationship bears the marks of a social contract as understood and elaborated upon by Hobbes.

While the growth of many of the crops that produce illegal drugs, such as coca for cocaine, dates back centuries, and the vestiges of the drug trade in Mexico can be seen through the mid-twentieth century, the modern dynamics of the illegal drug trade and drug trafficking organizations are best traced to the 1980s and the operations of Sendero Luminoso in Peru. Sendero was the communist organization started by a Peruvian university professor in the 1960s and 70s. Working to educate people who came from some of the poorer classes in Peru, the early leaders of Sendero embraced the communist teachings of Mao and sought to see them applied in Peru and throughout indigenous Latin America. The indigenous were ignored by the coastal-centered government of Peru throughout its history. As such, they had almost none of the basic services and benefits that the Peruvian government was providing its population. Often destitute, the indigenous survived in many ways by the same means they had for centuries. This meant that some indigenous were coccaleros; growers of coca.

In its often violent fight against the Peruvian government, Sendero Luminoso needed funding for its efforts and for the programs that they were trying to implement. Simultaneously, there was growing demand in the United States for cocaine as the drug culture that started grow in 1960s America continued to expand. Sensing this opportunity, Sendero began working with the cocaleros to traffic coca from the indigenous farmers to those would refine it before shipping it to American consumers. In doing so, as was explained previously, Sendero gained near sovereign authority in certain parts of the highlands of Peru due to the fact that they provided for the security of the indigenous, provided for their economic welfare in buying their coca, and provided some of the basic services that the Peruvian government did not. This authority, however, was not without its detractors as Sendero Luminoso imposed its communist guided law through violent and oppressive measures. Resentment against the practices of Sendero, refusal to accept the communist philosophy of Sendero, combined with the Peruvian government's ending of coca eradication policies led to support for Sendero evaporating. By the early 1990s, Sendero Luminoso was no longer a force to be reckoned with in the mountains of Peru. Despite the violent armed conflict that the government engaged in against Sendero for years, it was when the government no longer focused on eradicating coca that Sendero lost support among the indigenous. Consequently, over the following years, the government of Peru has returned to a policy of eradication. That decision, combined with the failure to develop infrastructure and the delivery of goods and services to the remote

people of Peru, has allowed for the emergence of armed cocaleros in the region. (Felbab-Brown, 2010)

At the same time that Sendero Luminoso was losing its support among the indigenous of Peru and, therefore, losing its role in the trafficking of coca, drug trafficking organizations were becoming a force strong enough to openly defy the government in Colombia. The late 1980s and early 1990s saw the emergence of two major drug trafficking organizations in Colombia, the Cali Cartel and the Medellin Cartel, both of which would become infamous for their skill and brutality in manipulating, managing, and maximizing profits in the trade of illegal narcotics between growers in rural Colombia and drug consumers in the United States. These Colombian cartels were the first incarnation of the truly modern drug trafficking organization in that they began to vertically integrate various parts of the trade in illegal narcotics. (Felbab-Brown, 2010) In doing so, organizations such as the Medellin cartel were able to turn huge profits that they could, in turn, use to build clinics, soccer fields, and all of the similar public goods and services that the people desired but the government of the sovereign state had failed to deliver. Despite the similarities in what afforded both Sendero Luminoso in Peru and cartels such as Medellin in Colombia to find local support and authority, were significant differences that must be noted. Sendero was an organization formed with a political objective in mind. They used the drug trade as a way to turn profits that could support their political efforts against the Peruvian government. The Medellin cartel was solely interested in accumulating wealth and power. The violent

opposition that the Medellin cartel directed at the Colombian government was not due to a political or philosophical difference. Rather, it was when the Colombian government tried to tighten the clamps on the cartels in Colombia through tougher police actions and attempts to pass extradition laws that the drug trafficking organizations invoked extreme violence, including murders, kidnappings, and crudely made bombs against the formally recognized sovereign government of Colombia. It was not until the Colombian government, with the strong support of the United States, launched Plan Colombia in an effort to put an end to these drug trafficking organizations that the authority of these organizations was really threatened in the remote areas and impoverished neighborhoods where they had created their own semi-sovereign rule. Similarly to what happened in Peru, crop eradication did not help to solve the problem of coca trafficking inside of Colombia as statistics show that the total volume of coca trafficked in Colombia in 2007 was equivalent to that which was trafficked prior to the launching of Plan Colombia in the late 1990s. (Felbab-Brown, 2010) In the case of Colombia, it was overwhelming military support from the United States in training, weapons, and intelligence that allowed for the destruction of the drug trafficking organizations that existed at the time. Again, like Peru however, the Colombian government did not invest adequately in public goods and services for destitute populations so their likelihood to return to participation in the illegal drug trade is relatively high if the opportunity presents itself. That opportunity has presented itself in the form of the FARC in Colombia which is a political organization cut from much the same mold as Sendero Luminoso.

The most recent epicenter of the illegal narcotics trade and the hub for the most sophisticated and powerful drug trafficking organizations is Mexico. With the neutralization of the drug trafficking organizations in Colombia and market demand for drugs still high, Mexican drug trafficking organizations which previously had served mostly as middle-men for the drug trade started to take a much more aggressive approach to their trade. Prior to this time, drug trafficking organizations in Mexico operated under a general principle of 'live and let live'. This applied between the traffickers and between the drug trafficking organizations and the government. One party rule in Mexico for the greater part of the 20th Century allowed for the development of a corrupt relationship between these crude drug trafficking organizations and local government officials. As fate would have it, it was in the late 1990s when the market opened up an opportunity for Mexican drug trafficking organizations to grow with the success of Plan Colombia. Simultaneously, the Mexican people elected governors and even a President from a party other than that which dominated Mexican politics during the 20th Century. Unlike rule under the previous party, the party that now held political power was committed to trying to eliminate these drug trafficking organizations from Mexico. Just as the drug trafficking organizations were trying to grow, the Mexican government was trying to shut them down and this was a part of the dynamic that contributed to the rapid growth of violence among drug trafficking organizations in Mexico between 2000 and 2010. Similar to the pattern previously seen, the authority of a drug trafficking organization could be established in a part of the country that was mostly ignored by the government of the

