

# H-Diplo | ISSF Roundtable 13-10

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**Samuel Moyn.** *Humane: How the United States Abandoned Peace and Reinvented War.* New York: Farrar, Straus, and Giroux, 2021. ISBN: 9780374173708 (hardcover, \$30.00); 9781250858719 (paperback, \$20.00).

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INTRODUCTION BY SARAH B. SNYDER, AMERICAN UNIVERSITY

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Samuel Moyn raises many questions in his new, provocative book, *Humane: How the United States Abandoned Peace and Reinvented War*. The four reviews, by Anne Kornhauser, Jana K. Lipman, Tejasvi Nagaraja, and Scott D. Sagan, engage deeply, appreciatively, and critically with Moyn's work. For Nagaraja the book's key question is, "how the post-9/11 Forever War became so durable." Moyn asserts at the outset, "Endless war has become part of the way Americans live now" (4).

Moyn is interested not only in the duration of military conflict but also its character. He asks why the United States has been driven to humanize war. Here a comparative perspective might have revealed more about the pressures shaping that policy. For example, why have only certain countries subscribed to this imperative? Russia, in its current brutal campaign against Ukraine, certainly seems unencumbered by such concerns.

Moyn also evaluates the complicated application of international law to armed conflict, or nonapplication in the case of colonial violence inside empires, as he aptly points out. He emphasizes the confusion of many over what constitutes "crimes against humanity," which initially referred to the decision to wage war rather than the conduct of that fighting.

For Lipman, the critical question is why there isn't a meaningful anti-war movement in the United States. As she puts it in her review, "For Moyn, war is the atrocity." Indeed, Moyn's account details the American peace movement and its breakdown because he sees both the process of making war more humane and that of eradicating it as mutually exclusive. For him, humane war makes peace less possible.

Among the praise for *Humane* is its novelty. Kornhauser writes that Moyn is "forging a path toward a new kind of history." Lipman lauds *Humane* as "elegantly written and persuasive." She also records that his critique of activism against detention practices and US policy regarding the U.S. naval base in Guantanamo Bay (but not against military action in Afghanistan and Iraq) "struck a nerve."

Sagan offers a more mixed assessment, characterizing the book as "important but problematic." For Sagan, its strengths are its "comprehensive" and accessible nature as well as Moyn's detailed research on the evolution of international humanitarian law. Yet he and Nagaraja criticize the book's use of evidence and its conclusions.

Nagaraja, in the most critical review of the roundtable, sees the book as too neat and "unpersuasive." In Nagaraja's view, Moyn offers insufficient or inappropriate evidence to support some of the principal claims of the book. In particular, Nagaraja disagrees with the choice of actors Moyn discusses – lawyers. For Nagaraja, the omission of key national security and defense officials is a significant weakness of the book. He similarly critiques Moyn's focus on the writings of individuals such as Leo Tolstoy and Bertha von Suttner and exclusion of collective movements in these years. His footnotes offer useful reading suggestions for those who seek works to complement or supplement Moyn's. Finally, Nagaraja is frustrated by the lack of opinion polls or other studies on public opinion. His methodological critique contrasts quite dramatically from Kornhauser's assessment. Kornhauser instead sees Moyn's work as a "moral statement," and she characterizes Moyn's approach, generously, as "a form of philosophical history."

For Sagan, this moral statement is problematic; he suggests Moyn is "waving a protest banner exclaiming, 'End the Endless Wars.'" Sagan questions if U.S. military involvement is indeed endless (he acknowledges that Moyn's book went to press before the U.S. withdrawal from Afghanistan), and, if it in fact is, how problematic that would be.

Those with high praise also offer some critiques of the book. For example, in Lipman's view, Moyn's attempt to diagnose the lack of anti-war movement in the United States overlooks the significance of the shift to an all-volunteer military, the rise of conservatism, and the regularity of the military's engagement in humanitarian operations.

Inspired by Tolstoy's juxtaposition of the abolition of serfdom in the Russian empire and the American abolition of slavery in the same decade, Moyn poses a new comparison – the effort to humanize war in the subsequent centuries. Both Kornhauser and Nagaraja, however, are uncomfortable with some of the ways in which Moyn connects slavery reform efforts to restrictions on methods of waging war.

Moyn's response, which engages warmly with the reviewers' critiques, suggests that his book accomplished at least some of his aims – to provoke its readers and to problematize the decisions and objectives of humanitarian and human rights actors. In some respects, his comments reveal the ways in which he, Nagaraja, and Kornhauser all privilege different types of historical actors. The focus in *Humane*, as in other works by Moyn, is squarely on lawyers and the impact they can have on U.S. foreign relations.<sup>1</sup>

*Humane* reveals deep frustration with President Barack Obama and his administration for its use of drones in warfare. As Moyn writes in his response, he wanted to show that the left, including the president, a former law professor, “is not above strategic mistake and paradox.”

### Participants:

**Samuel Moyn** is Henry R. Luce Professor of Jurisprudence at Yale Law School and a Professor of History at Yale University. He has written several books in his fields of European intellectual history and human rights history, including *The Last Utopia: Human Rights in History* (2010), and edited or coedited a number of others. His most recent books are *Christian Human Rights* (2015), based on Mellon Distinguished Lectures at the University of Pennsylvania in fall 2014, and *Not Enough: Human Rights in an Unequal World* (2018). His newest book is *Humane: How the United States Abandoned Peace and Reinvented War* (Farrar, Straus, and Giroux, 2021). Over the years he has written in venues such as *Boston Review*, the *Chronicle of Higher Education*, *Dissent*, *The Nation*, *The New Republic*, the *New York Times*, and the *Wall Street Journal*.

**Sarah B. Snyder** teaches at American University's School of International Service and is the author of two award-winning books, *From Selma to Moscow: How Human Rights Activists Transformed U.S. Foreign Policy* (Columbia University Press, 2018) and *Human Rights Activism and the End of the Cold War: A Transnational History of the Helsinki Network* (Cambridge University Press, 2011). She is the founding editor, along with Jay Sexton, of Columbia University Press' Global America book series.

**Anne M. Kornhauser** is associate professor and chair of history at the City College of New York (CUNY) and associate professor of history at the CUNY Graduate Center. She is the author of *Debating the American State: Liberal Anxieties and the New Leviathan, 1930-1970* (University of Pennsylvania Press, 2015) among other publications about US intellectual and legal history.

**Jana K. Lipman** is a Professor at Tulane University. She is the author of *In Camps: Vietnamese Refugees, Asylum Seekers, and Repatriates* (University of California Press, 2020), *Guantanamo: A Working-Class History between Empire and Revolution* (University of California Press, 2009), and co-translator with Bac Hoai Tran of *Ship of Fate: Memoir of a Vietnamese Repatriate* by Trần Đình Trụ (University of Hawaii Press, 2017). Her scholarly work has also appeared in *American Quarterly*, *Journal of American Ethnic History*, *Journal of Military History*, *Radical History Review*, and other venues.

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<sup>1</sup> See for example, Samuel Moyn, *The Last Utopia* (Cambridge: Harvard University Press, 2010), 176-211.

**Tejasvi Nagaraja** is an assistant professor of history at Cornell University in the ILR School. His work has appeared in *American Historical Review*. He is writing a book about the Second World War. It reconstructs a far-flung war within the war among Americans themselves, which linked racial and economic and geopolitical contentions.

**Scott D. Sagan** is the Caroline S.G. Munro Professor of Political Science, the Mimi and Peter Haas University Fellow in Undergraduate Education, and Senior Fellow and Co-Director at the Center for International Security and Cooperation in the Freeman Spogli Institute at Stanford University. He is the author of, among other works, *The Limits of Safety: Organizations, Accidents, and Nuclear Weapons* (Princeton University Press, 1993); and, with co-author Kenneth N. Waltz, *The Spread of Nuclear Weapons: An Enduring Debate* (W.W. Norton, 2012).

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 REVIEW BY ANNE KORNGHAUSER, CITY COLLEGE OF NEW YORK
 

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This is “an antiwar history,” Samuel Moyn announces at the outset of *Humane*, his provocative and incisive history of the law and culture of American warfare (7). Although sweeping in scope, the book focuses most intently on the latest iteration of the laws of armed conflict, international humanitarian law. This form of law, Moyn argues, has served as the foundation for the seemingly endless American war against terrorism by legitimating the use of unprecedented military force. One could read his opening description in one of two ways: The book is antiwar in that it views the development of legalized warfare in light of those people and institutions that historically promoted the more radical alternative of peace. One could also read it as a moral statement aimed at convincing Americans to make less war at the very moment when they are making more. In fact, both readings are plausible. By making the ethical imperative of his story equal to the empirical component, Moyn is forging a path toward a new kind of history. *Humane* demonstrates both the great promise of this genre and some potential pitfalls.

*Humane*'s empirical story is about the history of the law of the conduct of war over more than a century and a half. This form of law was mostly international—with a few exceptions such as the Lieber code developed during the Civil War—and of European origin. For most of this period it was sparse—a Hague treaty here, a Geneva Convention there, and simply excluded specific practices, such as the use of a poison gas or the treatment of prisoners of war. Then came the creation of a new legal form constructed largely by Americans beginning in the 1970s and advanced with new urgency in the wake of 9/11. What Moyn calls “humane war” applies humanitarian principles to the conduct of war much more systematically and permissively. This humanitarian law of war obsesses over civilian deaths—and death in general—which distracts from the other destructive features of warfare and the crime of waging war in the first place. It also sanctions practices such as targeted killings and technology such as drones that allows for killing at an extreme spatial and psychological distance. The new technology of war divorces human involvement from death but not from coercive control over life.

