

CITIZENSHIP, WAR, AND THE ORIGINS OF INTERNATIONAL ETHICS IN AMERICAN POLITICAL PHILOSOPHY, 1960–1975*

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ABSTRACT. *This article examines a series of debates about civil disobedience, conscription, and the justice of war that took place among American liberal philosophers, lawyers, and activists during the civil rights movement and the Vietnam War. It argues that these debates fundamentally reshaped American political philosophy, by shifting the focus from the welfare state to the realm of international politics. In order to chart this transition from the domestic to the international, this article focuses on the writings of two influential political theorists, John Rawls and Michael Walzer. The turn to international politics in American political philosophy has its origins, in part, in their arguments about domestic citizenship. In tracing these origins, this article situates academic philosophical arguments alongside debates among the American public at large. It offers a first account of the history of analytical political philosophy during the 1960s and 1970s, and argues that the role played by the Vietnam War in this history, though underappreciated, is significant.*

In the 1960s and early 1970s, a group of influential American philosophers addressed the problems of civil disobedience, conscription, and the justice of war. Provoked by the civil rights movement and the Vietnam War into political self-consciousness, they fundamentally reassessed liberal ideas of citizenship in the United States. This article examines how, in debates about political obligation in times of war, these philosophers inadvertently laid the groundwork for a set of liberal cosmopolitan ideas that came to prominence in political philosophy in the post-Vietnam era. In charting this history, this article aims to

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reframe current thinking about the intellectual impact and legacy of the Vietnam War.¹

Historians now see the 1970s as a key point of transition to the contemporary era, a period when older welfarist ideals gave way to liberal and conservative ideologies grounded in the rights-claims of small interest groups locally and cosmopolitan human rights claims globally. Recent accounts suggest that the crises of that decade produced a range of internationalist ideologies that prioritized the sovereignty of individuals over that of states. The theories of human rights and global justice of the 1990s are said to have their origins in this decade of the ‘global’. But where exactly did these ideas come from? This article aims to provide one answer to this question, by explaining one aspect of the origins of the turn towards internationalist ethics in American political philosophy that occurred in this period. As the events of the Vietnam War drove philosophers to reconsider the obligations of citizens in welfare states, ideas about international order shaped their arguments in unexpected ways. Their discussions of war were meant to shore up their arguments about domestic citizenship, but the international contaminated the domestic. By expanding their accounts to cope with international politics, philosophers of the nation-state unwittingly opened the door to international theories that dethroned the state – the cosmopolitan theories of justice, rights, and citizenship that have multiplied exponentially since the 1970s.²

This article charts these changes through the writings of two American political theorists, John Rawls and Michael Walzer. Rawls was the most influential philosopher of his generation, and the 1971 publication of his *A theory of justice* is often credited with the ‘revival’ of Anglo-American political philosophy. His theory is seen as both the last gasp of post-war welfarism – born of the civil rights movement and Lyndon Johnson’s ‘Great Society’ – and the progenitor of subsequent analytical rights-based liberalisms. It is often viewed as ironic that Rawls’s great defence of the welfare state was published on the eve of

¹ Ira Katznelson, ‘From the street to the lecture hall: the 1960s’, *Daedalus*, 129 (1997), pp. 311–22; Howard Brick, *Age of contradiction: American thought and culture in the 1960s* (Ithaca, NY, 2006); Van Gosse, ‘A movement of movements: the definition and periodization of the New Left’, in Jean-Christophe Agnew and Roy Rosenzweig, eds., *Companion to post-1945 America* (Oxford, 2002), pp. 277–302; Jacquelyn Dowd Hall, ‘The long civil rights movement and the political uses of the past’, *Journal of American History*, 91 (2005), pp. 1233–63; Daniel Matlin, ‘Social movements and radicalism in post-war American history’, *Historical Journal*, 55 (2012), pp. 263–75; Marc Stears, *Demanding democracy: American radicals in search of a new politics* (Princeton, NJ, 2010).

² Daniel T. Rodgers, *Age of fracture* (Cambridge, MA, 2011); Bruce J. Schulman and Julian E. Zelizer, eds., *Rightward bound: making America conservative in the 1970s* (Cambridge, MA, 2008); Charles S. Maier et al., eds., *The shock of the global: the 1970s in perspective* (Cambridge, MA, 2010); Samuel Moyn, *The last utopia: human rights in history* (Cambridge, MA, 2010); Akira Iriye, Petra Goedde, and William I. Hitchcock, eds., *The human rights revolution: an international history* (Oxford, 2012); Mark Mazower, *Governing the world: the history of an idea* (New York, NY, 2012); Samuel Moyn, ‘The origins of global justice’, paper delivered at The Futures of Atlantic Intellectual History conference, Cambridge, UK, July 2013.

its crisis in the 1970s. However, existing accounts of American thought do not explain the transition from the national, statist liberalism represented by Rawls's theory to the cosmopolitan liberal internationalisms that followed it. Walzer's role in this transition has also been neglected. His *Just and unjust wars* (1977) is seen as key to the revival of just war theory in international relations, and he played a central role in the 'communitarian' moment of the 1980s – both as an academic political theorist and as an editor of *Dissent* magazine. Like Rawls, however, Walzer was centrally concerned in the 1960s with politics within welfare states. When prompted by events to open up their domestic theories to international politics, both uncovered a range of alternative ideas – which they themselves rejected – that provided the basis for later conceptions of cosmopolitan citizenship.³

Largely because of the technical nature of their arguments, this history has been overlooked. The conventional view of twentieth-century Anglo-American political philosophy is of an esoteric enterprise that operated within a narrow academic environment, detached from the realities of politics. As such, the history of philosophy – analytical philosophy in particular – is usually told in abstract terms. But during the 1960s and 1970s, liberal academic philosophers were driven into political engagement. Unlike other theorists involved in the social movements of the 1960s, they did not develop conceptions of race- or class-based citizenship, but instead tried to squeeze new ideas into pre-existing accounts of domestic citizenship. Only when faced with the conceptual limitations of those accounts did they look outwards to the international realm. To understand the significance and limitations of American philosophy, its history must be written within, not apart from, American history more broadly. This article therefore situates academic philosophical arguments alongside debates among the American public at large. In doing so, it also provides the first account of the origins of late twentieth-century internationalist analytical ethics.⁴

³ On the early Rawls, see P. Mackenzie Bok, 'Personhood and the nature of morality in the early Rawls', paper delivered at Yale University, 30 Nov. 2012, www.yale.edu/macmillan/globaljustice/rawlsProgram.html; Andrius Gališanka and Mark Bevir, 'John Rawls in historical context', *History of Political Thought*, 33 (2012), pp. 701–25; Joel Isaac, 'American political thought from Dewey to Rawls', lectures delivered at the Faculty of History, University of Cambridge, Jan. 2012. On Rawls and civil disobedience, see Andrew Sabl, 'Looking forward to justice: Rawlsian civil disobedience and its non-Rawlsian lessons', *Journal of Political Philosophy*, 9 (2001), pp. 307–30. On *Dissent*, see Maurice Isserman, *If I had a hammer: the death of the old left and the birth of the new left* (New York, NY, 1987). On Walzer, see Mark Bevir and Toby Reiner, 'The revival of radical pluralism: associationism and difference', in Mark Bevir, ed., *Modern pluralism: Anglo-American debates since 1880* (Cambridge, 2012), pp. 179–213; Toby Reiner, 'The sources of communitarianism on the American left: pluralism, republicanism, and participatory democracy', *History of European Ideas*, 37 (2011), pp. 293–303.

⁴ Mark Bevir, ed., 'Histories of analytic political philosophy', *History of European Ideas*, 37 (2011), pp. 243–8; Edmund Neill, ed., 'The impact of positivism on post-war European political thought: a special issue', *History of European Ideas*, 39 (2013).

I

The 1960s saw the transformation of the study of ethics. At the start of the decade, few moral or legal philosophers were interested in normative issues. By the end, philosophy had changed direction and moved towards the study of practical problems: meta-ethics and ordinary language analysis gave way to 'normative' and 'applied' ethics. The intervening years saw numerous studies of the problem of political obligation by theorists in political science, law, and philosophy departments. With the move to normative theorizing also came the dominance of one particular theory – social contract theory, which provided a compelling answer for liberals to the problem of obligation. As theorists became interested in obligation, they also turned to the question of when it is permissible to disobey authority – in its contemporary form, the problem of civil disobedience.⁵

Civil disobedience was a live political issue in both Britain and the US during the early 1960s, with the anti-nuclear and civil rights movements animating debate about the moral grounds for dissent.⁶ At an American Philosophical Association (APA) symposium in December 1961 on 'Political obligation and civil disobedience', philosopher Hugo Bedau, the foremost US philosopher of civil disobedience and campaigner with the American Civil Liberties Union (ACLU), gave a paper that responded to accounts of dissent offered by anti-nuclear campaigners in the British *New Left Review*. Narrowing the scope of both their broader definitions, which included other forms of dissent like 'direct action', as well as the capacious definition provided by Henry Thoreau, Bedau claimed that civil disobedience was not merely an act that hindered the workings of government, but a specifically illegal one. Civil disobedience was a 'civil', 'public', 'nonviolent', and 'conscientious' act which breaks the law in order to test its constitutionality, which should only be taken where 'legal devices' for 'redress of grievances' do not exist or have been exhausted.⁷ As the civil rights movement came to the fore of American politics, this legalistic definition, with its constitutionalist focus and assumption of a political obligation to obey, became the standard view among liberal philosophers. Aspects of it would become contentious: did philosophers really want to claim, for example, that black Americans had a political obligation to obey unjust laws, given that they were so patently not treated as full citizens by the state? Though many on the international left upheld broader notions of dissent, liberal commentators preferred the American legalistic version. Some activists

⁵ James Rachels, ed., *Moral problems: a collection of philosophical essays* (New York, NY, 1971), p. x; Bernard Williams, *Morality: an introduction to ethics* (Cambridge, 1972), pp. xvii–xii.