sovereign state. Unlike in Peru and Colombia however, there was also the need for the Mexican drug trafficking organizations to gain control and authority over neighborhoods and cities close to the United States border in order to facilitate the movement and sale of their illegal narcotics. These cities and neighborhoods were much more developed and supported by public services than the traditional strongholds of drug trafficking organizations. This is in a large part due to the volume of legal and legitimate trade conducted between the United States and Mexico as a result of the North American Free Trade Agreement of the early 1990s. Besides the benefits of direct trade, many cities in northern Mexico were manufacturing centers for goods destined for the United States and elsewhere in the world. Since the population was relatively well served by the government as it concerns social welfare needs, one of the alternative ways for the drug trafficking organization to establish its sovereign authority in a neighborhood or city is by the use of extreme violence or high levels of corruption. "Mexican DTOs advance their operations through widespread corruption; when corruption fails to achieve cooperation and acquiescence, violence is the ready alternative." (Beittel, 2011, pg.4) The proximity of the drug consumers of the United States to the drug trafficking organizations in Mexico has ultimately elevated the interests for all parties involved. Violence among drug trafficking organizations in Mexico has grown in the 21st century as rival organizations seek to gain greater market share and territorial authority. Subsequently, seeing this escalation of violence so close to home and with fears that the violence could spill over the border, the United States launched a new plan with Mexico, similar to what



it had done in Plan Colombia. The Merida Initiative was an effort by the United States to support the government of Mexico and the governments of other Central American nations by helping to improve law enforcement, to improve correctional facilities, and improve the capacity to carry out justice. Unlike Plan Colombia, the Merida Initiative has proven itself to be not as effective in eliminating drug trafficking organizations or reducing their functional capabilities. The end result is that there are currently drug trafficking organizations such as the Sinaloa cartel in Mexico that operate under their own authority and do not recognize the lawmaking or law enforcement powers of the Mexican government. When the sovereign authority that is the Mexican government tries to impose its will upon the Sinaloa and similarly capable drug trafficking organizations, it meets violently ruthless opposition and, to this point, has been unable to re-establish respect of its sovereign authority in those areas under cartel control.

Perhaps the greater difficulty as it regards this ‘war on drug cartels’ is that even if the tactics of the Merida Initiative do eventually prove effective or if other strategies of the Mexican government finally do start to wrestle sovereign authority away from the drug trafficking organizations operating within their borders, modern history has shown that these drug trafficking operations will simply just relocate to other areas. The demand and potential profits are just too substantial for criminal elements to pass up. This has already borne itself out in Central America and the Caribbean in recent years as the necessary elements for drug trafficking organizations to establish their authority are abundantly apparent. Ineffective and corrupt state governments, a lack of effective social

services and social programs, along with areas within the territorial state that remain inefficiently, ineffectively, or relatively un- governed are found throughout the Caribbean and Central America. (Felbab-Brown, 2010) Locations such as Haiti, Honduras, Guatemala, and Jamaica have all been subject to the incursions of drug trafficking organizations within their borders and, with them comes extreme violence and political corruption.

With this background and reference point for the evolution and operation of drug trafficking organizations in Latin America & the Caribbean, we must now posit whether these drug trafficking organizations may in fact be considered sovereign entities or not. Previously in this work, a number of questions were posed as the topic of sovereignty was examined. These questions will first be evaluated before a broader answer regarding sovereignty is addressed.

“Are the actions of drug cartels in any way just?” This early question is predicated upon the thoughts of Jean Bodin when he stated, “The law has always distinguished robbers and pirates from those who are recognized to be enemies legitimately at war, in that they are members of some commonwealth founded upon the principle of justice that brigands and pirates seek to subvert.” Based upon the classical thoughts of government offered here by Bodin, no, the actions of drug trafficking organizations could not be considered just as they all operate outside of the bonds of any sovereign authority. They do in fact seek to subvert the principles of justice that the members of the commonwealth have agreed to.

“Conversely, are the laws themselves, instituted by governments claiming sovereignty, that seek to criminalize certain narcotics and trafficking activities, just laws?” This question requires a challenging critique of the laws concerning narcotics themselves. The laws that exist that criminalize drug trafficking activities are all based upon the concept that these narcotics themselves are illegal. Therefore, the primary question must regard whether or not laws that criminalize drugs are to be regarded as just laws or not. To lift a thought from Augustine of Hippo, ‘An unjust law is no law at all.’ The proper determination of whether a law is just or not is wholly dependent upon what one believes is the root of law. Is man to rely on natural law or is positive law sufficient to measure justice? If we rely on positive law, then a consideration of Rousseau’s acquiescence to the ‘general will’ would lead to the answer that, yes, the laws that make these narcotics illegal are just because the will of people, as expressed through sovereign governments, find that these narcotics should be considered illegal. If, however, we are to rely upon natural law as the basis for determining justice, then the question of whether criminalizing these narcotics is just or not becomes an even more complex question.

“Do these organizations seek to provide for those things that are of common concern? Do they administer justice, provide for the defense of people, and provide people with the means of subsistence?” When this question is considered, the history of drug trafficking organizations that has already been detailed leads us to the conclusion that, yes, these drug trafficking organizations possess this characteristic of sovereignty. In those areas where the formally recognized sovereign authority has failed to provide for

these elements of the common good, the drug trafficking organizations have become, in many cases, the provider of justice, economic stability, and basic social services.

Also offered for consideration when examining the work of Bodin on sovereignty was the nature of sovereignty as absolute. Bodin suggested that the sovereign must exist above all law because no one who makes the law can be subject to the law. That said, Bodin also stated that the sovereign is still subject to the laws of God and natural law. As it concerns drug trafficking organizations, there are in fact, areas where it can be argued that their authority is absolute as they recognize no other superior law to that which they concede to. That, however, only addresses issues of positive law. When it comes to natural law, as Bodin references, the violent character of drug trafficking organizations would suggest that they do not exercise correct sovereign authority because of their disregard for natural law and the laws of God.

Continuing to use the thoughts of Bodin regarding sovereignty, the questions were asked, “Do they make laws and are those laws binding? Do they have the ability to make war and make peace? Do they institute officers and do they abide by any form of a court system to adjudicate disputes?” While drug trafficking organizations may exercise authority, there is no consistent evidence that they make and promulgate law. Without said promulgation of law, it is hard to consider that any law could be wholly binding other than a reliance upon the judgment and good will of those who hold supreme authority. As it regards the ability to make war and peace, it is important to refer back to the prior point offered by Bodin concerning pirates and others who seek to subvert the

law. Violent actions of one sovereign state against another may be considered war but the violent actions of pirates would more likely be considered insurrection. Finally, in consideration of the establishment of officers and the establishment of a court system to adjudicate disputes, drug trafficking organizations again lack the formalized institutions that are characteristic of sovereign authority as has been historically defined.