While tracing the rise of the new humanitarian law of war, which Moyn attributes to cultural changes in the 1970s in reaction to the Vietnam War and the recovery of the Holocaust that led to a new concern for the cruelty of war, Moyn simultaneously charts the fall of the campaigns and rules for peace. The prohibition on war has long been forgotten, he tells us. But it too coursed through American political culture and once represented a “mainstream idea” (62). Until, that is, Americans “made a moral choice to prioritize humane war, not a peaceful globe” (8). Moyn finds evidence for the demise of the antiwar movement—which was at its height during the Vietnam War—in the lack of opposition to the war on terror, starting with the wars in Afghanistan and Iraq. Recognizing the global outcry against Iraq, the millions who marched in the streets, Moyn sees this plaint as fleeting compared to Americans’ apparent support for the United States’ endless war. Instead, even the antiwar left, but especially their usually reliable liberal partners, have chosen to try to make war less grotesque. At times it seems that doing both simultaneously is not an option because if you are fighting for a better war, you cannot fully oppose it. If one fights to make war more humane, there must be a war to humanize (142). This absence of antiwar sentiment is one of Moyn’s biggest concerns.

*Humane*, then, is not just a genealogy of morals, it is itself a moral statement. The moral lessons Moyn draws in *Humane* hew closely to the history that informs them. But that does not mean they exist only *for* history. Besides an implicit indictment of past choices, this book also contains a prescription for the present. The book’s moral lessons are frequently imparted not directly by Moyn himself but by one of the great pacifists of all time—Russian novelist Leo Tolstoy—through Moyn’s brilliant reading of Tolstoy’s shifting and subtle thought on the immorality of war and the dangers of trying to humanize it.<sup>1</sup> At one point in his life, Tolstoy believed that humane war was actually worse than more brutal war, but Moyn departs from the literary sage on this point. Still, the force of his argument against humane war might lead some readers to conclude otherwise—an unintended consequence, one might say, of the kind of history Moyn is writing.

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<sup>1</sup> It ought to be noted to be against war and to be a pacifist are not necessarily the same thing. Nor is there any evidence that Moyn is endorsing Tolstoy’s radical pacifism. It is the insights of the pacifist Tolstoy that interest Moyn.

Moyn's own voice also comes through to take Tolstoy's insights to the present, warning us about the "costs" of our humanitarian obsessions and the power of the coalition of liberals and neoconservatives that has driven the cause of humanitarian intervention and wars on terror for the past several decades. (Moyn makes a persuasive case that presidents George W. Bush, Barack Obama, and Donald Trump are equal culprits here.) Far from salving our consciences about the assertions of American military power across the globe, this humanitarian impulse may not contain war but instead make it seem more salutary, and therefore, Moyn wagers, more likely. As he does with the idea of human rights, Moyn forces us to question a form of thought that on its surface might seem unobjectionable. For example, he asks us to reflect on whether cruelty really is the worst offense of all. No, Moyn says, military might in the hands of a world hegemon, however it is wielded, is the greater evil.<sup>2</sup>

The imbrication of the empirical and the moral strands of Moyn's "antiwar history" results in a form of philosophical history.<sup>3</sup> A product of the Enlightenment, philosophical history in its contemporary guise engages in explicit moral reasoning based on a reading of the past, and it disclaims the drawing of sharp boundaries between past and present. Indeed, the past and the present ultimately blur together in the final chapter of the book, which includes a brief discussion of humane war under the presidency of Trump. This is presentist history at its best and most convincing, or, better, it is a history of the present. Moyn makes no effort to hide his wish to intervene in current debates over the American way of war. This "engagement with pressing political, ethical, or metaphysical issues of their own times" is what most clearly separates philosophical history from its more constrained historiographical counterparts.<sup>4</sup>

In philosophical history, the burden of empirical proof differs from that of traditional history. While philosophical history remains committed to accuracy, it does not require a comprehensive investigation into the complexities of all covered topics typical of historical methodology. From this vantage point, certain elisions in this book seem less like oversights or manipulations and more like diversionary complications in a history that remains true to its empirical foundations but avoids certain details and counterexamples.<sup>5</sup> It does so in order to focus concertedly on the narrative's ethical arc. In *Humane*, that arc might be summed up as the ethical limitations of liberal humanitarianism. These limitations are shown by a close examination of humanitarian movements and ideas, but also by counterpoising what Moyn sees as a more radical and morally acceptable approach to war: the quest to eliminate it.

Philosophical history produces its own quandaries. Put another way, centering ethical commitments in history writing has its own costs. These do not overwhelm its benefits but they bear examining. Three instances of generalization, speculation, or silence illustrate these quandaries. They are worth exploring to draw our attention to how philosophical history creates a particular kind of narrative commitment but also because they share a common theme. In each case, Moyn de-emphasizes the broader structural contexts that could help us better understand the conditions in which the ideas that concern him—whether humanitarian or antiwar—were formed. Ironically, Moyn argues that this oversight afflicts the reform movements

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<sup>2</sup> Among other things, this argument directly responds to Judith N. Shklar's famous essay "Putting Cruelty First," *Daedalus* 111:3 (1982): 17-27.

<sup>3</sup> On post-Enlightenment forms of philosophical history, see Sophia Rosenfeld, "On Lying: Writing Philosophical History after the Enlightenment and after Arendt" in *The Worlds of American Intellectual History*, ed. Joel Isaac et al. (New York: Oxford University Press, 2017), 218-34. Moyn also has an essay in this collection.

<sup>4</sup> Rosenfeld, "On Lying," 219.

<sup>5</sup> Looking closely at *Humane*, along with Moyn's broader corpus of work on human rights, it becomes abundantly clear that these were conscious and intellectually honest choices, not the result of inadequate research or gaps in historical knowledge. Read carefully, the appropriate qualifications may be found.

both here and in his previous work on human rights propelling them in a less radical direction—toward piecemeal fixes rather than structural overhauls.<sup>6</sup> The difference is that Moyn knowingly pushes aside certain contextual issues.

The first and perhaps most troubling of Moyn’s elisions emerges in his discussion of humanitarian reform and slavery. This might seem a departure from the topic of his book, but Moyn pursues it because Tolstoy did. In his “most inspired move,” Tolstoy analogized making war more humane with American reformers’ attempts to humanize slavery. Tolstoy asked in his great novel *War and Peace*: “What if reformers humanized an institution they could and should have eradicated?” (38). It is a provocative question, but the evidence that Moyn adduces to support Tolstoy’s analogy does not inspire confidence in Tolstoy’s comparison. For the humanizing of American slavery, Moyn cites mostly older historiographical literature, to support the contention that Tolstoy may have been right to wonder if reforming slavery proved to be an obstacle to abolishing it.<sup>7</sup>

According to Tolstoy, antislavery reformers had convinced themselves that slavery was an entrenched institution that could not be eradicated in the near term but could be made less brutal. But who were these reformers? We do not know for certain because they remain unnamed—both in Moyn’s book and in one of the chief sources he cites, the historian Winthrop Jordan’s *White over Black*.<sup>8</sup> Referring to the southern movement to ameliorate slavery in early America, Jordan writes: “As slavery became less brutal there was less reason why it should be abolished” (40). But Jordan was referring to the late eighteenth century, as Moyn acknowledges. What is left unsaid is that after this period (and before) the humanization of slavery—if one can speak of it in those terms—did not extend unexpurgated across time and throughout space. Temporally, the meliorist movement of the South met its match in the later radical abolitionists of the North whom Tolstoy so admired.<sup>9</sup> Spatially, in the wake of nineteenth-century slave revolts, some slave states did indeed pass protective statutes; others, however, cracked down, passing anti-literacy laws or stepping up slave patrols.

To be sure, one can point to certain elements of slavery in the United States to make the case that slavery here was less intolerable—such as on the matter of bare life. Slavery in the Caribbean and South America was notorious for lower reproduction and higher death rates among the slaves. However, this had more to do with the kind of labor slaves were forced into and the crops they worked, as well as other material factors. On both grounds, then—the history of slavery as an institution and its comparative success in the realms of morbidity and mortality, sex ratios, and reproduction—to highlight humanitarianism is to miss the forces—social, economic, and political—that we do know—without speculating—helped to prolong slavery in the United States. As this book is for a general audience it is not unreasonable to worry that readers might get the incorrect impression that slavery in the United States was especially kind and gentle. These sorts of details may not matter to the story Moyn is telling. The possibility, however slight, that humanitarianism may have extended the life of slavery, even for one day, is enough to make it salient for the story he wishes to tell about the unintended consequences, or “costs,” of making violent institutions, such as slavery and war, more humane. In this highly attenuated way, the analogy between meliorative antislavery and humane war holds.

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<sup>6</sup> See, for example, Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Belknap Press, 2010) and *Not Enough: Human Rights in an Unequal World* (Cambridge: Belknap Press, 2018).

<sup>7</sup> For example, David Brion Davis, “The Emergence of Immediatism in British and American Antislavery Thought,” *Mississippi Valley Historical Review* 49:2 (1962): 209-230. Davis argues that besides the failures of the more tepid reformers, it was the recalcitrance of the slaveowners and the activism of free and enslaved black people else, that radicalized the American antislavery movement.

<sup>8</sup> Winthrop Jordan, *White over Black: American Attitudes toward the Negro, 1550-1812* (New York: W.W. Norton, 1968).

<sup>9</sup> Oddly, Moyn says, citing David Brion Davis, that it was the ineffectiveness of the British meliorists that convinced the radical abolitionists in the United States to work for immediate abolition. But if melioration and humanization were so prevalent here, why would Americans need to look to the British empire for inspiration in their fight to end slavery?