⁶ Nikhil Pal Singh, *Black is a country: race and the unfinished struggle for democracy* (Cambridge, MA, 2005).

⁷ Allen Lovell, 'Direct action', *New Left Review*, 8 (1961), pp. 16–27; Bertrand Russell, 'Civil disobedience', *New Statesman*, 61 (17 Feb. 1961); Hugo Bedau, 'On civil disobedience', *Journal of Philosophy*, 58 (1961), pp. 653–5.

espoused similar positions, notably Martin Luther King in his 'Letter from Birmingham Jail'. Bedau's own formulation was taken up by other philosophers of civil disobedience like Carl Cohen, who penned ACLU reports on civil disobedience, and, crucially, by John Rawls.⁸

In the 1960s, one standard liberal way of justifying civil disobedience was by appealing to conscience. Bedau, however, stressed that the command of conscience to disobey the law was insufficient as a justification. But he did not provide an alternative justification for his account of civil disobedience. Like many of his contemporaries, he was pessimistic about the capacity of philosophy to do so: in his terms, neither legal positivists (who saw the existence of law as sufficient to generate legal obligation) nor moral philosophers (concerned exclusively with the ethics of individual conduct or, worse, meta-ethics) could offer general rules when it came to the issue of disobedience to law.⁹ This was not the view taken by Rawls, whose work was characterized by a confidence in the capacity of philosophy to provide a general social theory. In 1963, he presented his first paper that dealt with civil disobedience, 'Legal obligation and the duty of fair play'. By this point, the framework for Rawls's theory of justice, 'Justice as fairness', was largely in place, though he would continue to develop various aspects of the theory, including his account of why individuals are obliged to obey the law in a regime regulated by the principles of justice. In 1963, he addressed a different question: assuming a moral obligation to obey the law exists, what is this obligation founded on? Rawls argued that it was the principle of the 'duty of fair play'.¹⁰

Rawls's paper responded to the contemporary preoccupation with the so-called 'paradox of democracy'.¹¹ The problem was this: when a person voting believes that A is the best policy but the constitutional device chooses B, how does the person happily submit to B? Why, to put it another way, should the minority submit to the will of the majority? Rawls rejected the force of the paradox. He argued that if the constitution is 'just', and 'a fundamental part of the scheme of social cooperation', and if one accepts the benefits it entails, 'one has an obligation based on the principle of fair play, to obey it when it comes one's turn'.¹² Rawls defined the justice of a constitution with reference to

⁸ Hugo Bedau, ed., *Civil disobedience: theory and practice* (New York, NY, 1969); Carl Cohen, *Civil disobedience: conscience, tactics, and the law* (New York, NY, 1971); Carl Cohen et al., 'Civil disobedience: working paper March 2, 1965', in box 653, folder 7, American Civil Liberties Union Records (Department of Rare Books and Special Collections, Princeton University Library, Princeton); Marshall Cohen, 'Liberty and disobedience', *Philosophy and Public Affairs*, 2 (1972), pp. 288–96.

⁹ Bedau, 'On civil disobedience', pp. 662–3, 665.

¹⁰ John Rawls, 'Legal obligation and the duty of fair play', in Sidney Hook, ed., *Law and philosophy: a symposium* (New York, NY, 1964), p. 9.

¹¹ Richard Wollheim, 'A paradox in the theory of democracy', in Peter Laslett and W. G. Runciman, eds., *Philosophy, politics and society*, 2nd ser. (Oxford, 1962), pp. 71–87; Kenneth Arrow, *Social choice and individual values* (New York, NY, 1951).

¹² See also John Rawls, 'Constitutional liberty and the concept of justice', in Samuel Freeman, ed., *John Rawls: collected papers* (Cambridge, MA, 1999), pp. 74–95.

his two principles of justice: the first principle, that all have an 'equal right to the most extensive liberty compatible with a like liberty for all'; the second, that 'inequalities are arbitrary unless it is reasonable to expect they will work out to everyone's advantage and provided that the positions and offices to which they attach or from which they may be gained are open to all'.¹³ To provide an account of the 'duty of fair play', Rawls developed a distinction made by the British legal philosopher H. L. A. Hart, with whom he had studied at Oxford in 1952–3, between political obligation and other forms of 'right-creating transactions' (like consenting or promising). Obligations were due to the co-operating members of society; the obligation to obey a law was part of what citizens owe to each other.¹⁴ The essential condition of this obligation was the justice of the constitution. As such, sometimes one is obliged to obey an unjust law, even if more good would come of disobeying it. This was because, in Rawls's terms, justice trumps utility. Only a 'greater balance of justice' can justify disobedience to an unjust institution or law, and the correspondent overriding of the duty of fair play.¹⁵

What is important to note here is that Rawls was less concerned with the civil rights movement as a problem for philosophy than is sometimes thought. His emphasis, at this stage, was on explaining when obedience to unjust laws was required, not when disobedience was justified. Moreover, his view of political philosophy in this period suggests that desegregation was not, in Rawls's schema, a compelling issue for philosophers. In lectures to undergraduates delivered in the same year, he claimed, echoing the view of many post-war 'consensus liberals', that the 1960s remained a time of great moral agreement. In such 'times of consensus', the task of political philosophy was to 'dig down' to deal with the deeper moral issues. It should avoid problems of immediate relevance, or of implementation. The problem of desegregation was, he argued, 'largely settled' in moral terms, even if it had some way to go in terms of implementation. Given this view, it is not surprising that he did not address the obligations of civil rights activists in detail: he viewed the issue as morally clear-cut.¹⁶

Rawls may well have had black Americans in mind when he wrote that minorities oppressed by a permanent majority, with no chance of constitutional resistance, 'may no longer be obligated by a duty of fair play'. To many, however, this would have seemed a shocking understatement. Assuming the

¹³ Rawls, 'Legal obligation', pp. 9, 23.

¹⁴ H. L. A. Hart, 'Are there any natural rights?', *Philosophical Review*, 64 (1955), p. 185; H. L. A. Hart, *The concept of law* (Oxford, 1961).

¹⁵ Rawls, 'Legal obligation', p. 18. For the 'liberal consensus', see Arthur Schlesinger, *The vital center: the politics of freedom* (Boston, MA, 1949); Louis Hartz, *The liberal tradition in America* (New York, NY, 1955); James T. Kloppenberg, 'In retrospect: Louis Hartz's "The liberal tradition in America"', *Reviews in American History*, 29 (2001), pp. 460–78.

¹⁶ John Rawls, 'Nature of political and social thought and methodology [1960–1964]', pp. 5–7, in folder 10, box 35, John Rawls papers (Harvard University Archives, Cambridge, MA). There is little in the John Rawls papers to suggest that Rawls engaged philosophically with reports of the civil rights movement.

existence of political obligation in a society that closely resembled the US looked a lot like racism. Moreover, though Rawls argued that civil disobedience to protest formal political rights was legitimate, his later accounts of civil disobedience suggested that protesting social and economic injustices was less so. This implied support for acts of civil disobedience to secure changes in law (for example, the Voting Rights Act) but not other forms. Rawls's radical critics recognized this restriction as a failing he shared with other liberals, who were willing to justify disobedience in the name of specific legal and political rights, or against specific unjust laws, but not in the name of economic inequalities, or more vaguely defined systemic injustices like 'poverty' and 'oppression'.¹⁷

There was another way of criticizing Rawls's theory, which was to point out that his fairness requirement was limited: it made sense only in ideal societies where distributions were just, not, in the real world, where they were unequal. Even where Rawls's account was accepted, however, it seemed only to provide justification for disobedience under stringent conditions. Given the character of Rawls's theory, and the difficulties that minorities presented to contract theory in general, this was not unexpected: as the theory was designed to justify obligation even in the hard case of unjust laws, democratic citizens remained obliged to obey in all but the most extreme cases. But what about the grey areas? It was unclear what would count as the 'greater balance of justice' when there was no permanently oppressed minority. Would Rawls's account permit other forms of civil disobedience? Would it permit the refusal of the draft by American citizens in the Vietnam War?¹⁸

II

The Vietnam War transformed debates about civil disobedience. Discussions of the grounds of political obligation in idealized terms continued, but they were joined by debates about the specific problems raised by war. By June 1968, when the legal philosopher Ronald Dworkin published 'On not prosecuting civil disobedience' in the *New York Review of Books*, the entire debate took place in terms of Vietnam, with few mentions of civil rights activism.¹⁹ A new set of

¹⁷ Rawls, 'Legal obligation', p. 17; John Rawls, 'The justification of civil disobedience', in Freeman, ed., *Collected papers*, p. 184; Paul F. Power, 'On civil disobedience in recent American democratic thought', *American Political Science Review*, 64 (1970), pp. 35–47; James F. Childress, 'On obligation and civil disobedience: the views of some 'one-eyed men'', *Worldview* (1971), pp. 21–5; David Lyons, 'Moral judgment, historical reality, and civil disobedience', *Philosophy and Public Affairs*, 27 (1998), pp. 31–49.

¹⁸ Lyons, 'Moral judgment', p. 35. On the civil rights and anti-war movements, see Simon Hall, *Peace and freedom: the civil rights and antiwar movements in the 1960s* (Philadelphia, PA, 2005). For a critique of this distinction in civil rights historiography see Hall, 'The long civil rights movement', pp. 1233–63.