“If drug trafficking organizations are to be considered as possible sovereign rulers, how might they be classified according to Bodin? As most trafficking organizations comply with the directives of one head of the organization, could they be considered a sovereign monarchy? If considered a sovereign monarchy, would they be considered despotic monarchies or tyrannical monarchies?” Based upon the prior examination of sovereignty, drug trafficking organizations, if they were to be argued to be sovereign, must be classified as tyrannical monarchies because the laws of nature and the laws of God are completely disregarded. Free people are treated no differently than slaves whose life value is of nothing and the property of all people who fall under their authority is given or taken away at the discretion of the person who exercises the sovereign authority. While it is true that where they exercise authority, drug trafficking organizations often seek to build a mutually beneficial relationship of trade, as has been revealed in looking into the history of drug trafficking organizations in Peru and Colombia, it is also true that once these relationships lose their benefit of utility to the drug trafficking organization, those who exercise the authority are quick to impose violent penalties on those who live under that authority.

“How does Hobbesian philosophy embrace or reject drug trafficking organizations as sovereigns? Is it possible to consider that these organizations are party to a covenant has been entered into by free people? Is this sovereign power obtained by institution or sovereign power obtained by acquisition?” When considering the question of whether or not a covenant exists, entered into freely, between those who live under the authority of drug trafficking organizations and these organizations who exercise authority over them, it is shown that in a number of situations that the covenant is entered into freely. As with the cocaleros in the Andean highlands and the drug trafficking organizations, the covenant is established as something that is mutually beneficial to both parties. In other situations, such as with the violent drug trafficking organizations currently engaging in territorial disputes in Mexico, the population submits its will to the authority of the drug trafficking organization under threat of violence. This would be consistent with what Hobbes referred to sovereignty through acquisition. Under the philosophy of Thomas Hobbes, both of these scenarios lead to the same conclusion whereby drug trafficking organizations would be seen as possessing sovereignty.

What we are left to consider once we have examined all of these questions is whether we seek to apply a classical definition of sovereignty to drug cartels or whether we wish to apply a more modern definition. In the spirit of classical philosophy, it is apparent that any sovereign authority can only exist in accordance with natural law. Conversely, looking through the lens of modern philosophy, sovereign authority can exist through covenant even if it violates natural law because natural law must be made

adaptable to modern man if it is to continue to be of use. Therefore, it is the covenant and not natural law that is the ultimate arbiter of justice and sovereignty.

For the purposes of this work, we choose to focus on classical political philosophy as our guide. Since the ultimate objective is to examine the just war doctrine of Thomas Aquinas, we must remain consistent in our measures. The philosophy of Aquinas is one that exists in the classical realm of political philosophy. Therefore, using this paradigm as our ultimate measure, we must draw the conclusion that drug trafficking organizations cannot be considered to possess any sovereign authority since they are operations that exist outside of the law and consistently seek to undermine the law. Additionally, the operations of drug trafficking organizations often fall outside of the bounds of natural law. Classical philosophy would maintain that natural law must serve as the ultimate guide for law and for the exercise of sovereign power. Extending this consideration further, Thomas Aquinas would insist that human law and authority must reflect natural law, which is a reflection of the eternal law that is God, and must not violate the divine law which is revealed through Holy Scripture. Following the inspiration of Augustine, which Aquinas would reference as a measure, if an unjust law is no law at all, then an unjust sovereign is no sovereign at all.

To examine the question of the sovereignty of drug trafficking organizations further, we may consider the paradigm of modern philosophy using Thomas Hobbes as our guidepost. As already referenced, through the establishment of a covenant by either institution or acquisition, it could be argued that drug trafficking organizations are a

sovereign authority. It must be considered, however, what the ultimate end of any drug trafficking organization is. These organizations do not exist for the purpose of establishing a political order. With the exception of organizations like Sendero Luminoso and FARC which used drug trafficking as a revenue generating tool in order to advance their political objectives, most modern drug trafficking organizations exist in order to reap large monetary profits for those in authority. Any political sovereignty that they wield is merely a tool of convenience that allows them to operate in a safe sphere of economic and political immunity. Drug trafficking organizations are modern global businesses with linkages for supply and distribution in numerous countries. (Morris, 2013) Drug trafficking is a multi-billion dollar industry with rival business interests competing for market share and for control of the supply and distribution chain. It should be considered that these drug trafficking organizations have, in recent years, started to diversify their business models by creating more unique “designer” drugs, by trafficking in pirated software, and most heinously, by trafficking in human beings to be sold into forced labor or forced prostitution. (Morris, 2013)

In many ways, the modern drug trafficking organization should not be considered a sovereign governing authority even under a modern philosophical definition, but should be examined as something similar to a multi-national corporation. Current political economy considers that possibility that multi-national corporations exist as entities that are supranational in that they do not have to submit to any one sovereign authority. By shifting their bases of operations across borders, there are a number of multi-national



corporations that are able to avoid contributing in any substantial way to the tax liabilities of any sovereign state while simultaneously limiting their expenditures by way of outsourcing labor to the location of lowest wages. In doing so, multi-national corporations are able to negotiate with sovereign governments or through their legislators for laws that are most beneficial to their financial interests in return for a promise to create jobs or invest in other ways. Drug trafficking organizations may be most comparable to this model in that they refuse to obey the laws of any one sovereign government, they do not contribute in a substantial way to the tax liabilities that the profits of their business would require, and in some cases, they negotiate with sovereign governments or their representatives for laws, immunities, and other legislative or executive actions that would benefit them.

As has been illustrated, it is hard under any definition to consider drug trafficking organizations as possessing sovereignty as it is historically understood. In applying the classical definition of sovereignty, it is clear that drug trafficking organizations are not a sovereign authority. If they are not a sovereign authority, then the term “war” as applied to the “war” on drug cartels would appear to be a misapplication of the term. As has been referenced previously, this term “war” has been a rhetorical tool of the American government to show a concerted effort to resolve a societal ill. So what makes the “war” on drug trafficking organizations different from the “war” on terror? Should we therefore insist that the term “war” not be used in reference to terrorist organizations since we have determined that it should not be applied to drug trafficking organizations?