What about on ethical grounds—does the comparison hold, as Tolstoy and Moyn seem to think? While Moyn stops short of arguing that humane war causes endless war, he does make a solid if not entirely convincing case that the former may be implicated in the latter. By contrast, there is no case to make that humanitarianism prolonged the existence of slavery in the United States. Here it is worth considering a fact that Moyn mentions but does not explore. Many of the radical abolitionists were pacifists. But when it came time for the Civil War almost all of them left their pacifism behind for the defeat of the greater evil of slavery. Moyn purposely avoids engaging systematically with the other kind of law of war, *jus ad bellum*, or the law of just and unjust wars. This law of war, mostly uncodified and grounded firmly in ethics, tells us whether a state is justified in using force in the first place. Yet he cannot and does not ignore it entirely in an *antiwar history* of the laws of the conduct of war. For it is precisely the cause of peace that stands as the alternative to humane war in Moyn's book. While just war theory is not the same thing as pacifism—it is more permissive—the radical abolitionists point to the blurriness between the two doctrines. Some pacifists are absolute in their stance, but many adopt a stance of “contingent pacifism,” in which injustice trumps nonviolence. The example of pacifist-abolitionists giving up their pacifism for the Civil War would illuminate the limits in history of a purely antiwar stance.

Historically, in Moyn's telling, the antiwar cause stood outside the global power structure in the form of social movements—until World War II. There was the exception of Kellogg-Briand Pact of 1928 but whether that was in fact aimed at ending all war, as it proclaimed, is debatable, and Moyn does not dwell on it. But what about since then? Moyn marvels at the UN Charter's prohibition against the use of force in almost all circumstances and even more at the Nuremberg Charter's breakthrough in criminalizing aggressive war. These are instantiations of just war doctrine but they appear in the book as forgotten alternatives when peace was given a chance. In good philosophical history fashion, they demonstrate a pattern of thought that was historically possible. Yet do these examples in fact demonstrate a commitment to peace by the ruling powers of the day?

Building rhetorically on Kellogg Briand—so as not to seem to be creating new law and running into *ex post facto* objections—the Nuremberg charter foregrounded the charge of “crimes against the peace” (the waging of aggressive war) as the Nazi's biggest offense. Moyn notes gleefully that crimes against humanity, which included the Holocaust, were folded into the omnibus crime of waging aggressive war. He concludes that, as in the UN Charter, the great powers recognized this approach alone would send the signal, and set the legal precedent, for outlawing almost all war.

In this reading, both charters contained formal endorsements of peace. Given their novelty in international law, the historical importance and precedential nature of this moment cannot be easily dismissed. However, the choice by the Allies to privilege the charge of aggressive war was as much a legal and political strategy as it was a stance against war, or a step toward world peace. The words were not meaningless, of course, but they were chosen for a multiplicity of reasons; least important, arguably, was to signal a commitment by the Allies to swear off military actions or to stop those who did not. Rather, as Moyn points out, the atrocities committed by the Nazis were complicated by the fact all the parties, the Soviets above all, had committed their own grievous acts against humanity. What about the murders of tens of thousands of Polish prisoners of war by the Soviets at Katyn? The fire-bombing and nuclear attacks on civilians by the U.S.? And since crimes against humanity, as defined by the charter and the phrase itself, do not necessitate war, could the lynching of black Americans count too if crimes against humanity themselves were on trial?

All these issues came up as the parties to the agreement debated how to frame the criminal charges against the Nazi leadership. With the Americans in the lead, the strategy of subsuming humanitarian and traditional war crimes under the overarching charge of aggressive war avoided these complications and lessened the appearance of victor's justice. Among the Allies, not least the Americans, the shroud of legalism mattered, the noble attempt to frame the war in legal terms was born of the failures of the treaties of World War I as well as the mind-numbing barbarism of this Second World War. Yet behind the lexical ordering of the criminal charges at Nuremberg stood a variety of motivations. Prime among them was the newly

victorious and hence powerful winners of the war wishing to avoid holding themselves to account.<sup>10</sup> How can this *not* contribute to our understanding of the framing of Nuremberg?

Moreover, from the point of view of precedential international law, one might note the variety of compromises that occurred to ensure the correct result. (This trial would not have served its purpose, after all, had the Allied prosecution failed to garner convictions.) While Nuremberg was far from a show trial, neither did it hold itself to the exacting standards of American criminal procedure, such as “the technical rules of evidence.”<sup>11</sup> The convictions highlight tension between the impulses of legalism and the necessities of victor’s justice: some Nazi perpetrators were acquitted, others were imprisoned, while the majority were hanged. Since some Allied leaders had also discussed summary execution as an option for meting out justice, one might be relieved at such an outcome, and the variety of sentences do suggest a degree of fairness in the trial. One might also be horrified at the state-sponsored killings, even if they occurred after a trial rather than instead of one.<sup>12</sup>

To counter state-sponsored violence with state-sponsored violence does not advance the cause of peace. The very different kind of violence that accompanied the German and Japanese occupations in the context of which the war crimes trials at Nuremberg and Tokyo took place, also throws into question just how much stigma attached to the use of force beyond the resounding words of the two charters. Why should we take seriously the words of these two charters any more than we should take those of the human rights covenants that followed from Universal Declaration of Human Rights, which have also remained almost entirely aspirational? When Moyn brings his story to our own time, it becomes clearer that a reliance on international law to police the conduct of war will not work. Moyn does not suggest otherwise, but certain of his historical examples do.

Could there be a workable international law on the prohibition of force? Working toward demilitarization is a worthy goal, but in a world of nation-states, as the American military juggernaut after World War II demonstrates, it is not a realistic one. As with the example of slavery, Moyn downplays the context of power and interest that helped to shape both the law and the outcome of the Nuremberg Charter and trials. He does so to emphasize the culture of the times, the language and ideas that proliferated, the styles of thought that were possible. As a fellow intellectual historian, I appreciate these emphases. And if we read this as a philosophical history, there are good reasons for doing so. The power dynamics form the context within which these words and ideas are located. While Moyn is acutely aware of them, they are, at times, relegated to the sidelines to highlight the force of ideas that Moyn thinks may be relevant today.

The final elision worth examining comes in Moyn’s discussion of the quest for a world federalism—a vision for a peaceful, cooperative world held by a motley crew of intellectuals and activists. Reaching its apotheosis in the aftermath of World War II, the world federalist movement took “universal peace” as its primary aim.<sup>13</sup> Moyn focuses on the ideas and efforts of the international law scholar Quincey Wright. But there was a significant movement beyond Wright whose main cause was international arbitration. Though it lost out to American militarism (it was not a close call), it bears further scrutiny as yet another alternative that history offers up to humane war. The premise behind the movement was that nationalism and nation-states stood as the biggest obstacles to world peace. Instead of nations, the movement, led by such eclectic (and

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<sup>10</sup> Again, Moyn mentions this, but as an aside.

<sup>11</sup> Nuremberg Trial Proceedings Vol.1: Charter of the International Military Tribunal  
<https://avalon.law.yale.edu/imt/imtconst.asp>

<sup>12</sup> For more on the limits of legalism at Nuremberg, see my *Debating the American State: Liberal Anxiety and the New Leviathan, 1930-1970* (Philadelphia: University of Pennsylvania Press, 2015). Cf. Gary Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton: Princeton University Press, 2000).

<sup>13</sup> See, for example, Robert M. Hutchins et al., *Preliminary Draft of a World Constitution* (Chicago: University of Chicago Press, 1948), 3. This and the following paragraphs are based on an unpublished paper by the author, “A New World Order? Imagining World Government, Reimagining the Nation State after World War II.”

decidedly non-radical) figures such as University of Chicago president Robert Maynard Hutchens, the philosopher Mortimer Adler, and the New Dealer Rexford Tugwell, “humanity” would be the guarantor of peace. These utopian internationalists had given up on existing forms of international cooperation, including the United Nations, along with the nation-state itself. Some sort of greater international cooperation was in order and for that was needed a universalist justification.<sup>14</sup>

These world federalists believed that the imperative of a global citizenry of autonomous and rational individuals required a legal foundation much more extensive, and more democratic, than the United Nations provided. The United Nations was a non-transcendent political institution strictly dependent on the nation-state and lacking in the legislative power necessary to express universal norms of justice. This was an instructive critique with which Moyn would certainly agree. But there was also an imperialist dimension to this movement that was highly problematic and it is unclear whether there could have been such a movement without it.

In some iterations, world federalism smacked of a civilizing mission that echoed the rhetoric of early efforts, traced by Moyn, to humanize war by the Swiss-founded Red Cross. For the American-centric world federalists, the United States was uniquely positioned to lead in the cause of world federalism because it was the most sustained democratic federation ever to have inhabited the earth. Its managed pluralism modeled the kind of differentiated unity the movement sought for the globe. Its institutions, meanwhile, stood as models for world government itself, even while the world federalists acknowledged much work needed to be done in matters of racial discrimination and economic inequality. The United States stood as an institutional model for world government, but not as an ethical one.<sup>15</sup>

Still, the United States, would lead the way, and so would international law. What would be the glue that bound the globe together in this pursuit of peace? As the political scientist Carl Friedrich wrote in 1947, “It is an unresolved problem how the people’s inchoate desire for the maintenance of peace can be effectively implemented by an understanding of what is required, unless genuine law-making power can be developed on an international level and the majority of mankind offered an opportunity to participate in its shaping.” This, in turn, required a global civic-mindedness and commitment to some sort of democratic participation. As Friedrich explained, “No such requirement of homogeneity is included” in the UN Charter... “except that the participating states should be peace-loving.” What that phrase might mean, Friedrich continued, “remains obscure.”<sup>16</sup>

The differences that Friedrich and many world federalists feared would undermine the cause of peace were not cultural or identity-based; they were political. Under the principle of political homogeneity, a world republic of lasting peace must exclude totalitarian states, slave-based societies, and others far beyond the pale of constitutional order. Apart from any normative considerations, the world republic could not function, without such limitations. Friedrich cited the American Civil War and the struggles of the German Confederation of 1815 as but two instances of this phenomenon. It is no simple matter, Friedrich and others realized, how one ought to deal with the enemies of democracy. (That friends of democracy could also threaten its well-being was less often acknowledged.) Soon the movement devolved into yet another victim of the

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<sup>14</sup> Tellingly, Reinhold Niebuhr, the realist, left the movement, citing disenchantment with the “false solutions” of world government. See “The Illusion of World Government,” first published in *Foreign Affairs* 27:3 (April 1949): 379-388, and reprinted as *The Illusion of World Government* (Whitestone: The Graphics Group, 1949).