¹⁹ Ronald Dworkin, 'On not prosecuting civil disobedience', *New York Review of Books*, 6 June 1968, pp. 10–14; Wilson Carey McWilliams, 'Civil disobedience and contemporary constitutionalism: the American case', *Comparative Politics*, 1 (1969), pp. 211–27.

moral and political issues emerged: the democratic legitimacy of the war; the justice of its aims; the morality of its conduct; and the legitimacy of conscription and the grounds for conscientious refusal. In 1969, after the revelations about the My Lai Massacre, the morality of the conduct of war took centre stage. Until that point, however, protests were largely related to draft refusal. In 1965, opposition to the draft had begun among the left, particularly the Catholic left.²⁰ Discontent with national draft policies quickly spread among liberals and students too, with the National Student Association declaring its opposition to the draft the following year. It is striking, then, that the issue that first brought liberal philosophers like Rawls into political debate was not the legitimacy of the war or the draft, but one far closer to home: the legitimacy of the '2-S' deferments, which allowed students to avoid the military service that was rolled out in phases across the country in 1965–6.²¹

In 1966, national deferments policy was under review. At Harvard, Rawls led a group of academics to protest the faculty's unwillingness to stand publicly against the deferments. When Rawls delivered the motion to the faculty, alongside statements from Michael Walzer, the signatories included many of Harvard's most influential thinkers – Hilary Putnam, Carl Friedrich, Judith Shklar, Stanley Cavell, Stanley Hoffmann, and Harvey Mansfield, among others – whose politics ranged from Maoist to conservative.²² Only the more radical of these had been part of the anti-war protests of the previous year, where international relations theorists like Hans Morgenthau declared their opposition to the war. The liberals who would come to dominate academic philosophy in the 1970s came to activism late, if at all – and when they did so it was not necessarily as anti-war activists. Opposition to the deferments was a narrow issue, with broad appeal. Though it raised the spectre of elitism, thus uniting left and right, it did not entail opposition to the war. What it did provide was an opportunity to rethink the implications of conscription for democratic citizenship and the grounds of political obligation.

When can the liberty of democratic citizens be justly interfered with, as it is by conscription? Opposing deferments required a consideration of this question: in Rawls's drafts of the motion, he objected to the unequal distribution of the

²⁰ 'Declaration of conscience', *Catholic Worker*, 31 (Feb. 1965); Jeremy Kessler, 'Conscientious objection to warfare and welfare: the Catholic legal critique of the American state, 1962–2012' (unpublished paper).

²¹ 'Student unit asks US abolish draft, set up alternatives', *New York Times*, 1 Sept. 1966; Jeremy Kessler, 'The invention of a human right: conscientious objection at the United Nations, 1947–2011', *Columbia Human Rights Law Review*, 44 (2013), pp. 753–91. For the anti-war movement and the draft, see Tom Wells, *The war within: America's battle over Vietnam* (Berkeley, CA, 1994); Rhodri Jeffreys-Jones, *Peace now! American society and the ending of the Vietnam War* (New Haven, CT, 1999); Michael S. Foley, *Confronting the war machine: draft resistance during the Vietnam War* (Chapel Hill, NC, 2003).

²² Rawls, 'In support of the resolution on 2-S deferment', in 'Conscription, [1969]', p. 34, in box 34, John Rawls papers. Michael Walzer interview by Katrina Forrester 21 Jan. 2011 (MP3 in Katrina Forrester's possession).

burdens of war (working class and black Americans being disproportionately hit by conscription).²³ It was through his consideration of the deferments question that Rawls developed his views on conscription, which then provided a new backdrop against which to theorize civil disobedience. Instead of asking at what point the unequal provision of benefits and liberties justifies disobedience, the question became whether citizens were always obliged to serve in the military of a democratically elected government.

One answer was built into American constitutional law in the definition of the ‘conscientious objector’. The ‘CO’ was someone who rejected war in all its forms, on religious grounds. In *United States v. Seeger* (1965), the clause that required belief in a ‘Supreme Being’ had been deleted, thus expanding the definition to include views derived from a ‘sincere and meaningful belief’ that occupied the same place as God. But that extension still excluded most who objected to the Vietnam War – both secular and religious – and the definition of CO continued to be contested throughout the war, in public and philosophical debates as well as in legal opinions. When in 1967 the National Advisory Committee for Selective Service, also known as the Marshall Commission, met to produce recommendations for what became the Military Selective Service Act of 1967 (which widened the ages of conscription and amended the deferments system), it debated the expansion of the CO definition to apply to the ‘selective conscientious objector’ (SCO) – objectors who did not oppose all wars, but only specific wars. The commission’s report *In pursuit of equity: who serves when not all serve?* (1967) rejected the extension, limiting who could count as a ‘legitimate’ objector in the eyes of the state. In subsequent debates, two binaries were constructed: between those whose ‘conscience’ was ‘religious’ rather than secular (‘political’ or ‘moral’); and between those who objected to all war or particular wars.²⁴

These two binaries did not exactly correspond (and they would later be contested in separate Supreme Court cases). From the outset of the Vietnam War, there existed many religious, particularly Catholic, objectors who were not against all wars, as they justified their objection not by an appeal to pacifism, but to just war theory.²⁵ Discrimination against so-called SCOs also became an issue for anti-war protestors who claimed that their secular consciences should be recognized as equal to the consciences of their religious peers. As increasing numbers rejected the draft, and failed to secure the protective category of the CO, the ACLU and other liberal groups campaigned to expand the category.

²³ ‘Professors ask students’ support in Vietnam referendum campaign’, *Harvard Crimson*, 19 Oct. 1967; Lawrence E. Eichel et al., *The Harvard strike* (Boston, MA, 1970). For class and the draft, see Christian G. Appy, *Working-class war: American combat soldiers and Vietnam* (Chapel Hill, NC, 1993); and for class and the anti-war movement, see Penny Lewis, *Hardhats, hippies and hawks: the Vietnam antiwar movement as myth and memory* (Ithaca, NY, 2013).

²⁴ National Advisory Commission on Selective Service, *In pursuit of equity: who serves when not all serve?* (Washington, DC, 1967).

²⁵ Alan Geyer, ‘The just war and the selective objector’, *Christian Century*, 16 Feb. 1966.

Redefining ‘conscience’ in secular terms became a call to arms – not necessarily for those who sought to challenge the war itself, but for those who wanted to protect the rights of individuals to refuse conscription without punishment. Lawyers and philosophers rallied round, with many writing open letters to newspapers and others, like Carl Cohen, drawing on philosophical discussions to draft public statements for ACLU.²⁶

These debates were a key context for making sense of Rawls’s writings about civil disobedience. But they are also important to understanding the political writings of Michael Walzer. The project of defending principled conscience had clear appeal for liberal philosophers, particularly given the focus of post-war moral philosophy on the ethical conduct of individuals. With utilitarianism under attack, and deontological approaches to ethics on the rise, the alliance between religious critics of conscription and moral philosophers was unsurprising. Critics of contract theory and ‘atomistic’ liberalism saw the focus on individual conscience as its natural outgrowth.²⁷ It is therefore striking that liberal theorists like both Rawls and Walzer actually rejected justifications for civil disobedience that appealed to conscience alone. The moral status of conscientious action was not, then, wholly uncontroversial, even among those whose political thinking was underwritten by deontological ethics. Many philosophers contested the connection between social contract theory and a politics of conscience. This was implicit in Rawls’s account of obligation, as will become clear below. Walzer also criticized justifications for conscientious objection that relied on conscience, from a different perspective. In ‘The obligation to disobey’, a paper he presented alongside Rawls at the American Political Science Association meeting in 1966, he offered an alternative model of disobedience – one that was not grounded in appeals to conscience, but in an ideal of citizenship.²⁸

By the close of the decade, despite his self-presentation as a movement activist, Walzer became highly critical of the New Left and the student movement, and increasingly involved with liberal analytical philosophical circles. In the late 1960s, he attended a reading group, the Society for Ethical and Legal Philosophy (SELF), which had begun to meet monthly in New York and Cambridge, MA. Its participants included Rawls, Dworkin, Robert Nozick, Marshall Cohen, T. M. Scanlon, Thomas Nagel, and Owen Fiss.²⁹ A highly

²⁶ Cohen et al., ‘Civil disobedience’.

²⁷ Sheldon Wolin, *Politics and vision: continuity and innovation in Western political thought* (Boston, MA, 1960); Hannah Arendt, ‘Civil disobedience’, *New Yorker*, 12 Sept. 1970, pp. 70–102.

²⁸ Michael Walzer, ‘The obligation to disobey’, *Ethics*, 77 (1967), pp. 163–75; Shawn Francis Peters, *The Catonsville Nine: a story of faith and resistance in the Vietnam War* (Oxford, 2012).

²⁹ William Ruddick, ‘Philosophy and public affairs’, *Social Research*, 47 (1980), pp. 734–48; Michael Walzer, *Thinking politically: essays in political theory* (New Haven, CT, 2006), p. 307; T. M. Scanlon, Interview with the *Utopian*, www.the-utopian.org/T.M.-Scanlon-Interview-6.

influential group, many of them played a part in establishing new institutional homes for moral and political philosophy – the new division of the APA ‘Society of Philosophy and Public Affairs’ in May 1969, for example, and the important journal *Philosophy and Public Affairs* in 1971. Alongside other new institutions for the study of applied and practical ethics (particularly medical ethics) like the Hastings Institute, founded in 1971, these new institutions changed the shape of Anglophone analytical philosophy, facilitating the rise to prominence of applied and normative ethics. Though an outsider to this expanding philosophical mainstream, Walzer’s thought was nonetheless marked by these changes. But in the mid-1960s, his contributions were equally inflected by other influences. He had been involved in the civil rights movement, anti-war politics, and the early New Left, reporting on the Freedom Rides for *Dissent*, and during his time in the UK he had been at the early meetings for what became *Universities and Left Review* (the magazine that preceded *New Left Review*). His theoretical and historical training in Harvard’s Government Department under political scientist Samuel Beer, visible in his psycho-social explanations of revolutionary behaviour and political obligation – particularly in his study of early modern radical Protestantism – set him apart from philosophers like Rawls. And his political pluralism, like many theorists of the 1960s, was part of his response to the liberal consensus ideology of interest-group pluralism dominant in political science in the previous decade. His understanding of obligation, owed to fellow citizens and small groups rather than the state, reflected these influences, and his view of civil disobedience did too.³⁰ He would come to accept the standard formulation of civil disobedience – articulated by Bedau and accepted by Rawls – as a baseline, and yet for Walzer disobedience and refusal was never just an expression of dissatisfaction with unjust laws within a framework of fidelity to law. It was also, at times, a way of rejecting the moral supremacy and political sovereignty of the state.