It should be noted that there exists a major difference between drug trafficking organizations and terrorist organizations. As already illustrated, drug trafficking organizations exist with the ultimate goal of returning significant profits for their trade in illegal narcotics. Any authority that they exercise is only in order to provide for their ability to achieve this ultimate goal. Terrorist organizations on the other hand have as their ultimate goal political reform. Speaking specifically of Islamic terrorist organizations, this is political reform viewed as necessary by their interpretation of the Islamic faith. So where an Islamic terrorist organization, such as the Islamic State, has authority, it could be viewed through the modern lens of political philosophy as sovereignty through either institution or acquisition since their ultimate end is of a political nature.

With that clarification, returning to the point on drug trafficking organizations and the question of sovereignty, they should not be considered sovereign and should more appropriately be compared to a multi-national corporation as it regards structure. The tactics used in their business are different than other multi-nationals due to the nature of their business being the trade of illegal goods and services. Carrying this comparison through to its logical end, geography and history call to mind the infamous ‘Banana Republics’ of Latin America in the late 19th and early 20th Century. Modern drug trafficking organizations are the United Fruit of the 21st Century. They establish near autonomy over vast regions of Latin America where the formally recognized sovereign state has provided almost nothing by way of public goods and public services to the local

population. They then create an economic base of commerce that provides jobs, establishes certain public services, and creates order in an effort to maximize the efficiency of their operation. Using their power, they then influence the local government authorities in order to maintain their operations, becoming the de facto governing authority. Fear of retaliation limits the actions of the sovereign governmental authority from doing anything that would reduce or eliminate the business activities and the local population becomes reliant on this one business enterprise as its sole reliable economic engine. This comparison only goes so far as there is a sincere and significant difference between United Fruit exerting its influence to maximize the profits of their business in producing and exporting bananas versus organizations like the Sinaloa cartel exerting its power to conduct business in trafficking cocaine, marijuana, heroin, and even people.

As a final consideration of drug trafficking organizations, we should examine what Thomas Aquinas would suggest. Taking into account that they are not sovereign authorities and, therefore, are not be considered entities that a sovereign state engages in war against, they do however exert influence over sovereign governmental authorities through violence and corruption and simultaneously bring about chaos in the individual lives of the consumers who are people now addicted to these often dangerous narcotics. Natural law indicates that all things occurring naturally in the world are good for God made all things to be good. It is when man, through his own free will, abuses the good things of the Earth that these natural goods can be made evils. Where it concerns illegal narcotics, it is the human proclivity to abuse these natural substances in such a way that it

alters the mind in order to escape the reality around them that makes these narcotics evil. The reality of human existence is a good as it was created by God. Therefore, anytime man willfully attempts to escape or alter that mental reality, he creates a disordered existence for himself. Ultimately, it is up to other people to reach out to those in society who are living in a state of brokenness and seeking to alter their perception of existence in order to try and alleviate their suffering through love and hope. Thomas Aquinas would then likely invoke the call to the virtuous life which requires right judgment and temperance, both of which the use of illegal narcotics violates.

## CHAPTER V

### ON THE ‘JUST WAR’ DOCTRINE OF THOMAS AQUINAS

A Pew Research Study from 2010 put the total number of Catholics in the world at just over 1.1 billion. This is, to be sure, not an insignificant number for the modern world. Beyond demographic significance, the Catholic Church holds a place of importance in the history of western civilization. Based upon these facts, what the Vatican has to say through the Magisterium (the teaching authority) of the Catholic Church carries with it a certain gravitas and influence. Such as with the recent exhortation of Pope Francis in his encyclical *Laudato Si*; which contributed to establishing a paradigm for the Catholic Church as it regards global climate change as both a result of, and impact on, man’s lack of concern for the common good; when the authority of the Catholic Church speaks, much of world listens. Over the years, the Catholic Church has weighed in on many societal issues including abortion, capital punishment, euthanasia, poverty, and a host of other topics. Much of what is cited in the reasoning of the Magisterium of the Catholic Church is found in holy scripture, prior encyclicals, historical Church council documents, and in the foundational teachings found in the Catechism of the Catholic Church.

The issue of war and peace is found in the Catechism of the Catholic Church in *Part III : Life in Christ*. Article V, Section III is entitled *Safeguarding Peace* and

addresses both the topics of peace itself and avoiding war. It is in Paragraphs 2307 through 2314 that the Catholic Church addresses what was classically referred to as *jus ad bello* (justice of war) and *jus in bello* (justice in war). The Catholic Church lays out its conditions for what it considers to be the required elements for a government to engage in a ‘just war’ in Paragraph 2309.

“The strict conditions for legitimate defense by military force require rigorous consideration. The gravity of such a decision makes it subject to rigorous conditions of moral legitimacy. At one and the same time:

- The damage inflicted by the aggressor on the nation or community of nations must be lasting, grave, and certain;
- All other means of putting an end to it must have been shown to be impractical or ineffective;
- There must be serious prospects of success;
  - The use of arms must not produce evils and disorders graver than the evil to be eliminated. The power of modern means of destruction weighs heavily in evaluating this condition.”

([http://www.vatican.va/archive/ENG0015/\\_INDEX.HTM](http://www.vatican.va/archive/ENG0015/_INDEX.HTM))

This teaching concerning what constitutes a ‘just war’ is the modern incarnation of Catholic Church teaching regarding ‘just war’ that was first elaborated upon by Augustine of Hippo and then influentially re-established by Thomas Aquinas.

Thomas Aquinas was a 13th Century Catholic theologian whose works have become some of the most prescient writings in the history of Catholic theology. He was a Dominican priest who was part of a movement within the Catholic Church to reclaim and root the Christological teachings of the Catholic Church within the paradigm of ancient Greek reason and philosophy. Aquinas would build his theology on the philosophical form of Aristotle and, through this, compose some of the most influential and compelling theological dialogues in Christian history. The summit of his work is the *Summa Theologica*, a voluminous composition in which Aquinas tackles the many questions of the non-believing world concerning Christian thought and teaching in a question and defense format. Within this work, Thomas Aquinas offers a logical and reasoned defense of the existence of God initially before diving into various elements of Christian theology and spirituality. It is within this composition that we find his ‘just war’ doctrine offered. The placement of this argument should not be overlooked however for it can point to a fundamental understanding of how Aquinas views the proposition for and defense of war itself.