<sup>15</sup> Foreword, *Preliminary Draft*, vii.

<sup>16</sup> Carl J. Friedrich, “The Ideology of the United Nations Charter and the Philosophy of Peace of Immanuel Kant, 1795-1945,” *Journal of Politics* 9:1 (1947): 10-30, at 25.

Cold War. The next and much bigger peace movement came only in the wake of the Vietnam War. It is that movement that Moyn holds up as a model for opposing the war itself and the practices within it.<sup>17</sup>

Universal peace is indeed a worthy alternative to humane war. But just as Tolstoy makes for a much better critic of humane war than an analyst of institutionalized peace, so too do the other pacifists and peace-mongers that have comprised the antiwar movements of American history. We may wish to note their presence, along with the efforts of American and European elites to limit war, so as to have some historical referent for a new dream of peace. Yet just as surely any new peace movement for which Moyn rightly yearns will need to be more realistic, than any of the forebears Moyn mentions. It will also have the challenge of opposing military actions across the globe, not just a single war. If Moyn may well be right that humane war makes war less costly and has coexisted with deepening American militarism, it must also be said that the antiwar alternative remains as elusive as ever.

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<sup>17</sup> This example illustrates that opposing war and supporting humane war at the same time is indeed possible. At the same time, most of the opposition to the crimes *within* the Vietnam War came after the war. The role of the draft also complicates any easy comparison.

REVIEW BY JANA K. LIPMAN, TULANE UNIVERSITY

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When I teach my students about the Vietnam War, I often pause when I get to the US invasion of Cambodia. The students are generally familiar with student protests against the war and nod when I show the iconic image of Mary Ann Vecchio shrieking over a fallen student at Kent State.<sup>1</sup> However, few know that the Kent State students were protesting the US invasion of Cambodia, specifically because they opposed the expansion of the war. I then note that US drone strikes have targeted and killed people in Afghanistan, Syria, Pakistan, and Yemen – also further spreading the US wars in the Middle East – and not only have there been no mass protests, but few Americans even seem to register these events.<sup>2</sup> I ask my students if they can imagine walking out of class and demonstrating en masse because the US had violated another country's sovereignty and expanded the scope of war. They cannot.

Maybe next semester, I will require them to read Samuel Moyn's *Humane: How the United States Abandoned the Peace and Reinvented War*. In this book, Samuel Moyn questions why twenty-first century human rights activists and progressive advocates have focused so much time and on torture and detainee abuse, and so little on ending wars in the first place. In line with his now classic, *The Last Utopia: Human Rights in History*, Moyn criticizes the human rights establishment for elevating their objections to war-time atrocities, without mobilizing the public against war itself.<sup>3</sup> He also has little patience for those who advance humanitarian law as a way to minimize the violence of war. He states, "We had made a moral choice to prioritize humane war, not a peaceful globe" (7). Moyn argues that the attempts to make war more 'humane,' more 'legal,' have ultimately made it endless and invisible, at least to comfortable Americans, who have become numb to a constant backdrop of military engagement.

*Humane* is intentionally provocative. Moyn seems to argue that his presumed readership, well-educated liberals, have misdirected their political energy. He believes that anti-war politics should supersede the current focus on human rights and war-time atrocities. For Moyn, war is the atrocity.

Moyn's analysis spans two centuries, but he is obviously motivated by the present. The first half of the book sets the stage, tracing how proponents of humanitarian law ultimately replaced anti-war thinkers. Moyn situates the initial, nineteenth-century conflict between those who hoped to eliminate war altogether and the humanitarian impulse to temper war, embodied by Henry Dunant and the Red Cross. He includes meditations on Russian novelist Leo Tolstoy's history of pacifism and writer and Nobel Peace Prize winner Bertha von Suttner's influential nineteenth century tract, *Lay Down Your Arms*. *Humane* then moves forward in time, reflecting on how Europeans and Americans recognized (or starkly ignored) humanitarian law in colonial settings, World War I and World War II. Moyn then homes in on the post-war Nuremberg trials. He argues that the trials are generally remembered as having held Germans accountable for the atrocities of the Holocaust. Few remember that the goal of the Nuremberg trials was to ascertain blame for starting World War II in the first place. Moyn stresses this point, emphasizing the initial crime of starting the war.

In the second half of the book, Moyn persuasively argues that the US War in Vietnam marked a major turning point for the US military and US war-making. Moyn provides a new interpretation of the My Lai massacre. He resurrects General Telford Taylor's book *Nuremberg and Vietnam: An American Tragedy*, which is relatively unknown today (I have never read

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<sup>1</sup> Patrick McCormick, "The Girl in the Kent State Photo," *Washington Post*, April 19, 2021, <https://www.washingtonpost.com/magazine/2021/04/19/girl-kent-state-photo-lifelong-burden-being-national-symbol/> (accessed December 3, 2021).

<sup>2</sup> Peter Bergen, David Sterman, and Melissa Salyk-Virk, "America's Counter-terrorism Wars," *New America*, June 17, 2021, <https://www.newamerica.org/international-security/reports/americas-counterterrorism-wars/> (accessed December 9, 2021).

<sup>3</sup> Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Belknap Press, 2012).

it) to explain how an emphasis on legalism and war crimes could serve to sideline anti-war critiques.<sup>4</sup> Moyn states that in the aftermath of Vietnam, political and military leaders could denounce atrocity, without denouncing aggression (190). He argues that the rise of legalism would eventually dull anti-war politics. The book then moves into the twenty-first century, and he concludes with an analysis of the War on Terror under presidents George W. Bush and Barack Obama.

The book is elegantly written and persuasive. Looking to change minds outside the academy with this book that is intended for a general audience, Moyn offers original interpretations which call into question the financial and political investment liberals have invested in humanitarianism and human rights. Rather than further summarizing Moyn's excellent book, I'd like to spend the rest of the review raising a few specific questions and pondering some of Moyn's conclusions. This is not because I have major critiques, but because the book raised so many questions and avenues for further investigation.

In many ways, Moyn's book asks why the anti-war movement no longer exists in the United States – and his answer is that too many people became fixated on human rights violations, not aggression. There's a lot to be said for this thought-provoking formulation, but I believe Moyn underestimates other factors in the United States, such as the end of the draft, the military's embrace of 'humanitarian' missions, and the rise of conservative political culture.

In particular, I think there is much more to be said about how the pivot to the All-Volunteer Force (AVF) after Vietnam effectively sidelined the anti-war movement. Reading *Humane*, I was struck by the importance of Beth Bailey's *America's Army: Making the All-Volunteer Force*, which argues how the military's decision to become an all-volunteer army merged with neoliberalism, ideas of choice, and capitalism.<sup>5</sup> Moyn mentions briefly how "The end of the draft would make it next to impossible to mobilize an antiwar movement," because the well-off would be "immunized" from war (208). It is correct that the post-Vietnam military sheltered wealthier Americans from ever having to contemplate military service or the fatal consequences of US interventions. However, it did more than that. It also made military service a matter of "choice" and an unassailable good.

With the rise of conservatism in the 1980s and 1990s, presidents Ronald Reagan and George H.W. Bush romanticized service members as heroic volunteers. By the time of the First Gulf War, the slogan, 'Support our troops' became ubiquitous. Historian David Fitzgerald demonstrates how the "unquestioned notion of the volunteer service member as hero," effectively silenced anti-war voices and dissent.<sup>6</sup> The general population accepted the AVF, and there was a tacit acceptance that the young people who volunteered for the military somehow understood what they were signing up for. In addition, the culture began to venerate soldiers and veterans as "representing the best qualities of the United States."<sup>7</sup> The studied, and false, apolitical nature of this veneration, for example, at sporting events and providing minor privileges like early airplane boarding, seeped into daily life, and made it even more difficult for Americans to criticize the military's interventions.

I don't disagree with Moyn's point that twenty-first century activists have directed most of their energy at calling out atrocities and torture, rather than the war itself. I would suggest this is not only because of the legal language of humanitarianism and human rights, but also because of the transformation of the US military and political culture. Analyzing how these two processes affected each other would further illuminate why fewer and fewer Americans spoke out against war after Vietnam.

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<sup>4</sup> Telford Taylor, *Nuremberg and Vietnam: An American Tragedy* (New York: Bantam Books, 1971).

<sup>5</sup> Beth Bailey, *America's Army: Making the All-Volunteer Force* (Cambridge: Harvard University Press, 2009).

<sup>6</sup> David Fitzgerald, "Support the Troops: Gulf War Homecomings and A New Politics of Military Celebration," *Modern America* 2:1 (2019), 3, <https://doi.org/10.1017/mah.2019.1>.

<sup>7</sup> Fitzgerald, "Support the Troops," 21.

Finally, on the topic of the US naval base in Guantánamo Bay (GTMO), Moyn explores in the final section of the book the massive amount of legal and political energy directed at stopping US detention policies in Guantánamo Bay even though this was not matched by a movement to end the wars in the Middle East. As the author of a book about the naval base in Guantánamo Bay, this obviously hit home with me.<sup>8</sup> I have spent hours researching, writing, and teaching about GTMO, and so I read these chapters with great interest, and Moyn's points about the narrowness of the GTMO litigation strategy struck a nerve.

I remain outraged at GTMO's detention policies and the evisceration of habeas corpus, and I believe much of the legal attention was warranted, not as anti-war measures, but because of the consequences to due process and the rule of law broadly. Yet I also recognize Moyn's larger point that drone warfare and the assassination of alleged terrorists/assailants have replaced the black sites and detention at GTMO. I have also explained to people that at least one reason why there are no new prisoners at GTMO is because of the proliferation of drone strikes. It has been legally and politically easier for the US to assassinate people abroad than it was for the country to detain them indefinitely. This is a very grim conclusion.