For Walzer, conscientious refusal was an issue of citizenship, not merely individual conscience. Against Cohen and Bedau, he criticized the individualist basis of justifications for civil disobedience, claiming that acts of conscience were never isolated, but always originated in the co-operation and collective lives of associations, sects, and radical groups.³¹ He later responded to Congress’s re-definition of conscience as a ‘merely personal code’ with a similar argument, grounded in his political pluralism: this individualism

³⁰ Virginia Held, Kai Nielson, and Charles Parsons, *Philosophy and political action* (Oxford, 1972); Michael Walzer, *Revolution of the saints: a study in the origins of radical politics* (Cambridge, MA, 1965); Michael Walzer, *Obligations: essays on disobedience, war and citizenship* (Cambridge, MA, 1970), p. 29; Michael Walzer, ‘Blacks and Jews: a personal reflection’, in Jack Salzman and Cornel West, eds., *Struggles in the promised land: towards a history of Black-Jewish relations in the United States* (Oxford, 1997), p. 401. On the student movement and New Left, see James Miller, *Democracy is in the streets: from Port Huron to the siege of Chicago* (Cambridge, MA, 1987); Maurice Isserman and Michael Kazin, *America divided: the civil war of the 1960s* (Oxford, 2000).

³¹ Walzer, *Obligations*, p. 120.

misunderstood the collective and pluralist nature of political conscience-formation and thus excluded not only the isolated acts of refusal which the ACLU sought to protect, but also the kind of 'political' training and belief that Walzer thought a necessary, legitimate part of sectarian politics.³²

From the outset of the war, Walzer made clear his opposition to conscription except in emergencies. Where conscription was necessary, it should be a 'genuinely universal draft', not a professional army 'cut off from civilian life'. He saw the selective draft as problematic because it 'muffled' the 'domestic repercussions' of the war, since the poor bore the burden. A universal draft, with full rights for conscientious objectors, was the best way to secure international peace. Walzer was aware that this relied on an optimistic understanding of democracy and a confidence about the likelihood of citizens refusing to support the 'cold war consensus'. Elsewhere, he took a more pessimistic view, viewing the US as only a 'partially democratic society'.³³ In 'Political alienation and military service', a paper Walzer presented at a conference on 'Political obligation' at the American Society for Legal and Political Philosophy in 1967, he compared modern citizens with the historical category of 'resident aliens': individuals who only give their tacit, rather than express, consent to the social contract, and who, thanks to the 'close connection between express consent and military obligation', are therefore not always obliged to serve. If the modern liberal state is taken to be the 'triumphant solution to the problem of governing a society of aliens', its citizens – with their negative duties, and their private personal lives protected by the modern political division of labour – were akin to 'alienated residents'. This was not quite the legal category of resident aliens, but its moral and political counterpart. Few citizens in modern states gave express consent to democratic governments. Since the US, as only a 'partially democratic society', was not one in which the universal draft has its full democratic implications, for alienated residents, 'conscription, except in cases of social emergency, is nothing more than impressment'.³⁴

The Vietnam War was not an emergency, nor was it waged democratically. Following anti-draft arguments like those of the National Student Association in 1966, Walzer noted that the obligation to serve, which 'follows from participation in a democratic political process', itself holds 'only if the decision to go to war is in fact made democratically'. Given the inappropriateness of conscription in an undemocratic war, the state 'must rely on volunteers and can only hope ... that committed citizens ... will choose to come forward'. When conscription is enforced 'in the absence of social emergency', however, alienated residents should be treated as 'conscientious objectors are at present'. Expanding the category of conscientious objection had its own risks – of elitism,

³² *Ibid.*, p. 133.

³³ Michael Walzer, 'Civil disobedience and "resistance": a symposium', *Dissent* (1968), pp. 13–15.

³⁴ Walzer, *Obligations*, pp. 105, 107–8, 114, 117.

'class bias', and 'class resentment'. Only eliminating conscription would solve that (though such a move, Walzer correctly predicted, would have a class bias too). 'The end of coercion would at least open the way for political opponents to a particular war to function freely in competition with army recruiters and perhaps to extend their support across class lines'. This would allow for 'development and articulation of conscience' in a way that the current CO system failed to do.³⁵

For Walzer, then, conscription was understood in terms of democratic participation and citizenship, not individual conscience. Though his account of active citizenship was more pluralist than Rawls's majoritarian theory, and though he relied on a notion of consent to generate obligation in ways Rawls did not, he nonetheless shared Rawls's early position that only deficiencies in citizenship could justify disobedience. At this stage in the mid-1960s, neither Rawls's nor Walzer's justification for disobedience relied, as their Catholic and liberal contemporaries did, on an argument about the moral primacy of conscience, or on just war theory. What mattered were the obligations of citizens, and their participation – electoral or otherwise – as members of a democracy.

Walzer argued that debates about conscientious objection had taken a wrong turn. On his account, when a 'democratic state goes to war', it should be those 'who have taken no part in the decision to go to war' who warrant 'special consideration'. The right to refuse the draft in all wars should be less well protected than the right to refuse service in particular wars – which should apply to both citizens refusing the draft, and to soldiers.³⁶ Instead, the US provided for 'those who oppose that decision (or who oppose the conscription law that follows it) because they believe war itself or this particular war to be immoral'. Walzer thought this a mistake in emphasis. When explaining political obligation, what mattered most was not whether the war was just but whether the citizen had chosen it. Where Rawls might well have argued that the choice to go to war was one that should be accepted if the system of co-operation and government continued to provide other benefits, Walzer emphasized the participation of democratic citizens, thus opening the door to an argument that claimed the illegitimacy of the war based on failings of democracy.

This was more successful as a critique of American democracy than as an argument against the war itself, since only after the Tet Offensive in 1968 did public opinion turn against the war. It did, however, mark an important difference between Rawls's and Walzer's ideas about democracy, obligation, and citizenship. What is key is that at this point both their justifications for disobedience were based on assumptions about domestic citizenship, rather

³⁵ *Ibid.*, pp. 111, 119, 144; Beth Bailey, *America's army: making the all-volunteer force* (Cambridge, MA, 2009).

³⁶ Michael Walzer, 'Democracy and the conscript', *Dissent* (1966), p. 20.

than either in arguments about individual conscience, or in anything specific to the nature of war and international politics.³⁷

As the war continued, however, anti-war arguments in general – not only Catholic defences of conscientious objection – increasingly deployed just war theory. In the mid-1960s, the civil rights and draft-refusal movements were intimately connected, in both theory and practice; after the My Lai revelations, and with changes in the character of the civil rights movement, the two issues appeared increasingly detachable. The question of war crimes and the conduct of the war became central concerns for philosophers and lawyers. There had already been numerous attempts to use the Nuremberg principles to accuse the US of the crime of aggressive war. In this later period, these accusations became mainstream, with claims about the justice of the war now accompanied by charges of war crimes.³⁸ These claims tracked the just war theory distinctions – which had undergone an earlier revival among theologians debating problems of nuclear war – between *jus in bello* (justice in war) and *jus ad bellum* (justice of the war).³⁹ The philosophers soon caught on and the war, and just war theory in particular, were integrated into philosophical discourse. At first, just war theory provided a framing device for debate about citizenship. It only later became an object of inquiry itself. However, the integration of just war theory into philosophy altered the terms of the debate; the domestic gave way to the international, in a way that had lasting – though deferred – effects on political philosophy. As with much liberal philosophy in the 1960s, it is no surprise that one of its first mainstream proponents was John Rawls.

III

Rawls extended his discussion of civil disobedience in a series of presentations, culminating in ‘The justification of civil disobedience’ (1967). The additions reflected the debates of the intervening years: the importance of punishing protestors, the publicity of protest, and the appeal made by protestors to the democratic majority.⁴⁰ The last was crucial to Rawls, given his focus in the late

³⁷ Walzer, *Obligations*, p. 120.

³⁸ Neil Sheehan, ‘Should we have war crimes trials?’, *New York Times Book Review*, 28 Mar. 1971, p. 5; Richard Wasserstrom, ‘The relevance of Nuremberg’, *Philosophy and Public Affairs*, 1 (1971), pp. 22–46; Richard Wasserstrom, ‘Criminal behaviour’, *New York Review of Books*, 3 June 1971; Samuel Moyn, ‘From anti-war politics to anti-torture politics’ (2011), papers.ssrn.com/sol3/papers.cfm?abstract_id=1966231/.

³⁹ Guenter Lewy, ‘Nuclear warfare and the dictates of conscience: the dilemma of military obedience in the atomic age’, *American Political Science Review*, 55 (1961), pp. 3–23; Paul S. Boyer, ‘God, the bomb, and the cold war: the religious and ethical debate over nuclear weapons 1945–1960’, in Duncan Bell and Joel Isaac, eds., *Uncertain empire: American history and the idea of the cold war* (Oxford, 2012), pp. 165–94.