Aquinas addresses ‘just war’ as one among a series of questions as to whether certain acts are licit or not. In doing so, he sets war apart from other known vices such as schism, brawling, and sedition. (Reichberg, 2010) In evaluating the ‘just war’ doctrine of Aquinas, Gregory Reichburg noted that Aquinas placed his treatise on ‘just war’ within the treatise on charity as opposed to placing it within the context of the treatise on justice. The suggestion is that this is not a subtle distinction for time and again, Aquinas points to

the fact that charity must be the virtue that drives the intention of the act because a deprived intention can make any act illicit. (Reichberg, 2010) The conclusion drawn is that Aquinas is not a pacifist. He equally embraces both nonviolent resistance to an oppressor and that which is considered to be ‘just’ warfare for both can be motivated by a spirit of charity. He does however require a more nonviolent approach from members of the clergy. Aquinas draws a clear distinction between the actions of the *ecclesia* and the *respublica*. The clergy are never to take up arms against an oppressor or aggressor while the state may be justified in doing so. This distinction is rooted in two passages of Holy Scripture. (Reichberg, 2010) One is from the Gospel of Mark in which Jesus is questioned regarding whether it is lawful or not for Jews to pay taxes to the Roman government. The distinction is drawn between matters of state concern and matters of theological concern when Christ replies with the now well-known phrase, “Render unto Caesar what is Caesar’s and unto God what is God’s” (Mark 12:17) The other notable passage that draws this distinction is Matthew 26:52. In this passage, Jesus has just been betrayed by Judas Iscariot and is being apprehended by the Roman authorities. Peter draws a sword and strikes the ear of one of the high priest’s servants who is accompanying Judas and the Roman soldiers in an effort to keep Jesus from being apprehended. Jesus then commands Peter to put the sword back in its sheath. Within the Catholic Church, Peter is the first in the apostolic line of the priesthood because of the Scripture in which Jesus proclaims that Peter is the rock upon which he will build his church. Therefore, if Peter, first among all priests, was called to put the sword back in the



sheath, it is necessary that all priests abide by this example and never take up arms because they are to be Christ's representatives on Earth.

While Aquinas does distinguish who cannot engage in warfare, he also distinguishes what makes it necessary to engage in warfare. If we return again to the spirit of charity which must motivate all actions, then, as argued by Reichberg, failure to aid innocent victims of violence, when the capacity exists to do so, would violate the mercy that we are called to show the poor and oppressed in their hour of need.

(Reichberg, 2010) This is found through the evaluation of Aquinas's words in *Summa Theologica II - II, Q 64, A 7*. As noted in the earlier discussion on the history of 'just war' doctrine, this is very reminiscent of the modern Responsibility to Protect principle that was established at the 2005 United Nations World Summit. In both cases, when the capacity exists to protect the innocent from unjustified violence, it is necessary that states act to do so. Rather than a reluctance for war, Aquinas offers that even war itself can be a good if directed towards the proper ends and with the proper motivation.

Time and again, we return to the concept that the true standard in consideration of 'just war' is whether or not the act is motivated by a spirit of charity. This focus on charity as the standard of measure for Aquinas is again found in Holy Scripture. The account of the revelation of the greatest commandment is found in each of the three synoptic Gospels; Matthew, Mark, and Luke. It is recounted in Mark 12: 28-31 as such:

"One of the scribes, when he came forward and heard them disputing and saw how well he had answered them, asked him, "Which is the first of all commandments?"

Jesus replied, “The first is this: ‘Hear, O Israel! The Lord our God is Lord alone! You shall love the Lord your God with all your heart, with all your soul, with all your mind, and with all your strength.’ The second is this: ‘You shall love your neighbor as yourself.’ There is no other commandment greater than these.”

The greatest commandment that Jesus offers to his disciples is the love of God and neighbor. Ultimately, the spirit of charity is the love of neighbor. Therefore, the greatest measure of whether an act is justified or not is the consideration of whether the action was motivated by a love of neighbor or not. Charity, this love of neighbor, reflects the friendship of humans for God and separates the Christian virtues from the pagan virtues by directing them at their right and proper end. (Cole, 1999) Darrell Cole elaborates upon this in his work *Thomas Aquinas on Virtuous Warfare* when he states “justice is an eternal standard that never changes and it is ultimately grounded on a theological ordering of goods informed by the virtue of charity. Charity is what enables the will to be rationally directed toward right and just conduct.” With this foundation, it is easy to conclude that both war and peace could be considered acts of charity so long as they are directed at the proper end that is justice. War, when engaged in, should be a means to bring about real peace over a false, or unjust, peace. (Cole, 1999) Charity; love of neighbor; which is a gift given to humans by the grace of God, is what enables people to act in ways consistent towards their proper ends. This is why charity is consistently used as the measure for justice and actions of a ‘just war’.

In the *Summa Theologica II - II, Q 40*, Aquinas writes the following:

“ In order for a war to be just, three things are necessary. First, the authority of the sovereign by whose command the war is to be waged. For it is not the business of a private individual to declare war, because he can seek for redress of his rights from the tribunal of his superior. Moreover it is not the business of a private individual to summon together the people, which has to be done in wartime. And as the care of the common weal is committed to those who are in authority, it is their business to watch over the common weal of the city, kingdom or province subject to them. And just as it is lawful for them to have recourse to the sword in defending that common weal against internal disturbances, when they punish evil-doers, according to the words of the Apostle (Rom. 13:4): "He beareth not the sword in vain: for he is God's minister, an avenger to execute wrath upon him that doth evil"; so too, it is their business to have recourse to the sword of war in defending the common weal against external enemies. Hence it is said to those who are in authority (Ps. 81:4): "Rescue the poor: and deliver the needy out of the hand of the sinner"; and for this reason Augustine says (Contra Faust. xxii, 75): "The natural order conducive to peace among mortals demands that the power to declare and counsel war should be in the hands of those who hold the supreme authority."

Secondly, a just cause is required, namely that those who are attacked, should be attacked because they deserve it on account of some fault. Wherefore Augustine says (QQ. in Hept., qu. x, super Jos.): "A just war is wont to be described as one that avenges wrongs, when a nation or state has to be punished, for refusing to make amends for the wrongs inflicted by its subjects, or to restore what it has seized unjustly."