Moyn ends *Humane* with critiques of the Bush and Obama administration. In reading these chapters, I was reminded of a conference I attended just after Obama's election. A group of lawyers and activists debated whether or not the Obama administration should prosecute former Vice President Dick Cheney, Former Secretary of Defense Donald Rumsfeld, and George W. Bush for war crimes, (or if one follows Moyn's Nuremberg analysis, for initiating a war of aggression). Obama clearly did not have the stomach for this, and he did not want to begin criminal proceedings against his political opponents.<sup>9</sup>

Moyn's book re-opened these questions for me: Should the Obama administration have prosecuted Bush era officials for war crimes? What might this have meant for Obama's drone policy? Might this have created a deterrent against both atrocities and war? Would this only have been effective if the Obama administration had included a charge of initiating a war of aggression? Can the law accomplish either? In *Humane*, Moyn illustrates the limitations of the law; however, I wonder if he sees a role for the law to play.

Moyn's book clearly speaks to our moment today. Even after President Joe Biden's August 2021 withdrawal from Afghanistan, the anti-war movement seems moribund, particularly in the United States. Moyn doesn't dispute that US drone strikes have killed far fewer people in Pakistan compared for example to the mass casualties in Vietnam –but ultimately, his is not a utilitarian argument. He concludes, “brought to its logical conclusion, humane war may become increasingly safe for all concerned – which is also what makes it objectionable. Humane war is another version of the slavery of our times, and our task is to aim for a law that not only tolerates less pain but also promotes more freedom” (325). Moyn could have developed this point even more fully by outlining how he believes the law could radically re-envision our present?

In conclusion, this is a provocative, timely, and important book. It speaks to the fraught origins of humanitarianism, and it is an argument that ending atrocities is not enough, for as long as there is war, there will be atrocities. Moyn challenges his readers, including me, to remain laser-focused on ending war.

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<sup>8</sup> Jana K. Lipman, *Guantánamo: A Working-Class History between Empire and Revolution* (Berkeley: University of California Press, 2009).

<sup>9</sup> Eric Posner, “Why Obama Won't Prosecute Torturers,” *Slate*, December 9, 2014, <https://slate.com/news-and-politics/2014/12/senate-torture-report-why-obama-wont-prosecute-cia-and-bush-administration-lawbreakers.html> (accessed December 10, 2021).

## REVIEW BY TEJASVI NAGARAJA, CORNELL UNIVERSITY

Writing about those who built a new American militarist capital in Virginia in the early-1860s, the Pan-Africanist activist-intellectual W.E.B. Du Bois asserted: “People do not go to war for abstract theories of government. They fight for property and privilege.”<sup>1</sup> Over his lifetime, Du Bois would trace the rise of US imperium as well as its malcontents, from the Civil War to the Cold War. He conducted an analysis of wars from the country’s founding through the Second World War, just as the 1945 peace emerged. He warned that the leaders of the new UN would “center their efforts upon stopping war by force, and at the same time leave untouched, save by vague implication, the causes of war, especially those causes which lurk in rivalry for power and prestige, race dominance and income.”<sup>2</sup> Du Bois dismissed legalist and technocratic promises of peace-making. He championed a materialist and intersectional politics, analyzing empire and economy, with an anti-systemic center of gravity on popular classes and internationalist solidarity. For her part, the historian Marilyn B. Young chronicled US militarism over her lifetime, from President Franklin D. Roosevelt’s foundation of a new militarist capital in Virginia in the early-1940s through the inauguration of Donald Trump. She reflected on her method: “Initially, I wrote about all these as if war and peace were discrete: prewar, war, peace, or postwar. Over time, this progression of wars has looked to me less like a progression than a continuation.”<sup>3</sup> What have been the underpinnings that shaped the inertia of US war-making — why, how, and how long we fight — from 1863 to 1943, to 1973 to 2013? And in reply, what movements and momentum have driven any era’s hope for a potentially-powerful anti-war politics?

A central problem for the peacemongers has been what Young identified as militarism’s amorphousness, what we might call the ‘fog of anti-war.’ As America’s wars are always metastasizing, it obscures a popular attention to pin-down any moment’s totality of war space, war time, war missions and war methods. How can a powerful pro-peace camp ever be built, when America wages semi-covert wars in several countries simultaneously, not only with regular-army combat but also practically invisible special-ops raids, piloted bombing and even unpiloted airstrikes? In recent years, the notion of a post-9/11 ‘Forever War,’ and an imperative to end it, have gained steam. And the notion of former aide to President Barack Obama, Ben Rhodes, a ‘Blob’ policy consensus under hawkish hegemony, has inspired demands for pushing the Overton window, to feature other voices advocating less-violent foreign policies.<sup>4</sup> Yet the obstacles to an anti-war agenda are not only those of institutional power, but also ideological clarity. Protagonists like Ben Rhodes or President Joe Biden, Senator Elizabeth Warren or Senator Bernie Sanders might meaningfully be antagonized by the Blob, when they make well-intentioned efforts to reduce aspects of the Forever War. But at the same time, they support the continuation of other US military operations. How then can we delineate who and what are the truly anti-war protagonists and paths, combining both principled ethics and powerful strategy? If we are to attempt either interpretation or change-making with respect to Global War on Terror (GWOT) war and anti-war, then, there is need for *clarity* first.

In *Humane: How the US Abandoned Peace and Reinvented War*, Samuel Moyn asks how the post-9/11 Forever War became so durable. The book’s conceit is that it was chiefly protagonists with ‘anti-war’ intentions and who urgently sought to confront brutality, who were agentive in making war humane-and-perpetual at once. Humaneness was what led to durability. The main disappointment of the book is its neat claims to consensus, across concepts and contexts defined by contention. The notion that Americans had sought ‘peace’ during the midcentury—at the peak of the US state’s globalized statecraft, killing and military portion of GDP—while today being swung over to a consensus for perpetual war, is unpersuasive. The notion that any generation of America’s working-class supermajority are quite united in their stance on

<sup>1</sup> W.E.B. Du Bois, “Robert E. Lee,” *The Crisis*, March 1928.

<sup>2</sup> W.E.B. Du Bois, *Color and Democracy: Colonies and Peace* (New York: Harcourt, Brace & Co., 1945), 103.

<sup>3</sup> Marilyn B. Young, “‘I Was Thinking, As I Often Do These Days, Of War’: The United States in the Twenty-First Century,” *Diplomatic History* 36:1 (January 2012): 1-15.

<sup>4</sup> David Samuels, “The Storyteller and the President,” *New York Times Magazine*, May 8, 2016.

war or its conduct—whether pro-, anti- or indifferent—belies the reality that public opinion and its mobilized expressions are always divided, ambivalent and shifting.

While *Humane* aims to confront the anti-politics of technocracy and legalism, it avoids engaging politicized accounts of its own questions—potentially lending itself to a handwringing or fatalist anti-political reading, among some part of its audience. The book posits a war-abolitionist versus brutality-concern binary. This stark, zero-sum binary does not hold up for evaluating historical protagonists and contentions. Anti-war politics—especially those involving the left—have had a more materialist analysis of war, and an intersectional theory of anti-war change. Du Bois's conceptions are just one reference point for this. Believing it was impossible to make history as you please, these protagonists saw militarism's durability in empire and economy more than law and treaty. And they saw war's crimes and brutality as demanding not only an intra-republican citizenry redress, but a projection of internationalist solidarity with distant fellow humans, amid the precise urgencies of their embattlement. The navigation of this dialectic between injustice-attention and war-abolition is a worthy topic of study, one immanently appreciated by anti-war workers of each era. Yet *Humane's* sweep often relies upon an omniscient view of political actors from the skies, rather than a ground-level view of conjunctural contestations as actors maneuver through battlegrounds of struggle.

*Humane* is a very interesting read, as it draws attention to lesser-known sectors of protagonists and problematics. Yet it is unsuccessful in its claims to speak to primary questions of causality and possibility, about the American way of war and anti-war. The book does not contextualize its protagonists' impacts, articulating how these relate to better-known protagonists and causal explanations. The implication, that non-state and non-NSC actors 'wagged the dog' of the national-security state, is not demonstrated. The book spends time with neither top national-security decision-makers nor left-ward political movements, which are the primary antagonists in the history of contestation over militarism. *Humane* appears in a season alongside Spencer Ackerman's *Reign of Terror*, on Bush-Obama-Trump wars and US politics; and Eyal Press' *Dirty Work*, on the ethical complicities of sectors such as drone operators.<sup>5</sup> Moyn's book would have been more compelling if its aims were closer to the latter—as a study of intellectuals, non-governmental organizations (NGOs), and lawyers involved in complicity work. *Humane's* core claims are about post-9/11 military strategy, civilian harm overseas, homefront attention and opinion, and anti-war strategy. Yet in this book, each of these topics barely receive a page of evidence or analysis.

Recently, foreign-relations scholars have debated how to account for the centrality of US national-security leaders in shaping geopolitics, in relation to less-powerful protagonists.<sup>6</sup> While *Humane* does draw attention to one top national-security official, Barack Obama—it otherwise centers the agency of those who are not among the National Security Council's, Joint Chiefs of Staff's or Pentagon's top two-dozen officials. Moyn sometimes suggests that international jurists, executive-branch attorneys and transnational NGOs led the American way of war, while figures such as Secretaries of Defense Donald Rumsfeld and Leon Panetta go entirely unmentioned. The book promises to elucidate why war-ending efforts did not gain power or prevail, but does not discuss who the protagonists of true war-abolition were, in 1970 or 2005 or 2010 or 2020, nor does it offer a glimpse of what their counterfactual path could have been.