⁴⁰ Rawls drew on Martin Luther King’s ‘Letter from Birmingham city jail’ (1963), reprinted in Bedau, ed., *Civil disobedience*, pp. 72–89. Rawls cited Bedau’s collection, not the numerous others collecting King’s writing, indicating that even his engagement with King was mediated through philosophy. John Rawls, *A theory of justice* (Cambridge, MA, 1971), p. 364.

1950s and early 1960s on providing a moral psychological account of why individuals would accept his principles of justice, which drew on the moral philosophy of G. E. M. Anscombe and Philippa Foot. On this account, the 'sense of justice' that individuals possess is what predisposes them to accept the principles of justice.⁴¹ This was also central to his treatment of civil disobedience, which was a problem in 'non-ideal theory': it would not occur in a society where everyone followed the (just) laws, but only in a 'nearly just society' – one that, controversially, for Rawls, closely resembled the US. Assuming a nearly just society, Rawls defined civil disobedience as a mechanism for correcting diversions from the principles of justice (as set down in the constitution) that proceeded by an appeal to the 'sense of justice' of the majority.⁴²

Did this account of civil disobedience include conscientious objection? Rawls's published article did not appear to, but his lectures to undergraduates on the 'Moral problems of war' did. Rawls here developed an argument that legitimated 'selective conscientious objection' (SCO) and opposed the Marshall Commission's exclusion of moral and political grounds for refusal. Indeed, what made civil disobedience legitimate for Rawls was its 'political' character. He defined 'political' in technical terms: a justification was political because it referred to the principles of justice of his theory, and appealed to the majority's sense of justice, invoking the 'convictions of the community'.⁴³ When describing the political process through which dissenters appealed to the majority's sense of justice, Rawls followed the account of 'moral causation' given by his student, Charles Fried.⁴⁴ For Fried, moral causation described the technique by which one moves another to act, by making 'the desired performance the right thing for him to do'. This, he contrasted to more coercive 'persuasion'. Though Rawls did not repeat this definition verbatim, its implication for his account of the appeal to the sense of justice was clear: civil disobedience only convinces the majority if it is in fact the morally right course of action, rather than merely a politically persuasive one. Politics here refers to a moral appeal to the principles of Rawls's moral theory and to the majority, rather than to any account of how political processes actually work.⁴⁵

Rawls, then, defended conscientious objection on political grounds, arguing that it should not be legitimated by an appeal to 'conscience' alone (in the definition of the Marshall Commission, by 'merely personal code'). This was consistent with Rawls's broader ethical theory, particularly his scepticism of intuitionism – the theory that rejected the idea that it was possible to have a

⁴¹ Bok, 'Personhood and the nature of morality in the early Rawls'; John Rawls, 'The sense of justice', in Freeman, ed., *Collected papers*, pp. 96–116

⁴² For critiques of Rawls, see Raymond Geuss, *Philosophy and real politics* (Princeton, NJ, 2008); Charles W. Mills, *The racial contract* (Ithaca, NY, 1997).

⁴³ Rawls, *Theory*, p. 369.

⁴⁴ Rawls, 'On the justification of civil disobedience', p. 182.

⁴⁵ Charles Fried, 'Moral causation', *Harvard Law Review*, 77 (1964), pp. 1258–63.

fixed ordering of moral values and claims. What this meant in the context of debates on war and disobedience was clarified at a spring 1968 SELF meeting, where the philosopher Thomas Nagel presented a version of the paper that became his influential 'War and massacre' (1972), and led a discussion on the Catholic 'doctrine of double effect'.⁴⁶ Reintroduced into mainstream modern analytical philosophy by the Catholic philosopher Anscombe, double effect was conventionally invoked to explain the permissibility of a seemingly immoral action. It stated that sometimes it is permissible to bring about as a merely foreseen side effect a harmful event that it would be impermissible to bring about intentionally. In discussions of war, it was used to justify 'collateral damage' and the killing of non-combatants by designating these kinds of consequences as unintended, even if foreseen. When Nagel introduced the doctrine, it was part of a debate among philosophers of action that challenged positivist and behaviourist accounts with discussions of intentional and conscientious action.⁴⁷ In his notes, Rawls criticized the doctrine as only 'compelling' if part of a 'confessional ethic'. He recognized its appeal as an alternative to utilitarianism, but suggested it failed in the way that Rawls claimed many alternatives to utilitarianism failed, by not providing 'priority rules' to assign weights to conflicting claims and values.⁴⁸ The principles of justice assigned these weights and helped decide between conflicting claims, thus avoiding the reliance on good intentions and conscience alone. Although in practice conscientious departures from the social contract may turn out to be legitimate, sometimes 'morally courageous men have to be opposed. Erring conscience cannot claim strong moral protection.' On the same reasoning, an individual's departure from the rules of a just society required a justificatory 'political' (not simply religious or individual moral) theory.⁴⁹

In the case of civil disobedience, such a departure from the rules was justified by the principles of justice and the appeal to the sense of justice. Conscience was not enough to justify such a departure; a political theory was needed. What theory supported it in the case of the conscientious objector? When Rawls came to the debates about conscientious objection, his domestic theory of justice did not seem enough either. In his attempt to get away from appeals to conscience, he turned to just war theory to provide SCOs with the justificatory framework. He accepted the distinction between the *jus in bello* and *jus ad bellum* that were

⁴⁶ Thomas Nagel, 'War and massacre', *Philosophy and Public Affairs*, 1 (1972), pp. 123–44.

⁴⁷ For the revival of 'philosophy of action' and 'interpretivism', see Stuart Hampshire, 'Fallacies in moral philosophy', *Mind*, 5 (1949), pp. 466–82; G. E. M. Anscombe, *Intention* (Oxford, 1957); Peter Winch, *The idea of a social science and its relation to philosophy* (London, 1958); Charles Taylor, *The explanation of behaviour* (Oxford, 1964). See also Joel Isaac, 'Donald Davidson and the analytic revolution in American philosophy, 1940–1970', *Historical Journal*, 56 (2013), pp. 757–79.

⁴⁸ Joel Feinberg, 'Rawls and intuitionism', in Norman Daniels, ed., *Reading Rawls: critical studies on Rawls's 'A theory of justice'* (Stanford, CA, 1989), pp. 108–23.

⁴⁹ Rawls, 'Jus in bello' and 'Notes on the doctrine of double effect', p. 2, in folder 11, box 34, John Rawls papers.

used in contemporary legal discussions to distinguish between the legitimacy of the war and the crimes of American troops in Vietnam itself, and added to the presentation of just war theory by the Protestant ethicist Paul Ramsey.⁵⁰ Rawls's innovation was in the realm of justification. In order to establish the laws of war and peace, he performed the same intellectual manoeuvre that he had used to establish the principles of justice in his domestic theory. To the original position, the first social contract, of his domestic society, he added a second contract—an international 'original position'. This contract was a social contract between states: just principles to govern and regulate war would be chosen behind a veil of ignorance similar to that from which the principles of distributive justice were chosen in the domestic theory. The principles that would be chosen, Rawls claimed, were familiar from standard international legal doctrine, and he relied here on J. C. Brierly's classic textbook *The law of nations* (1926) to provide a basic account of international law that turned on the principle of equality between states and the duty to keep treaties.⁵¹ When it came to the rules of war and peace, Rawls argued that the principles chosen would have to go beyond the poles of moral absolutism and the doctrine of reason of state. They would, he suggested, be akin to those of just war theory.⁵²

This second international contract was a significant addition to Rawls's theory, even though it received little emphasis in the published version of *A theory of justice*, occupying only six pages. Its significance lies both in what it reveals about how the domestic and international spheres are related in Rawls's theory, and in its consequences for the trajectory of political philosophy. The international contract was an important innovation that helped to prepare the way for analytical philosophers to theorize international ethics. It played a key part in providing Charles Beitz, a student of Rawls's own students and followers Dennis Thompson and T. M. Scanlon, with the tools to build a theory of global distributive justice in the 1970s. Rawls did consider the possibility of extending distributive justice globally through the second contract: in notes in 1969 he contrasted an ideal world of full compliance where the second principle (the difference principle, with its redistributive implications) would apply, and a non-ideal world of partial compliance where it would not. But global redistribution required global institutions, and in the real world the psychological basis for such institutions was lacking and the institutions therefore implausible.⁵³

This was a crucial contrast between Rawls and his cosmopolitan heirs. When he formulated the second contract, however, it was less the first step towards an international distributive theory, and more the innovation that demonstrated

⁵⁰ Paul Ramsey, *The just war* (New York, 1968); Rawls had been aware of Ramsey's work for many years. See his 'Review of Paul Ramsey's *Basic Christian ethics* (1950)', in folder 17, box 7, John Rawls papers.

⁵¹ Rawls, *A theory*, pp. 378–79, 384.

⁵² Rawls, 'Jus in bello: lecture xv–xvii', in folder 11, box 34, John Rawls papers.