Thirdly, it is necessary that the belligerents should have a rightful intention, so that they intend the advancement of good, or the avoidance of evil. Hence Augustine says (*De Verb. Dom.*): "True religion looks upon as peaceful those wars that are waged not for motives of aggrandizement, or cruelty, but with the object of securing peace, of punishing evil-doers, and of uplifting the good." For it may happen that the war is declared by the legitimate authority, and for a just cause, and yet be rendered unlawful through a wicked intention. Hence Augustine says (*Contra Faust.* xxii, 74): "The passion for inflicting harm, the cruel thirst for vengeance, an unpacific and relentless spirit, the fever of revolt, the lust of power, and such like things, all these are rightly condemned in war."

(<http://www.basilica.org/pages/ebooks/St.%20Thomas%20Aquinas-Summa%20Theologica.pdf>)

Through this, it is determined that three elements must be present for a war to be considered a 'just war' by Thomas Aquinas. These elements are the right authority to prosecute the war, the right cause for the war, and the right intent motivating those who are prosecuting the war. As the purpose of this work has been to apply the 'just war' doctrine of Aquinas to the drug wars in Latin America and the Caribbean, we shall now apply the evaluation.

To the point of right authority, one must ask whether or not those prosecuting the drug wars have the right authority to do so. We must begin by re-asserting that the 'war on drugs' is an inaccurate account of what is taking place and phrase it as the 'war on drug trafficking organizations'. The next problem, which has already been addressed, is

that the 'war' on drug trafficking organizations cannot be accurately termed a war because these drug trafficking organizations are not to be considered a sovereign authority under a classical application of political philosophy. For the sake of argument, however, let us assume a more modern application of political philosophy and consider sovereign authority through covenant. As such, who is prosecuting this 'war' on drug trafficking organizations and do they possess the right authority to do so? This is a rather complex question to address because it is not just a question of who is tangibly prosecuting the war but who is enabling and supporting the war. Throughout Latin America and the Caribbean, it is the sovereign state governments that are prosecuting the war efforts on the whole by way of their own police/military actions, legal prosecutions and incarcerations. It would be willfully ignorant, however, to ignore the prompting and the support of the government of the United States of America in these efforts. Through its actions in Plan Colombia, the Merida Initiative, the Central America Regional Security Initiative, and the Caribbean Basin Security Initiative, it is abundantly clear that the government of the United States is the benefactor that allows for the prosecution of this war against drug trafficking organizations in Latin America and the Caribbean. Bearing that in mind, we will focus our attention on the United States government to evaluate the point of right authority to prosecute this war. Again, for the sake of argument, if we are to consider drug trafficking organizations as a sovereign authority, does the sovereign government of the United States have the right authority to wage war against them? The only conclusion to be drawn in this scenario is that, yes, the United

States government has the right authority as a sovereign authority to prosecute a war against another sovereign authority. It would be different if we were speaking of an insurgent organization with no legitimate authority to govern. But since the United States government is legitimate sovereign authority with the authority to govern, it possesses all of the powers that come with governing, including the right to wage war and make peace. Therefore, to point one of the 'just war' doctrine of Thomas Aquinas, yes, the United States possesses the right authority to prosecute a war against drug trafficking organizations.

Point two is the consideration of right cause. Does the United States, through its support of actions by state governments in Latin America and the Caribbean against drug trafficking organizations, possess the right cause for its actions? As with other attempts to discern the justice of an action, there is much that can only be determined by the consideration of intent. Is the intent of the United States to halt the flow of drugs from producers in these regions to consumers in the United States? Or is the intent of the United States to cripple and eliminate drug trafficking organizations due to the violence and disorder that they bring upon the populations that live in the areas under their control?

If we focus on the first proposition; that the intent is to keep drugs from being trafficked between producers in Latin America and the Caribbean to consumers in the United States; then we must focus on the narcotics themselves to determine whether the attempted prohibition of them is a righteous cause or not. When examined through the

paradigm of Catholic thought, it is asserted that the source products for all illegal narcotics are naturally growing plants. Whether it be the poppy plant, the coca tree, or cannabis, these are plants that grow of the Earth naturally. As such, Aquinas would agree that there is nothing intrinsically wrong with the source of these illegal drugs. This thinking is rooted in the understanding that God made the world, as related through the accounts offered in Genesis, and in doing so, populated the world with both plant and animal life. The plant life that occurs naturally in the world is a part of the ordered world that God set in motion at the creation. God is infallible and all that he creates is, by nature, good. Therefore, even the source plants of these illegal drugs are themselves good. The problem lies with the disordered way in which man uses them. As discussed earlier in this work, the reality of human existence is a natural good for God created man in his own likeness. Therefore, the senses, through which man has the ability to experience the created world which is also a natural good, are a way in which man can come to know God. It is through our empirical knowledge of the world that we can glimpse that which is incomprehensible. With this as the basis of understanding, the logical conclusion is that whatever confuses the senses in order to alter the human perception of the world that surrounds him is, by nature, evil because it is the corruption of the good. So while these plants, as growing in their natural state, are a natural good they can become corrupted based upon how man chooses to use them. When abused, either by natural overuse or by processing them into a more potent substance, the good that was made by God is corrupted by man as he applies these goods towards an improper

end. That end being an altered perception of human existence. In returning to the proposition of whether or not the efforts of the United States government to prohibit illegal narcotics from being trafficked between producers and consumers qualifies as a right cause, it is concluded that, yes, this prohibition does mark a right cause.

If we focus on the second proposition; that the intent of the United States to cripple and eliminate drug trafficking organizations due to the violence and disorder that they bring upon the populations that live in the areas under their control; the conclusion regarding Aquinas and just cause is much easier to reach. The cause of aiding people who are suffering due to violence and oppression from a despotic ruler is one that easily concluded to be a right cause as it is only love of neighbor and no other tangible benefit that is the motivation to act. Additional rational support for interventions that aid people living under the authority of drug trafficking organizations stem from the fact that these ruling authorities do not obey either natural law nor the law of God in how they carry out and apply their own authority. As cited earlier, the logical extension of Augustine's 'an unjust law is no law at all' is 'an unjust authority is no authority at all'. Noting that Aquinas was influenced by Augustine, it can be deduced that he would concur with this rationale and conclude that the violent and unjust authority should be removed by one who has the capacity to do so. Therefore, the right cause would exist for the United States to prosecute its war against these drug trafficking organizations.

Both of the propositions that were offered in consideration of right cause lead to the conclusion that the United States government does possess the right cause in



prosecuting the 'war' on drug trafficking organizations. Due to the nature of the illegal narcotics that are being trafficked and because of the way that drug trafficking organizations impose their unjust authority on vulnerable populations, the actions of the United States are justified in seeking to prevent these evils.