*Humane* asserts that anti-brutality reformers "cloaked the agenda of states" to continue war itself (85). Yet is this any less true, with respect to some 'war preventing' legalism and diplomacy? As Du Bois suggested, leftist and Pan-African leaders explicitly articulated their irreverence towards 'world peace' protocols, when these were circumscribed as negotiations among inter-imperial elites. The book's pre-9/11 focus is chiefly on literary and legal individuals, from the novelist Leo Tolstoy to the peace advocate Bertha van Suttner to the jurist Telford Taylor. *Humane* does not spend sustained time with any of key *collective* movements in the US and globally: labor, the left, Pan-African, feminist, peace, anti-colonial, GI,

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<sup>5</sup> Spencer Ackerman, *Reign of Terror: How the 9/11 Era Destabilized America and Produced Trump* (New York: Viking, 2021); Eyal Press, *Dirty Work: Essential Jobs and the Hidden Toll of Inequality in America* (New York: Farr, Straus and Giroux, 2021).

<sup>6</sup> See, for example: "H-Diplo Roundtable XXI-42 on 'Recentering the United States in the Historiography of American Foreign Relations,'" *H-Diplo*, May 25, 2020.

veterans or civil rights. Each of these mass-based movements was host to insightful analysis of the dynamics of war and anti-war, as well as a social base which could sometimes project a (partial) impact on policy.

Another reference point worth engaging, would be the early-1900s US courts-martial of US officers for atrocities in the Philippines. This complicates a narrative of humane intentionality emerging after 1970. It also raises the question of another h- term, 'hearts and minds,' as well as reciprocity expectations and blowback prevention. From the Philippines to Vietnam to the Iraq wars, these considerations influenced US concern for the treatment of combatants and prisoners, with military strategy often trumping humane concerns. It would be generative to compare *Humane* to another book on wartime abuse, law, and humanity, Monica Kim's *The Interrogation Rooms of the Korean War*. Kim finds that in the 1940s and 1950s, US war was articulated precisely with respect to its humanity, and that in fact, American *jus ad bellum* writ large hinged on a specific claim to treating prisoners 'humanely.'<sup>7</sup>

It is true that the American way of war shifted between Vietnam and Iraq, but it was not h-words but p-words chased by s-words that proved central. Du Bois' emphasis on property, privilege, power and prestige were hardened in the 1940s with primacy, preponderance, prerogative and *security*. The 1970s turn was not primarily reliant upon humane, human rights, or humanitarian logics. Instead, US leaders built on a memory of savage and small wars to re-imagine security strategy. Increasingly, war should be stealth, smart, shadow, swift, signature, surgical, special and stabilizing, to surveil and strike, snoop and snipe. Ackerman conceives of a 'sustainable' GWOT war, another helpful formulation.<sup>8</sup> *Humane* does not mention the Revolution in Military Affairs (RMA) or the Rumsfeld Doctrine.<sup>9</sup> This was a trajectory of national-security leaders' response to military defeat in Vietnam as well as popular anti-war grievances at home, the 'Vietnam Syndrome.' Military strategists envisioned a shift away from large-scale ground forces and nation-building occupations, leading to quagmire and entanglement, costing American 'blood and treasure' and with increasing electoral costs too. They crafted a turn towards 'small footprint' ground forces, special ops, high-tech surveillance and stealthy airstrikes. This requires some attention to the statecraft of topmost national-security officials such as Henry Kissinger and Donald Rumsfeld, to narrate the prevailing framework for how the United States got from the Strategic Hamlet Program to Joint Special Operations Command ops.

*Stealth* is quite a different logic than *care*. While 'humanitarian' and 'protection' logics for US intervention had some traction during 1991-2011, they have gone quieter since then. With this emphasis, we might consider a narrative of post-Vietnam US warfare which centers the Pan-African world, from 1980s adventures in Grenada, Libya, and Panama to those in 2010s Niger and Somalia. The scholar Samar Al-Bulushi's work analyzes how it is 'security assemblages' that cohere war-making in the GWOT era, as the geography of militarism around Somalia is shaped by American as well as Ethiopian, Ugandan and Kenyan security statecraft.<sup>10</sup>

The book quotes Obama as speaking of 'stealth', suggesting that a military strategy explanation would merit mention. In the book's discussion of the post-9/11 era, the extensive quotations from Obama officials and war supporters rarely use words like humane or care. The popular cultural impact of this way-of-war turn has been an ideology less of idealist altruism than of cynical security. The most iconic US soldier of the post-9/11 era is Chris Kyle, 'American sniper.' His is not a multiculturalist do-gooder brand, but a stone-cold specials-ops killer of civilizational others. This military-strategy story of the American way of war offers a more elite-insulated, public-obscuring, amoral, materialist explanation for the 'drone turn'

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<sup>7</sup> Monica Kim, *The Interrogation Rooms of the Korean War: The Untold History* (Princeton: Princeton University Press, 2019), 13.

<sup>8</sup> Spencer Ackerman, *Reign of Terror*.

<sup>9</sup> Phil Klay, "Donald Rumsfeld Was a Disastrous Defense Secretary. But his Vision Lives on," *Washington Post*, July 3, 2021.

<sup>10</sup> Samar Al-Bulushi, "Geographies of War-Making in East Africa," *Africa Is A Country*, April 15, 2021.

than the care-inspired, public-advertising, moral, idealist conception emphasized in *Humane*. The book sometimes relies upon words like ‘coincided’ and ‘coexisted,’ rather than explicating a causality or correlation.

Moyn asserts that it was chiefly opponents of the 2003 Iraq invasion—who sought urgent change in the face of the revelations of torture by US soldiers—who led the way to a drone-and-op regime, which he portrays as a policing turn that is low-violence abroad and high-popularity at home. *Humane*’s story of the Bush era has been met with some public rebuke in left-wing media such as *Democracy Now* and *Black Agenda Report*, and the journalist Naomi Klein calling its claim about one prominent leftist an “unjust posthumous attack.”<sup>11</sup> Under President George W. Bush in 2004, torture became a scandal. Moyn focuses on lawyers: John Yoo and Jack Goldsmith as state actors, and the non-state actor Michael Ratner (1943-2016), a left-wing advocate for US-kidnapped persons. The book notes that some of Ratner’s legal briefs contested the terms of military incarceration, and not the macro-war itself. In *Humane* and a *New York Review of Books* adaptation of it, Moyn claims that Goldsmith and Ratner “led the country down a road to an endless war” (236), with Ratner having “laundered the inhumanity” of war. Further, “in the annals of recent history, no one, perhaps, has done more than this leader of the Center for Constitutional Rights to enable a novel, sanitized version of permanent war.”<sup>12</sup>

It is far-fetched to claim that a non-state leftist ‘led the country’ in war, or was the number-one enabler of war’s modality. Moyn has since written that Ratner had “no alternative viable choice” and “made the necessary and right choice in his moment,”<sup>13</sup> which seems to undercut the book’s implication of a road not taken. *Humane* here relies, in part, on the account of Goldsmith, who has co-authored op-eds with Moyn. For his part, the journalist Jeremy Scahill has dismissed attention to criticisms of Obama reforms from “people like Jack Goldsmith... the irony of these guys, who have no moral standing to talk about these issues.”<sup>14</sup> As Bush’s Assistant Attorney General, Goldsmith wrote the Stellar Wind memos for mass surveillance—whistleblower Edward Snowden’s most famous revelation—and the anchor for a snoop-and-snip regime including drone war. While Moyn’s claims about Ratner proved incorrect, his attention to Goldsmith is very helpful.

*Humane* addresses Obama’s well-known escalation of drone strikes, and the creation of a ‘legalish’ scaffolding around it by attorneys Harold Koh and David Barron. Moyn asserts that Obama couldn’t have turned a “blind eye to terrorism” and “protecting the American people,” and concedes that humane “reform is always a good thing” (12, 271). The book correctly highlights that Senator Rand Paul protested drones’ rare usage against US citizens, helping legitimize the architecture of pro-drone legalism against the vast majority of its non-American targets. Moyn also implicates left-wing anti-war activists who demanded that Obama answer for civilian harm and hold torturers accountable, as distracting from the broader use-of-force itself. Yet would it have been more strategic to conflate the pro-war stances of Central Intelligence Agency official Gina Haspel with those of Senator Bernie Sanders? When anti-war activist Medea Benjamin heckled President Obama by invoking the people on hunger strike or under drones, if instead she had heckled about use-of-force writ large, would that really have made a big and better difference? While implying that an unspecified counterfactual anti-war movement would have instead re-shaped state power, *Humane* doesn’t make much time to accompany anti-war protagonists’ strategy as they faced overwhelming constraints and materially-limited horizons.

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<sup>11</sup> Democracy Now!, “Colleagues of Michael Ratner Blast Samuel Moyn’s Claim That He Helped Sanitize the ‘War on Terror’”, October 1, 2021, [democracynow.org](https://www.democracynow.org); Marjorie Cohn, “Samuel Moyn’s Unprincipled Attack on Human Rights Giant Michael Ratner is Shameful,” *Black Agenda Report*, September 22, 2021; Naomi Klein [@NaomiAKlein], “unjust posthumous attack,” Twitter post, September 13, 2021, 12:29PM.

<sup>12</sup> Samuel Moyn, “Michael Ratner’s Tragedy, and Ours,” *New York Review of Books*, September 1, 2021.

<sup>13</sup> I Moyn, “Activism and Consequences,” *Just Security*, September 18, 2021, [justsecurity.org](https://www.justsecurity.org)

<sup>14</sup> Democracy Now!, “Dirty Wars: Jeremy Scahill and Rick Rowley’s New Film Exposes Hidden Truths of Covert U.S. Warfare,” January 22, 2013, [democracynow.org](https://www.democracynow.org).

In the book's account of the Bush-to-Obama transition, technocrats' micro-management of life-preserving procedural protocols were both meaningfully enacted abroad as well as popularized at home, securing public support for the durability of macro-wars themselves. While this is a compelling moral hypothetical, *Humane's* claims go unsubstantiated as material history. First, in terms of the changing American way of war after Vietnam, the book does not acknowledge the realm involving RMA or the Rumsfeld doctrine, to explain how its humane story might connect to that widely-accepted stealth one.