⁵³ Rawls, 'Notes on "justice as fairness 2" chapters v–vi [c. 1965–67]', in folder 1, box 10, John Rawls papers.

the limitations of his domestic theory when it came to justifying SCO. The need for a second contract indicated that Rawls required an external injustice outside the nearly just constitution in order to justify conscientious refusal. In lectures to student protestors at Harvard in 1968, Rawls made clear that the breach of the principles governing the waging and conduct of war were what justified SCO. The injustice of the war generated the right, and even in some instances the duty, to refuse military service.⁵⁴ Rawls claimed that his theory went beyond 'merely religious' or 'moral' theories that justified disobedience (like pacifism, or Ramsey's religious just war theory) and provided political grounds for conscientious objection based on 'political principles conceiving the *common good*'. Moreover, 'establishing SCO will improve the workings of the constitutional system to conform more closely with the requirements of JasF [justice as fairness]'. The injustice of the war secured the right to disobey; the right to disobey in the case of an unjust war in turn secured the stability of the nearly just society, for it brought that society closer towards a stable state of justice.⁵⁵

However, the second contract provided Rawls with more than a justification for conscientious refusal. It furnished him with additional arguments about conscription. These sat in tension with both those implied by his domestic theory and with the traditional claims of just war theory. This tension is itself illuminating, because it confirms that at this stage Rawls was using the international theory primarily as a device to explain the obligations of citizens. One way of grasping the tensions created by the double contract is through the changing account of conscription he gave between 1966 and 1969. During the deferments debates in November 1966, Rawls signed off on a 'Proposal for military recruitment policy' that proposed a 'Volunteer Military Force' – a 'two-stage policy' with one military force during periods of peace and another in 'critical times'. The task of the volunteer, peacetime army would not be to wage war, but 'to hold the line until a civilian army can be raised'. 'A professional fighting force', the proposal argued, 'represents a political hazard which no democracy can afford.' During times of war, the volunteer army would be supplemented or replaced by 'a conscript force raised by a universal draft (or possibly by a lottery)'. It concluded that 'unless our people, acting through their representatives in Congress, are themselves prepared to fight the war and to share justly the burdens of its hardships, it should never under any circumstances be fought'. Rawls, then, like many others, supported a volunteer army (though, like them, his support was also qualified by the conventional American republican fear of standing armies). In terms of his theory of justice, conscription was difficult to justify. Of the two principles of justice, the principle of liberty took lexical priority (i.e. it had to be secured first).⁵⁶ Conscription was

⁵⁴ Rawls, 'Just war and conscientious refusal, talks to students of draft and resistance, 1968', p. 5, in folder 7, box 34, John Rawls papers.

⁵⁵ Rawls, 'Lecture xxii', p. 3b, in folder 7, box 34, John Rawls papers.

⁵⁶ Rawls, 'Draft proposals, 1966 Fall', in folder 2, box 24, John Rawls papers.

an interference with liberty and thus could not be justified except in times of national emergency when the liberty of all was threatened – the priority of liberty could only be trumped by a greater threat to liberty.

When Rawls introduced the second contract, he provided a way of making sense of this greater threat to liberty, the ‘greater injustice’ that he had pointed towards in ‘Legal obligation and the duty of fair play’. The injustice that legitimated the resort to war on Rawls’s account of just war was the threat by the enemy to deprive the nearly just society of its ‘quality of life’, defined as a ‘life of liberty and moral integrity . . . informed by the sense of justice’.⁵⁷ If the moral integrity and liberty of the entire national community was threatened, war was justified. An unjust war was not sufficient grounds to justify conscription’s interference with liberty; it thus generated the right to refuse service. But the opposite was also true: if the life and liberty of a just society was taken to be under threat, the war was a just one; interference with liberty in the form of conscription was thus justifiable. The second contract and just war theory therefore provided the justification for emergency politics.

There was, however, a twist. The international contract also justified a different view of conscription. In a 1969 lecture, Rawls reiterated the by then conventional argument that conscription was only justifiable in an emergency. Referring back to the deferments controversy, he argued that if it was applied, it must be applied equally.⁵⁸ But though critical of conscription, he did not here embrace what he called the ‘libertarian’ alternative of a ‘professional and market military’ either (despite acknowledging some of its advantages: the avoidance of deferments and interferences with liberty, and what he called ‘the possibly dubious’ advantage of ‘fitting the ethos of American society’).

By 1969, support for replacing conscription with a volunteer army was widespread, with the National Council to Repeal the Draft at the forefront of a growing movement.⁵⁹ Political commentators had for some years claimed that American culture was indisposed to conscription, and Republican senators had launched a campaign to show that a volunteer army would make wars less, not more, likely. In his election campaign, Nixon promised a volunteer army (though because of military needs he initially replaced the older draft, widely recognized as unfair, with a lottery system), and in 1970 the Report on an All-Volunteer Army was published advocating the end of conscription. Indeed, throughout the war, opposition to conscription had increasingly united left and right, just as the deferments (as a subset of worries about conscription) had done, with the National Conference on the Draft in December 1966 bringing together those on the socialist and anti-nuclear left with Barry Goldwater

⁵⁷ Rawls, ‘Lecture XII just war: *ius ad bellum* II’, pp. 4–4b, in folder 9, box 34, John Rawls papers.

⁵⁸ Rawls, ‘Conscription, [1969]’, pp. 9–11, in box 34, John Rawls papers.

⁵⁹ Wallace Turner, ‘Criticism and evasion of draft grow with unpopularity of the Vietnam War’, *New York Times*, 14 May 1969.

supporters (including libertarian economist Milton Friedman) to generate proposals for a volunteer army.⁶⁰

Rawls's description of such an army as a 'professional and market military' placed him outside of this growing consensus—and indicated that he recognized that the volunteer army was a policy advocated by the libertarian right.⁶¹ Not only was such a military too inflexible and expensive, and risked being an officer corps in service to specific group and class interests; Rawls argued that it ought also to be opposed on prudential political grounds. It might have a bad effect on American foreign policy, he suggested, by providing an army always ready for 'neo-imperialist adventures abroad'. It would not:

arouse the political opposition at home that the draft does, at least seems to, when war is unjust . . . Perhaps we need to keep this check on ourselves to prevent the army from inflicting greater evil on people abroad than the draft does on young men at home. As a people we make ourselves hostage, so to speak, to our own misadventures . . . Gibbon remarked that after reading Livy one would have to conclude that Rome conquered the world in self-defense. The urgency of this question of conscription is that the correct answer to it—could we but find it—may have a part in determining whether the US is tempted to travel a similar path.⁶²

Rawls here invoked worries about militarism and standing armies that, though not common in the 1960s, were familiar in the longer history of republican political thought: that such armies have tyrannical implications for liberty; that citizen armies will be more cautious and will provide a check on aggressive international politics if citizens have the right to refuse service; and that citizen armies prevent the slide from republic to empire.⁶³ Unlike later modern versions of democratic peace theory that claimed there was something inherent to democracies that meant they were less war-like than other kinds of states, Rawls looked to older arguments about the significance of standing armies. After 1973, when the United States abandoned conscription, this argument would feature less prominently in accounts of democracies at war.⁶⁴

What is striking about Rawls's argument is that the weight of the justification of conscription is derived from international politics, rather than in any claim about citizenship—as Walzer's (also qualified) defence of conscription had been. The second contract was what allowed for this kind of reasoning. How the

⁶⁰ For the volunteer army, see Milton Friedman, 'The case for abolishing the draft—and substituting for it an all volunteer army', *New York Times*, 14 May 1967; Neil Sheehan, 'Draft is uniting right with left: new council will work for volunteer armed force', *New York Times*, 22 May 1967; Mark O. Hatfield, 'A volunteer army is the answer', *New York Times*, 30 Mar. 1969.

⁶¹ On the libertarian right, see Bailey, *America's army*, pp. 2–33. Compare Rawls's position with Robert Kennedy in 1968; 'Selective service: conflict and compromise', *New York Times*, 17 Nov. 1968.

⁶² Rawls, 'Conscription, [1969]', p. 11, in box 34, John Rawls papers.

⁶³ Rawls, 'Lecture xx', in folder 14, box 34, John Rawls papers.

⁶⁴ For democratic peace theory, see Michael W. Doyle, *Liberal peace: selected essays* (New York, NY, 2011).

international theory altered the argument for conscription was made explicit in *A theory of justice*.

Conscription is permissible only if it is demanded for the defense of liberty itself, including here not only the liberties of the citizens of the society in question, *but also those of persons in other societies as well*. Therefore if a conscript army is less likely to be an instrument of unjustified foreign adventures, it may be justified on this basis alone despite the fact that conscription infringes upon the equal liberties of citizens. But in any case, the priority of liberty (assuming serial order to obtain) requires that conscription be used only as the security of liberty necessitates.⁶⁵

Though the weight of the priority of liberty within the domestic theory of justice supported an argument against conscription, here Rawls suggested that once the international contract was added to the domestic theory, and the priority of liberty on a transnational scale included in the calculations, conscription might be seen as furthering the cause of liberty, rather than injuring it. Though Rawls avoided the language of rights, it is worth making clear that the structure of his theory was that of a rights theory. His discussion of the priority of liberty demonstrates this. It was used to justify refusal of the draft, but the same argument was also used to justify the emergency measure of the draft itself. Such an argument, critics of rights theories noted, could be used to justify drastic curtailments of civil liberties in emergency situations.⁶⁶ Rawls's opposition to utilitarian trade-offs led him to attempt to create a decision procedure that both prioritized liberty and built into his theory a risk-averse, precautionary principle that minimized losses in worst-case scenarios and could be used to justify the curtailment of civil liberties.

In expanding his theory to allow for liberties like conscientious refusal, Rawls simultaneously provided an argument for the curtailment in 'emergencies' of other liberties – starting with conscription, but opening the door to further curtailments. (It is, formally speaking, the same argument used now to curtail liberties in the name of protecting against terrorism.) It is telling that Rawls was comparatively unconcerned with the claim, then popular with opponents of the war, that the war might itself be illegal and undemocratic; as was visible from the contrast with Walzer, on Rawls's majoritarian account, if a just government made an unjust decision, citizens were still bound to obey. By expanding to the international realm, he prepared the way for the kind of arguments for humanitarian intervention that human rights theories justify. He may have worried about militarism, but his argument opened the door to it in a different form. Though he deployed a different strategy to do so, Rawls, like Walzer, stressed that the justification of SCO was about citizenship, not conscience – he related it back to the benefits received by citizens who are part of a state.

⁶⁵ Rawls, *A theory*, p. 380. My italics.

⁶⁶ Richard Tuck, 'The dangers of natural rights', *Harvard Journal of Law and Public Policy*, 20 (1997), pp. 683–95.