The final point of the 'just war' doctrine of Thomas Aquinas for consideration is that of right intent. Determining the intent of the United States government in its prosecution of its 'war' on drug trafficking organizations is of primary importance in assessing whether or not the 'war' is just or is not just when measured using the standard set forth by Aquinas. As referenced earlier, the key to determining just actions or right and proper intent is to evaluate whether or not the actions are motivated by charity. Are the actions consistent with acts engaged in out of 'love of neighbor'? To adequately assess the intent of the United States government concerning its 'war' on drug trafficking organizations requires a broad view of policies and actions of the government both domestically and in what they support through agreements with sovereign governments in Latin America and the Caribbean.

Domestically, the government of the United States maintains a high volume of incarcerations among those people who have been convicted of selling or possessing illegal drugs. While incarcerated, rehabilitation programs for those dealing with drug addiction are inconsistent and, once released, support programs to assist addicts lack follow through in many locations. As a result, the recidivism rate is reported to be very high for drug offenders. Drug addicts therefore face many difficulties in achieving and

maintaining sobriety once they first encounter the American criminal justice system. Likewise, those convicted of selling drugs are predominantly low-income minorities. The difficulties that stem from single-parent homes, from low-wage employment, and from community instability can act as the impetus for anyone who is struggling with these conditions to turn to selling illegal drugs as an opportunity to remedy their current situation. The most often result, however, is a conviction for the sale of illegal narcotics with subsequent time in the state criminal justice system. Once released, these individuals often have few job skills and those skills that they do possess are often not employable due to the criminal background that the person carries with them as an albatross keeping them from attaining gainful employment. With few options for productive employment and a state social safety net that is inadequate to provide for their needs, many will end up returning to attempting to sell illegal drugs as it is one of the few things that they know how to do and can gain income from doing.

As for the agreements between the United States government and state governments throughout Latin America and the Caribbean, such as the aforementioned Merida Initiative, Central American Regional Security Initiative, and the Caribbean Basin Security Initiative, these agreements offer financial and technical support to regional sovereign state governments to combat the trafficking of illegal narcotics within the region. As cited previously in this work, the financial and technical support offered by the government of the United States focused mainly in areas such as law enforcement, technical training and support of state police and military, justice systems, and crop

eradication. With mixed results in the region as indicated by the differing levels of success for Plan Colombia and the Merida Initiative, these tactics have been solely focused on interrupting and eliminating the trafficking abilities of the cartels while simultaneously apprehending and incarcerating the leading authorities within the drug trafficking organizations. One element of this strategy that warrants particular scrutiny are the efforts at crop eradication. This strategy has been proven ineffective, as cited earlier, and indistinguishably effects peasant populations that have very few alternatives for gaining income to support themselves and their families.

Based upon these observations of the actions of the United States government both domestically and regionally, it is concluded that the intent of the United States government is motivated by a spirit that desires punishment. When it comes to domestic matters in trying to eliminate the problem of illegal drugs in the United States, the policies enacted are punitive in nature and do little to nothing to focus on the underlying problems that contribute to a never ending demand for these narcotics. As it concerns the regional partners in Latin America and the Caribbean, the United States contributes to and supports policies that similarly focus on punitive actions against drug trafficking organizations and do little to nothing to address the underlying societal issues that allow for conditions that enable these cartels to be established and grow. Drawing the conclusion that the government of the United States is motivated by a desire to punish drug traffickers, drug sellers, drug possessors, and even source growers, it is then asserted

that the answer to the third point concerning right intent is no, the United States government does not possess right intent in its prosecution of the ‘war’ on drug cartels.

Right intent is measured by actions that indicate a spirit of charity, a spirit of the ‘love of neighbor’, is present. There is very little in the evidence available to suggest that the government of the United States is motivated by charity. Rather, the evidence suggests that the motivations of the government of the United States are to punish in order to force conformity. If a spirit of love and charity was the motivation behind the actions of the United States government, then those who are incarcerated domestically for sale and possession of illegal drugs would receive more directed efforts at rehabilitation while incarcerated and support for moving on without reliance on drugs when released. This lack of concern on behalf of the state for helping the individual to repair their lives and move forward with the ability to avoid a reliance on drugs, either through sale or consumption, is evidence of a government that is not motivated by love of neighbor but by fear of neighbor. This lack of concern for the welfare of “others” is nowhere more apparent than in the indiscriminate eradication of source crops. The United States government supports and endorses these strategies that remove one of the only reliable sources of income for peasant farmers in remote regions of Latin America. Yet, once the source crop is eliminated, no support is offered to these people by way of additional social services or public programs to help them be able to sustain themselves economically. They are wholly abandoned. If the ‘love of neighbor’ was even a consideration, then following crop eradication, the United States government would

support regional sovereign state governments in building infrastructure, establishing public services, providing social services, and building capacity for the people in these remote regions to develop viable economic capacity for the future. Rather, there is no apparent concern for these people who were previously ignored by their sovereign state governments and are subsequently abandoned without hope for financial stability by their sovereign state government.

As a result, when applying the standards established by Thomas Aquinas to the actions of the United States government in its prosecution of the ‘war’ on drug trafficking organizations, it is clear that a spirit of charity is absent. Compassion for those who suffer from drug addiction, for those who are economically deprived, and for those who unfortunately have become economically reliant on this business is nowhere to be found in the current policies, practices, and actions of the United States government and its regional sovereign state partners. Without charity as the motivation for action, there can be no right intent to the action.

The systematic evaluation of the ‘war’ on drug trafficking organizations being prosecuted by the government of the United States of America, through partnership with sovereign regional governments in Latin America and the Caribbean, as viewed through the paradigm of the ‘just war’ doctrine of Thomas Aquinas leads to the conclusion that this is not a ‘just war’. While it may be argued that the United States possesses the right authority to prosecute the ‘war’, and that the United States possesses a right cause in prosecuting its ‘war’, it is apparent that the United States does not possess the right

intent in its prosecution of the war because the actions engaged in are punitive measures and not motivated by a spirit of charity.