Second, *Humane* asserts that Americans' militarism is singularly designed as the least-harmful to civilians "of all the peoples in the annals of warfare" (6). Yet this superlative claim about an "unprecedented care when it comes to killing people" (8)—for which America is exceptional in world history—is not substantiated. Readers would need to know what study was undertaken, to compare Americans' militarism to all others' militarism, across time and space—French, Swedish, Israeli, Palestinian, Kurdish, Indian or Dutch. Even with respect to the deaths of Iraqi civilians after the 2003 US invasion, *Humane* assures that "most of them [died] in civil war and disorder," (5) in Arab-on-Arab violence rather than US violence, a glib claim that goes unsourced and unsubstantiated.

What the journalist Jeremy Scahill called 'dirty wars', Moyn calls clean wars. "For all their faults, it is true that drones are increasingly the cleanest mode of war ever conceived" (5). We would have to evaluate this claim by consulting independent and in-progress research on drone war by the United States, Saudi Arabia, Turkey and other states. In an October 2021 Quincy Institute forum of experts, Kelley Vlahos asserted that even the most recent year's civilian harm reveals that the "US drone program is *not* a panacea for clean, humane, precision warfare."<sup>15</sup> The clean conceit has been disputed by scholars and journalists who have done independent research on the ground in war-affected lands, to advance both war-ending and atrocity-accountability efforts in tandem. Madiha Tahir's reporting and scholarship on US-led violence in Pakistan, and conceptualization of 'distributed empire' and 'differentially distributed violence' in the GWOT wars, offers a helpful analytic lens—of how there are intentional opacities which prevent us from seeing the layers of violence which bind Washington with Waziristan.<sup>16</sup>

*Humane* does not provide data or definition to back up its usage of terms like 'clean' and 'civilian' and 'care' for the past decade's war design-and-durability. The book claims that Trump "strove mightily" to discontinue "the Afghan part," and oversaw "finalizing troop pullouts" in some wars (310-314). These claims violate the book's own central insistence that we confront dubious 'war-ending' claims, when mouthed by Obama or Biden. Neither individual-personality exceptionalism, whether for Obama or Trump, explain the multi-administration history of bipartisan national security. Between Inauguration Day 2017 and Election Day 2020, Trump decisively *increased* troops in Afghanistan as well as Iraq, Syria and the Gulf, as well as radically increasing strikes and ops. Upon inauguration, Trump ordered significant changes to chains of command, tactical directives, and rules of engagement. The book calls this bark, not bite (309-310). Yet according to *AirWars* and the *Costs of War Project*, and reporting by Ackerman as well as *The Intercept*—circa-2019 was a peak for US civilian killing. These data find that the US killed more civilians in Afghanistan around 2019 than even around 2003, including numerous incidents when dozens were killed—pinenut farmworkers, lab workers, a wedding party. US civilian harm peaked in Iraq and Afghanistan around then, compared to the previous decade. US operations reached the highest-ever rates of civilian harm in Somalia, Yemen and Syria.<sup>17</sup> In late-2021, media scrutiny about recent years' civilian deaths has

<sup>15</sup> Quincy Institute, "Over the Horizon' Operations: The Future of Drone Strikes," October 18, 2021, quincyinst.org

<sup>16</sup> Madiha Tahir, "The Distributed Empire of the War on Terror," *Boston Review*, September 10, 2021.

<sup>17</sup> See, for example: Spencer Ackerman, "Trump's Afghanistan Airstrikes Increased Civilian Deaths by 330 Percent, Brown *Costs of War* Study Reports," *Daily Beast*, December 7, 2020; Murtaza Hussain, "Civilian Deaths in U.S. Wars are Skyrocketing Under Trump," *The Intercept*, October 2, 2019; Charles Davis, "Mass Killings in Afghanistan Are Acts of White Supremacy," *Foreign Policy In Focus*, September 24, 2019; "Trump Announces New Strategy For Afghanistan That Calls for a Troop Increase," *Washington Post*, August 21, 2017; and data available at watson.brown.edu/costsofwar, thebureauinvestigates.com and airwars.org

arguably strengthened the space for anti-drone claims that were otherwise demobilized.<sup>18</sup> Notably, frontline journalists and activists find a *lack* of adherence to putative standards, rather than their clean-and-care prevalence.

Third, *Humane* claims that public opinion has become more durably pro-war over the past decade, fueling war-perpetuation itself. Moyn claims that Obama's technocratic rules were 'advertised' to the public, but offers no evidence that Americans were paying close concern to rarefied protocols instead of overall wars. *Humane* notes that Trump retained one of Obama's requirements about avoiding civilian death. But 99% of the public didn't know about that. When consulted, some polls show quite a different picture. In a 2014 Pew poll, Obama-led drone strikes were decisively popular among Republicans; but Democrats were split 47-47 on the drone issue.<sup>19</sup> In any country, a 50% intra-party opposition would be interpreted as a relatively remarkable show of irreverence to one's own party leader, on an otherwise-marginalized issue far-flung from 'bread and butter' concerns.

In contrast to the book's assertion, recent articles by Stephen Wertheim and Adom Getachew assert that public opinion grew increasingly anti-war over the past decade.<sup>20</sup> They cite polls not only showing support for troop drawdowns, but also for cutting the defense budget and ending the Forever War itself. The Obama years saw a remarkable flowering of protest and progressive politics across intersecting issues, foreign and domestic. A broader shift in the foreign-policy Overton window was revealed in changing public opinion on Israel/Palestine,<sup>21</sup> a majority of Senate Democrats voting to block an Obama-era arms shipment to Saudi Arabia, and the astonishing achievements of campaigns like those of Bernie Sanders and other progressives. This also allowed for breakthroughs in Iran and Cuba diplomacy, and more recently, 95% of House Democrats voting to repeal the post-9/11 Authorization for Use of Military Force. *Humane* makes claims about 'Americans,' 'audiences,' 'some,' 'many,' and the 'public,' increasingly championing 'humane' war. Yet the book does not provide reference to opinion polls, exit polls, or qualitative studies which demonstrate public opinion or its policy impact. The prevailing wisdom remains more compelling. As with the RMA/Rumsfeld trajectory, the 'drone turn' was not to cultivate and service a popular support for humane war, but in contrast, was a top-down design to invisibilize and insulate foreign policy from war-weary popular classes.

If we want to reconstruct a story about the changing American way of war, public attention to civilian harm, and anti-war possibilities during 2001-2021—we would need to consider national-security leaders such as Donald Rumsfeld or Leon Panetta, Anne-Marie Slaughter (Responsibility 2 Protect in the State Department) or Andrew Marshall (Revolution in Military Affairs in the Defense Department). On civilian harm, we would need to evaluate events like the Trump clemency and celebration of the Navy SEAL Petty Officer Eddie Gallagher, who had been charged with premeditated murder and convicted of posing with a corpse. We would need to assess the impact of events like Pakistani drone survivors' testimonies in Congress, Yemeni families' appeals for accountability and reparations, the whistleblowing of Chelsea Manning and the "Collateral Murder" atrocity revelation, the journalism of Jeremy Scahill and his "Dirty Wars" media, or New York Times journalism on "The Uncounted" and "Civilian Casualty Files."<sup>22</sup> It would be helpful to have some narrative and analysis,

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<sup>18</sup> See, for example: Azmat Khan, et al, "The Civilian Casualty Files", *New York Times*, December 18, 2021; Quincy Institute, "Collateral Damage: How Loosening the Rules of Engagement Led to More Civilian Deaths in Afghanistan," October 8, 2021, quincyinst.org.

<sup>19</sup> Pew Research Center, "Global Opposition to U.S. Surveillance and Drones," July 14, 2014, pewresearch.org.

<sup>20</sup> Stephen Wertheim, "The American Public Wants Less War," *Guardian*, August 18, 2020; Adom Getachew, "The New Black Internationalism," *Dissent*, Fall 2021.

<sup>21</sup> Pew Research Center, "Public Uncertain, Divided Over America's Place in the World," May 5, 2016; Pew Research Center, "Republicans and Democrats Grow Even Further Apart in Views of Israel, Palestinians," January 23, 2018; FMEP, "The US Debate on Israel/Palestine is Changing," May 27, 2021, fmeep.org.

<sup>22</sup> See, for example: "Drone strikes: tears in Congress as Pakistani family tells of mother's death," *Guardian*, October 29, 2013; "From the Front Lines, if You Can See Them," *New York Times* review of Jeremy Scahill's Oscar-nominated film *Dirty Wars*, June 7,

inclusive of any of these phenomena. If such a study was conducted, we might be just as likely to find that these interventions had capacity to activate an otherwise-demobilized anti-war audience; rather than to find violence-attention to be generally demobilizing, as the book asserts. Were any of these protagonists also complicit in war-perpetuation? What might they and their audiences have done differently?

Conscience about particular harms, from Agent Orange to ‘Collateral Murder’, has animated anti-war mobilizations for peace, solidarity and reparation. This cuts across the Vietnam Veterans Against the War and Iraq Veterans Against the War, the Vietnam-era Russell Tribunal and the World Tribunal on Iraq (WTI), and the Winter Soldier hearings in each era. There are rich insights in works written about these tribunals and movements, which are not just legal but also politicized efforts.<sup>23</sup> The role of service-members and whistleblowers has been central to anti-war momentum, a history unimaginable without attention to both atrocity as well as aggression. In fact, attention to incidents of grave violence has sometimes been the central site—where an otherwise elite-insulated capture on geopolitics gives way to a contingent space for members of a military-serving, working-class supermajority to assert their own ethical initiative upon war politics.