As such, it is striking that it was at this point, when they were most concerned to shore up a thicker conception of citizenship and obligation, that they laid the groundwork for the kind of international theories that would normatively downgrade domestic citizenship. The intrusion of war and emergency into domestic politics pushed Rawls to use just war theory in order to solve an internal, technical problem in his contract theory and to provide a remedy for a defect in his account of obligation. Given Rawls's focus on the domestic, it is also not, perhaps, surprising that when he turned to just war theory to argue for the obligations of citizens to serve in unjust wars, he ignored its international interventionist implications. Just war theory justified a certain kind of emergency politics, and a certain view of international politics, that Rawls himself may well not have intended. War was both the cause of the problem, and what opened up new possibilities, providing the tools to bridge the domestic and the international.⁶⁷

IV

Where questions of citizenship remained central even in discussions of war in the later 1960s, as the volunteer army was widely accepted and the social movements shifted in character, the 1970s brought a turn away from such questions in academic philosophy. As the reception of Rawls's book – with a focus on questions of distribution rather than obligation – took centre stage, discussions of individual ethical conduct were detached from broader questions about citizenship. The early issues of *Philosophy and Public Affairs* were a battleground for analytical responses – both liberal and Marxist – to the first part of Rawls's three-part text. (Rawls later commented that the reception surprised him, for few took up his account of obligation or stability).⁶⁸ The anti-behaviourist move to recover 'action' grew less relevant. Debates about political action were submerged, on the one hand, by debates about structural, distributive concerns (which mustered a far broader base than the liberal focus on individual action), and into debates about moral dilemmas in medical and professional ethics, which became key for philosophers interested in the ethics of individual conduct. Those who looked to politics no longer examined the acts of conscientious protestors but of political leaders. A small number continued debating the grounds for disobedience, but their practical examples ceased to be the civil rights or anti-war campaigners.⁶⁹

⁶⁷ Rawls, *A theory*, pp. 369, 371.

⁶⁸ John Rawls, *Political liberalism* (New York, NY, 1993), pp. xv–xvii.

⁶⁹ David Malament, 'Selective conscientious objection and Gillette decision', *Philosophy and Public Affairs*, 1 (1972), pp. 363–86. For the example of Northern Ireland, see Peter Singer, *Democracy and disobedience* (Oxford, 1973). Kai Nielson, 'Philosophy and public policy: letter from the New York chapter of philosophy and public policy', *New York Review of Books*, 29 Jan. 1970.

Partly, these changes in theory reflected changes in practice: the end of the draft in 1973, and the apparently less ‘civil’ nature of protest made protestors less obvious candidates for liberal theorists looking for models for political action. They also reflected growing concern with the ethics of war and international politics – a realm in which leaders and soldiers, not citizens, were the relevant individual agents.⁷⁰ As questions about the *jus in bello* and war crimes became more central to public debates about Vietnam, philosophers mirrored these worries in debates about criminal liability and moral responsibility. With arguments about the deployment of Nuremberg principles to criminalize American leaders and soldiers going from margins to mainstream, the semi-secularized version of just war theory that Rawls had presented in 1968 drew more philosophical adherents, and critics. But while the first wave of philosophers to take up just war theory had done so to debate the legitimacy of conscientious objection at home, in the 1970s it was used to discuss the morality of military conduct abroad. It was for these reasons that Walzer took up just war theory. Unlike Rawls, who saved his account of international ethics for his students and old age (he only published his detailed treatment of international politics in the 1990s), Walzer committed himself to providing a full theory of international ethics in *Just and unjust wars* (1977), and dedicated much of his subsequent career to thinking through problems of war. As such, his views developed and changed considerably during the 1970s. His initial use of just war theory was not, however, merely as an appendage to an account of conscientious objection, but was motivated by more than just local concerns.⁷¹

Debates about what leaders were justified in doing in emergencies reversed the concern with what infringements on citizens were justified in equivalent emergencies. Whether the agents in question were citizens or leaders, philosophers still began their analysis with a set of moral rules, and asked when it was legitimate not to follow these rules.⁷² At a *Philosophy and Public Affairs* symposium on war in 1971, Walzer was one of a number of respondents to Nagel’s paper ‘War and massacre’, who began by asking when departing from the rules – in this instance, the rules of war – might not only be legitimate, but a

⁷⁰ Sanford Levinson, ‘Responsibility for crimes of war’, *Philosophy and Public Affairs*, 2 (1973), pp. 244–73; Michael Walzer, ‘War crimes: defining the moral culpability of leaders and citizens’, *New Republic* (Nov. 1977), p. 23.

⁷¹ John Rawls, ‘The law of peoples’, *Critical Inquiry*, 20 (1993), pp. 36–68; Donald A. Wells, ‘How much can “the just war” justify?’, *Journal of Philosophy*, 66 (1969), pp. 819–29; Michael Walzer, ‘World War II: why was this war different?’, *Philosophy and Public Affairs*, 1 (1971), pp. 3–21; John A. Rohr, ‘Just wars and selective objectors’, *Review of Politics*, 33 (1971), pp. 185–201; D. Thomas O’Connor, ‘Reappraisal of the just-war tradition’, *Ethics*, 84 (1974), pp. 167–73; George I. Mavrodes, ‘Conventions and the morality of war’, *Philosophy and Public Affairs*, 4 (1975), pp. 117–31.

⁷² R. B. Brandt, ‘Utilitarianism and the rules of war’, *Philosophy and Public Affairs*, 1 (1972), pp. 163–4; R. M. Hare, ‘Rules of war and moral reasoning’, *Philosophy and Public Affairs*, 1 (1972), pp. 166–81.

duty. In 'Political action: the problem of dirty hands' (1973), Walzer addressed the problem that in some cases it might be good to do bad – a 'moral dilemma' situation, in which an individual faces 'two courses of action both of which it would be wrong for him to undertake'. He presented three models for understanding the wrongs that are sometimes 'necessarily' committed by 'the moral politician': the Machiavellian actor whose evil deeds are justified only by the consequences; the Weberian 'suffering servant' whose wrongdoings are remedied by his guilt; and Camus's 'just assassins' who are punished for their wrongdoings by death ('the execution is not so much punishment as self-punishment and expiation'). His preferred model was the latter. He argued that the acceptance of punishment and responsibility in the case of the just assassins was 'like civil disobedience. In both men violate a set of rules, go beyond a moral or legal limit, so as to do what they believe they should do. At the same time, they acknowledge their responsibility for the violation by accepting punishment or doing penance.' There were, however, limits to the analogy: 'in most cases of civil disobedience the laws of the state are broken for moral reasons, and the state provides the punishment. In most cases of dirty hands moral rules are broken for reasons of state, and no one provides the punishment.' Unlike radical lawyers and philosophers advocating full criminal liability for leaders accused of war crimes, Walzer implied that the punishments facing leaders would likely be more social and psychological than legal.⁷³

Walzer's gloss of the dirty hands problem accepted two seemingly contradictory tenets of contemporary philosophical discourse: the anti-utilitarian, precautionary approach to moral problems common among philosophers; and the 'necessity defense' as a justification for overriding international law and the moral rules of war. Walzer shared the belief that post-war intellectual trends – positivistic and behaviouralist political science in particular, but also 'realism' in international relations – were responsible for creating the Machiavellian, utilitarian political culture that culminated in American ruthlessness in the Vietnam War (despite widespread opposition among 'realists' to the war). This position combined the technical opposition to utilitarian ethics that underpinned the growth of contract theory with opposition to a casual utilitarian political ideology.⁷⁴ Seeking to challenge both utilitarianisms and bring morality back in to political discourse, Walzer delimited a narrow realm of necessity in order to limit the kind of trade-offs that could be made. In some respects, this reversed Rawls's position that conscientious acts required the support of a theory. What made Walzer's conscientious leader's actions justifiable was not a set of moral rules – in fact the

⁷³ Michael Walzer, 'Political action: the problem of dirty hands', *Philosophy and Public Affairs*, 2 (1973), pp. 178–9.

⁷⁴ See, e.g., Stuart Hampshire, 'Public and private morality', and Thomas Nagel, 'Ruthlessness in public life', in Stuart Hampshire, ed., *Public and private morality* (Cambridge, 1978), pp. 23–54, and 75–92.

'moral politician' overrides the rules of war as dictated by just war theory in order to secure the 'survival' of the community – but the expected consequences. Walzer later called this the 'utilitarianism of extremity', the point at which politics trumped morality. It was because that overriding is the exception that proves the rule that the actor in question should be punished, just as the civil disobedient should be too. On this view, those who commit crimes that are not 'necessary' – both the leaders whose actions make them war criminals, and the civil disobedients who become mere dissenters – deserve punishment.⁷⁵ It is not hard to see why Walzer joined the legions of lawyers who called for criminal liability of American leaders, even if the 'necessity defense' appeared, in Walzer's hands, to let the leaders off the hook; neither is it difficult to see how he used the same logic to justify his critique of the New Left.⁷⁶

A version of just war theory underpinned this account of emergency leadership, though Walzer did not yet make this explicit. Unlike Rawls, Walzer had not turned to just war theory to justify conscientious refusal, and had been more concerned with the non-democratic nature of the war than its injustice. When he did deploy it, it was to analyse a broader range of moral problems. This is largely because Walzer's international theory was far more ambitious in scope. This ambition can in turn be partly explained by the fact that Vietnam was not the only war of interest to Walzer. After the 1967 Arab–Israeli war, Walzer wrote increasingly about Israeli politics, often with the intention to justify Zionism to an unsympathetic left-wing American audience. In an essay about his 1970 trip to Israel which compared the US and Israeli conscript armies, Walzer clarified the assumption underpinning his account of Israeli politics and, crucially, of just war theory – that in Israel, unlike America, 'no-one doubts' the 'justice of the struggle'.⁷⁷

Insofar as just war theory featured in Walzer's political commentary, it was as an anti-cosmopolitan minimalist account of the rules of war, which designated the 1967 war as a just war of national self-determination that fought against the 'cosmopolitan imperialism' of older models of internationalism. It also had another specific use, not just to legitimate the Israeli cause as just, but also to designate attacks on Israel as unjust acts of 'terrorism' that departed from the rules of war. Since just war theory had as one of its primary tenets the protection of non-combatants and 'innocents', any political violence that did not target combatants was unjust. Where Walzer's earlier writings had viewed conscription as part of a robust, active conception of democratic citizenship, deploying just war theory sharpened the distinction between soldier and civilian that this earlier conception had blurred. That distinction was what lurked behind his

⁷⁵ Michael Walzer, *Just and unjust wars: a moral argument with historical illustrations* (Cambridge, MA, 1977).