## CHAPTER VI

### CONCLUSION

For roughly 40 years, the United States has been engaged in a “War on Drugs”. The purpose of this work has been to examine this “War on Drugs” through a number of different lenses. One examination was a conceptual clarification that it is not, in fact, a “war on drugs” but is rather a ‘war’ on drug trafficking organizations. Another examination took this clarification in terminology and focused on it to question whether the rhetorical use of the term ‘war’ was appropriate as it concerns these drug trafficking organizations based upon the consideration of whether or not they could be thought of as sovereign authorities. There was the consideration of ‘just war’ doctrine throughout history to question whether or not this ‘war’ on drug trafficking organizations is a ‘just war’. Finally, there was the consideration of the ‘just war’ doctrine of Thomas Aquinas to determine whether or not the ‘war’ on drug trafficking organizations qualifies as a ‘just war’ specifically through that paradigm.

It has been determined that the rhetorical use of the phrase “war on drugs” is wholly inappropriate. In the first place, what is being engaged in is a ‘war’ on drug trafficking organizations. In consideration of that, the term should be rephrased as the “war on drug trafficking organizations”. Beyond that, the use of the term ‘war’ in general is found to be inappropriate because of the nature of drug trafficking organizations.

Historically, 'war' has been a term used to denote hostilities engaged in between two sovereign authorities. This has typically been nation-states for the last 400 years but the rise of powerful and influential non-state actors in the latter 20th and early 21st Centuries has thrown a new element into the mix. Regarding drug trafficking organizations however, the reason that the term 'war' should not be used to describe state actions against them is that they do not bear the qualities of what political philosophy would consider a sovereign authority. Classical political philosophy rejects drug trafficking organizations as sovereign authorities because they exercise their sovereign authority without regard for natural law. Modern political philosophy rejects drug trafficking organizations as sovereign authorities because, while the case could be made for sovereign authority by consent through acquisition, the ultimate ends of any drug trafficking organization are not centered around the creation of a political order. Drug trafficking organizations are concerned only with economic gain and profits and only exercise political authority as a means to give themselves free space to conduct their business operations. This makes drug trafficking organizations uniquely distinct from terrorist organizations which would likely have to be considered sovereign authorities by consent through acquisition under a modern political philosophy because their ultimate ends are the creation of a political system.

Although the use of the term 'war' is therefore wholly inappropriate, doctrines of 'just war' merit consideration as applied to these drug trafficking organizations that operate throughout Latin America and the Caribbean. Much of the focus regarding 'just



war' in a modern context is inter-connected to the concept of sovereignty. If one can be considered a legitimate sovereign authority over a people through covenant, then those people have no right to engage in warfare against them. Consequently, no war would be justifiable if engaged in by those living under the sovereign authority or if engaged in by one from outside the authority seeking to undermine that authority. Hence, the question of whether a war is just or not, within a modern context, is simply rhetorical as the seemingly only justified reason to engage in war is in response to a violation of territorial sovereignty. The concept of 'just war' is different through the classical paradigm as questions of what is judged right by natural law now enter into play. It is here where we find the consideration of the 'just war' doctrine of Thomas Aquinas. It was through the application of the three considerations for a 'just war' laid out by Aquinas to the 'war' on drug trafficking organizations in Latin America and the Caribbean that it was determined that the prosecution of this 'war' would not be considered a just war because it fails the qualification of right intent.

What is therefore concluded is that the United States government, through its technical, financial, and military support of sovereign state governments in Latin America and the Caribbean, is engaged in hostile actions against rogue, powerful, and violent drug trafficking organizations. These actions are directed towards punitive ends in the hopes of halting and eliminating the flow of illegal narcotics to the United States due to the detrimental effects that the consumption of these drugs has on American society. It is not a "War in Drugs" and it is not a 'just war'.

## REFERENCES

- Beittel, J.S. (2011). Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence. *Congressional Research Service*. Retrieved from [fpc.state.gov/documents/organization/155587.pdf](http://fpc.state.gov/documents/organization/155587.pdf)
- Bodin, J. (2009). *On Sovereignty: Six Books of the Commonwealth*. (M.J. Tooley, Trans.). Seven Treasures Publications. (Original work published 1955)
- Cole, D. (1999). Thomas Aquinas on Virtuous Warfare. *The Journal of Religious Ethics*, Vol. 27 (No. 1), pp.57-80. Retrieved from <http://ezproxy.twu.edu:2069/stable/40018215>
- Felbab-Brown, V. (2010 Spring). Narcotics International, Inc. *Americas Quarterly*, pp.42-49
- Forde, S. (1998). Hugo Grotius on Ethics and War. *The American Political Science Review*, Vol. 92 (No. 3), pp.639-648

Glanville, L. (2013). The Myth of “Traditional” Sovereignty. *International Studies*

*Quarterly*, Vol. 57 (No. 1), pp.79-90. Retrieved from

<http://ezproxy.twu.edu:2069/stable/41804848>

Hobbes, T. (1968). *Leviathan*. C.B. Macpherson (Ed.). London: Penguin. (Original work published 1651)

Jaralero. (2007). Ron Paul House Floor Speech on Iraq (October 8, 2002). Retrieved from

[www.youtube.com/watch?v=8TZ5cpaPlf4](http://www.youtube.com/watch?v=8TZ5cpaPlf4)

Johnson, J.T. (2008). The Idea of Defense in Historical and Contemporary Thinking about Just War. *The Journal of Religious Ethics*, Vol. 36 (No. 4), pp.543-556.

Retrieved from <http://www.jstor.org/stable/40378020>

Langan, J. (1984). The Elements of St. Augustine’s Just War Theory. *The Journal of Religious Ethics*, Vol. 12 (No. 1), pp.19-38.

Minkinen, P. (2007). The Ethos of Sovereignty: A Critical Appraisal. *Human Rights*

*Review*, Vol. 8 (No. 2), pp.33-51. Retrieved from

<http://link.springer.com/article/10.1007%2F02881665>

Morris, E.K. (2013). Think Again: Mexican Drug Cartels. *Foreign Policy*. Retrieved from <http://foreignpolicy.com/2013/12/04/think-again-mexican-drug-cartels/>

Peters, G. and Woolley, J.T. (1999). Richard Nixon: “Special Message to the Congress on Drug Abuse Prevention and Control.” June 17, 1971, *The American Presidency Project*. Retrieved from <http://www.presidency.uscb.edu/ws/?pid=3048>

Reichberg, G.M. (2010). Thomas Aquinas Between Just War and Pacifism. *The Journal of Religious Ethics*, Vol. 38 (No. 2), pp.219-241.