⁷⁶ Michael Walzer, 'The new left and the old', in *Radical principles: reflections of an unreconstructed democrat* (New York, NY, 1980), pp. 110–27.

⁷⁷ Michael Walzer, 'Journey to Israel', *Dissent* (1970), pp. 497–503; Michael Walzer and Martin Peretz, 'Israel is not Vietnam', *Ramparts* (July 1967), pp. 11–14.

condemnation of American bombing in Vietnam (he viewed the designation of civilian deaths as ‘collateral damage’ as unjustifiable) and justified, a decade later in 1978, his approval of Israeli ground attacks in Lebanon against the PLO (these targeted ‘terrorists’ not civilians).⁷⁸

While Rawls subsumed just war theory into his contract theory, Walzer did not attempt such coherence. He developed an account of just war that initially paid little attention to his pluralist domestic theory. About certain contradictions, Walzer was self-conscious – above all, his attempt to combine a deontological ethics of just war theory and basic human rights with a utilitarianism of extremity when crimes became ‘necessary’. Even the most absolutist of ethical theorists when it came to war, like Nagel, were unwilling to reject necessity claims altogether. They wanted to have it both ways. Walzer’s attempt to do so was repeated in another combination of contradictory theories, but one about which he was less self-conscious: the combination of just war theory, with its stringent distinction between combatants and non-combatants, and theories of democratic citizenship and obligation in which all citizens were authors of the actions of the state (and thus could not claim non-combatant immunity).⁷⁹

Walzer was the most obvious example of this contradiction, moving rapidly from active citizenship to just war theory, but others who took up just war theory similarly failed to consider its implications for debates about citizenship. While Walzer continued to describe citizenship in terms that implied democratic participation, the conceptual thrust of his theory, with its new focus on just war categories and human rights, pulled in the opposite direction. It could be argued that the objections to combining democratic citizenship with just war theory were made less compelling by practical changes, particularly the end of conscription: just war theory may be incompatible with a notion of active democratic citizenship, but without conscription this notion lost its most concrete instantiation anyway.⁸⁰ In *Obligations* (1970), Walzer pre-empted such objections by differentiating normative accounts of citizenship from the realities of ‘alienated’ citizenship, which might have allowed him to evade the problem if pressed. By and large, liberal philosophers avoided the choice, assuming the compatibility of democratic citizenship with just war theory. Issues of citizenship instead appeared in a different context, in debates about distributive justice, where the emphasis was on the political and economic conditions of citizenship rather than on citizen’s ‘moral relation to the law in a society of consent’.⁸¹

⁷⁸ Michael Walzer, ‘Israel in Lebanon: just and unjust responses to terrorism’, *Dissent* (1978), pp. 390–1.

⁷⁹ For just war theory and democracy, see Richard Tuck, ‘Democracy and terrorism’, in Richard Bourke and Raymond Geuss, eds., *Political judgement: essays for John Dunn* (Cambridge, 2009), pp. 313–32.

⁸⁰ For a different view and a critique of principal-agent representation, see David Runciman and Monica Brito Vieira, *Representation* (Cambridge, 2008).

⁸¹ For citation, see the topic for discussion at the ‘Bar Association of the City of New York’ annual conference (1969). Hannah Arendt, ‘Civil disobedience’.

Discussions of the ethics of war thus came to focus more on the morality of its conduct abroad than its consequences for politics at home.

V

This article has tried to show that the deployment of just war theory during Vietnam-era debates about civil disobedience was a key vehicle for this shift from questions of domestic citizenship towards international concerns. Just war theory offered a way of thinking about the international realm for statist philosophers who remained nationalist when it came to questions of global politics, especially the politics of redistribution – not just Rawls and Walzer, but Nagel and others too. It also helped to provide the conceptual resources for a new internationalist ethics that would become far more cosmopolitan in scope. Initially used to bolster citizenship claims, just war theory strengthened the break between the citizens and the military and presented a basis for philosophers to rethink citizenship in individualistic and cosmopolitan terms. Rawls's second contract, designed to justify just war theory, provided one of the foundations for global justice theory when it was taken up and challenged by Charles Beitz and Thomas Pogge, whose cosmopolitan theories formed the basis of the boom in international ethics in the 1990s.⁸² Rawls may not have advocated these changes, but he provided the conceptual tools for them.

These tools opened up a range of possibilities for theorists of international ethics, but they closed down others. For Rawls, the Vietnam War brought him to direct political engagement, but it was a very local version of that war – its impact on students on his doorstep and the dilemmas of refusal they faced – that spurred him to action. As such, civil disobedience was his only extended example of a hard case in politics: he neglected more persistent conflicts, like that between emergency politics and civil liberties, that occur in times of peace as well. Moreover, it is unclear that the case of conscription was really such a hard case after all; when compared to the issues of class and race that Rawls (and many contemporary liberals) sidestepped, it looks like a softer dilemma. Neither Rawls nor Walzer ever grappled with how racism shaped conceptions of citizenship; rather, it was war and its consequences for the obligations of citizens that animated their political engagements in the late 1960s. Their theories therefore remained nationally bounded. Though Walzer was concerned with local sectarian solidarities, he did not look to international ones between classes or races. Few liberal philosophers took on radical forms of transnational citizenship – ‘colored cosmopolitanisms’, transnational Marxisms,

⁸² Charles Beitz, ‘Justice and international relations’, *Philosophy and Public Affairs*, 4 (1975), pp. 360–89; Charles Beitz, *Political theory and international relations* (Princeton, NJ, 1979); Thomas Pogge, ‘The Kantian interpretation of justice as fairness’, *Zeitschrift für Philosophische Forschung*, 35 (1981), pp. 47–65; Thomas Pogge, ‘Rawls and global justice’, *Canadian Journal of Philosophy*, 18 (1988), pp. 227–56.

and anti-imperialisms – and on this Walzer was no exception.⁸³ The liberal versions of cosmopolitanism that philosophers developed in the 1970s emerged from the liberal nationalisms of the likes of Walzer and Rawls, not the radical internationalisms of earlier social movements.

But the move from statist to cosmopolitan citizenship required an extra step, which neither Walzer nor Rawls were willing to take. For theorists such as Beitz, adapting the mechanism of the international contract from Rawls allowed him to challenge the claim that states were the first agents of justice. He asserted the primacy of individual moral persons; states became mere instruments in the distribution of humanitarian justice to global citizens. As Samuel Moyn has shown, Beitz was prompted in the 1970s to take this step not in response to the Vietnam War, but to alternative models of global distribution like that of the New International Economic Order, presented in the aftermath of decolonization. The international crises of the 1970s – the global famines and oil shocks in particular – prompted other visions of global distribution too, like Peter Singer's. What the philosophical responses to the Vietnam War contributed were the mechanisms by which individuals of the world could replace citizens and the state as the primary political agents.⁸⁴

The versions of just war theory and global justice that now dominate internationalist ethics thus both have roots in local American projects. Walzer's just war theory may have been equally motivated by his attempt to defend Israeli military action in the Middle East, but it was conceptually parasitic on debates about conscientious objection during Vietnam. The origins of the internationalist projects of the 1970s therefore, in part, lie in debates about liberalism and the draft that took place within the confines of the elite American university. The Vietnam War localized what had previously been an international debate. At the level of public discourse in the early 1960s, the problem of civil disobedience had provoked arguments across the international left, but the legalistic, constitutionally focused version of these philosophers was only immediately relevant to American liberals. At the level of analytical philosophy, Anglophone debates about obligation, intention, and action that were Atlantic in scope, originating in Catholic-influenced Oxford philosophy, were narrowed by the Harvard- and New-York based SELF group during debates about the Vietnam War. These debates brought a generation of American philosophers into political self-consciousness, and this new interest in politics, which led philosophers to test their general moral principles on specific practical cases, brought with it the rise of applied ethics. The globalized

⁸³ Nico Slate, *Colored cosmopolitanism: the shared struggle for freedom in the United States and India* (Cambridge, MA, 2012).

⁸⁴ Moyn, 'The origins of global justice', pp. 1–29; Peter Danielson, 'Theories, intuitions and the problem of world-wide distributive justice', *Philosophy of the Social Sciences*, 3 (1973), pp. 331–40; Robert Amdur, 'Rawls's theory of justice: domestic and international perspectives', *World Politics*, 29 (1977), pp. 438–61; Peter Singer, 'Famine, affluence and morality', *Philosophy and Public Affairs*, 1 (1972), pp. 229–43.

language of analytical ethics that developed at the end of the twentieth century came out of this highly particular group speaking in highly universal terms. Just war theory may have been the mode of international thought offered by liberal thinkers who remained statist in focus, but it helped to shift the American debate towards the international realm. Once philosophers began to explore that realm, it was not long before discussions moved away from the obligations of citizens as parts of co-operative schemes towards new internationalisms where rights-bearing, conscientious individuals became the cosmopolitan citizens of a new global era.