To speak to the core concerns articulated in this book, we would have to examine studies of military strategy, war duration, civilian harm, public opinion and anti-war politics. *Humane* also relies on a normative notion of ‘blatant racism,’ which putatively faded from US policy after the 1960s. This discussion would benefit from engaging scholarship on race and war, which analyze race structurally — speaking precisely to the management of risk and vulnerability for life and death, including humane notions of calibrating life-protection.<sup>24</sup> *Humane* addresses incarceration within counter-insurgency war, a topic crucially probed in the works of Monica Kim and Laleh Khalili. Khalili thinks *with* Michael Ratner, about how “public contestation over law was as important as arguments in formal court.” On the humanitarian impulse to reduce harm within the confines of Mideast militarisms, Eyal Weizman’s work is inescapable. Weizman asserts, “The only way to conduct critical research in the world today, is in close proximity and even complicity with the subjects of our investigation.”<sup>25</sup>

In recent years, a robust public-facing ‘abolition’ conversation has unfolded. Ruth Gilmore, Elizabeth Hinton and others have written on this book’s precise problematic: how those committed to ending state violence must avoid the traps of a captive reformism, while also *necessarily* navigating a path through reforms.<sup>26</sup> This discourse includes policy briefs to disinvest from mass incarceration as well as to ‘abolish’ the war on terror or even the CIA, Pentagon or national-security

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2013; “Chelsea Manning: I leaked reports after seeing how Americans ignored wars,” *Guardian*, June 12, 2017; Azmat Khan and Anand Gopal, “The Uncounted,” *New York Times*, November 16, 2017.

<sup>23</sup> See, for example: Catherine Lutz and Matthew Gutman, *Breaking Ranks: Iraq Veterans Speak out against the War* (Berkeley: University of California Press, 2010); Ayça Çubukçu, *For the Love of Humanity: The World Tribunal on Iraq* (Philadelphia: University of Pennsylvania Press, 2018).

<sup>24</sup> See, for example: Takashi Fujitani, *Race For Empire* (Berkeley: University of California Press, 2011); Robbie Shilliam, et al, eds., *Race and Racism in International Relations* (New York: Routledge, 2015); and the reading list “A Very Short History of Freedom and Violence,” *Boston Review*, July 2021, bostonreview.net.

<sup>25</sup> Monica Kim, *The Interrogation Rooms of the Korean War: The Untold History* (Princeton: Princeton University Press, 2019); Laleh Khalili, *Time in the Shadows: Confinement in Counterinsurgencies* (Stanford: Stanford University Press, 2013), 77; Eyal Weizman, *The Least of All Possible Evils: A Short History of Humanitarian Violence* (London: Verso, 2011); “From Figure to Ground: A Conversation with Eyal Weizman on the Politics of The Humanitarian Present,” *Qui Parle* 22:1 (Fall/Winter 2013), 172.

<sup>26</sup> See, for example: Ruth Gilmore, “Globalisation and US Prison Growth: From Military Keynesianism to Post-Keynesian Militarism,” *Race and Class* 40: 2/3 (1998–1999); Ruth Gilmore, “Race, Prisons and War: Scenes from the History of US Violence,” *Socialist Register* 45 (2009); Elizabeth Hinton and Derecka Purnell, “Reclaiming the Power of Rebellion,” *Boston Review*, May 19, 2021.

itself.<sup>27</sup> Given that *Humane* addresses incarceration and policing and claims a mantle of anti-war ‘abolition,’ it would have been helpful for the book to acknowledge and situate its work in relation to an already-robust public discourse about *abolition*.

In a review of Moyn’s earlier book about human rights, *Last Utopia*, Robin Blackburn noted the author’s ‘scanty coverage’ of the left.<sup>28</sup> Blackburn suggested that the analysis did not do justice to either the contested character of ‘human’ idioms, the urgent material imperatives of solidarity, or the ‘internal critique’ that emerges dialectically and most generatively *within* political movements. In this heritage, *every* leap from complacency is understood as a leap into complicity — whether it’s building a coalition to try to stop just one arms shipment to Saudi Arabia or one execution, or becoming captive to business-legitimizing collective bargaining or a Democratic primary. Why are even domestic economic fights nearly impossible to win, and more often demobilized than not? It is due less to a consensus in public opinion, than to undemocratic institutions and entrenched foes. Given how hard it is win on bread-and-butter issues, imagine trying to defeat and durably transform a singular national-security state, military-industrial complex, and Blob. Extraordinarily, millions of Americans have been involved in some expression of anti-militarist politics, navigating intersectional causes—from Bernie Sanders to Black Lives—that might have more traction, and could open up new horizons of peace possibility that may otherwise be materially foreclosed. War metastasizes; so do political movements.

How would today’s anti-Blob protagonists be mapped in this book’s war-abolitionist versus humane-perpetuator binary? *Humane* probes the fog of anti-war. We might also flip the old pro-war rallying cry, ‘Daddy, what did you do in the war?’ to each ask ourselves, ‘What did you do in the anti-war?’ *Humane*’s critical account of anti-war around 2007-2009, can also be applied to 2019-2021 — another moment involving an insurgent Democratic primary, a general election, a historic crisis, and an opening for an anti-war paradigm shift. Anti-Blob challenges have been articulated by outfits like the Quincy Institute and National Security Action, GOP legislators Mike Lee, Peter Meijer and Rand Paul and Democrats like Chris Murphy, Ro Khanna and Bernie Sanders. Sanders campaigned for the White House on a pledge to responsibly continue GWOT drones and ops as commander-in-chief. Yet can we deny the anti-war substance and impact of his two runs?

Most in the anti-Blob have championed President Biden’s Afghan drawdown and drastic reduction of drone strikes.<sup>29</sup> Yet most have also advocated ‘humane’ perpetuity — continuing drones (with oversight), submarines to the Pacific (but not a new cold war with China), and special ops (better coordinated with allies). Activists have debated such legislators’ proposed National Security Powers Act. They have also debated about anti-Blob efforts to block US aid to Saudi Arabia’s ‘inhumane’ war, to ‘restore US credibility’ in Yemen—because some of these Congressional measures include a legal double-down on the post-9/11 authorization of US (humane) drones and ops.<sup>30</sup> Here, *Humane*’s caution is indeed well-worth heeding as a problematic that must be navigated.

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<sup>27</sup> See, for example: Haymarket Books, “PIC Abolition, the War on Terror, and the Deportation Machine,” May 2021, haymarketbooks.org; Arun Kundnani, “Abolish National Security,” *Transnational Institute*, June 2021, tni.org

<sup>28</sup> Robin Blackburn, “Reclaiming Human Rights,” *New Left Review*, May/June 2011; Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Harvard University Press, 2010).

<sup>29</sup> Quincy Institute, “Quincy Institute Experts Applaud Biden for Ending America’s ‘Forever’ War in Afghanistan,” April 13, 2021, quincyinst.org; Spencer Ackerman, “The Peril and the Promise of Biden’s Drone Review,” *Forever Wars* substack, December 6, 2021.

<sup>30</sup> “How a Bernie Sanders resolution is normalising the war on terror,” *Al Jazeera*, May 27, 2018; Quincy Institute paper, “Realigning Our Engagement with Our Interests in Somalia,” November 2020, quincyinst.org; Democracy Now!, “Rep. Ro Khanna on U.S. Drone Strikes,” September 21, 2021, democracynow.org; Bernie Sanders and Ro Khanna, “Saudi warplanes carpet-bomb Yemen with

Groups in the Black Lives and anti-carcer movement have taken a sharper, anti-drone stand. Such war-abolitionists are overwhelmingly on the left. As the scholar Zohra Ahmed has suggested, with significance for Pakistan and America alike, militarism is at war against “egalitarian political economy.”<sup>31</sup> More recently, leaders of the ACLU and Human Rights Watch seem to have embraced an anti-drone stance. Yet across all policy issues, political movements have always conceived of a division of labor — which allows for some spectrum of sectoral stances across think tanks and NGOs, legislators and big-tent policy campaigns, and more righteous activist groups. In evaluating anti-war protagonists, past and present, that political strategy has to be explicated as well as evaluated. Ultimately, *Humane* does not give us much clarity through the fog of anti-war, or helping figuring out what to do in the anti-war.

Some in the anti-Blob might be given pause over the fact that *Humane* won praise from Bush and Obama officials Jack Goldsmith and Anne-Marie Slaughter, and avowed Blob protagonists like Robert D. Kaplan. In a blurb on *Humane*, Slaughter champions Moyn’s book as a would-be “activist bible,” “in the same way that Michael Walzer’s *Just and Unjust Wars* guided an earlier generation of anti-war thinkers and protesters.”<sup>32</sup> Slaughter was a top Obama official in Hillary Clinton’s State Department, also championing ‘Responsibility 2 Protect’ regime-change in Libya and Syria. Walzer’s case for ‘just war’ has been antagonized by war abolitionists. Have Kaplan and Slaughter become recruits to an end-all-ops-now stance? No. The book is written in a big-tent, sometimes fatalist way. To be clear, it is most welcome to write a book with insights for a politically-diverse audience. Yet it is the immediate task of readers who want to take up *Humane*’s mantle of abolition to explicitly articulate a divisive politics. With a double-edged mention of the scholar Steven Pinker’s claim that the world has progressed towards minimal violence, the book even suggests we may be on a path to a future of “bloodless global discipline.”<sup>33</sup> Yet Moyn adds that this could also be the “slavery of our times.” It’s not clear how the slavery analogy is helpful. And, neither slavery nor war has yet been bloodless. *Humane* uses occasional disclaimers like “without downplaying the residual violence of our wars,” yet the book risks doing just so (318-325).

In the 2020s and 2030s, we are less likely to face idealism without much violence than security realism with some of it. Presidents Bush, Obama, Trump and Biden have all led a pliable division-of-labor militarism, in direct and indirect coordination with not only NATO allies but also ‘greater Middle East’ ones, as well as even with putative adversaries too. This ranges from the CIA-led coalition of rendition and torture to the recent Saudi-led inhumane war on Yemen that has been fought with weapons from the US as well as China, to US-Russia coordination within Syria’s inhumane wars, to Trump’s massive escalation of America’s own killing in Afghanistan. To understand the evolving American way of war and anti-war—we will need to consider protagonists like Henry Kissinger and Andrew Marshall, Donald Rumsfeld and Leon Panetta, Senator Joseph McCarthy and Chris Kyle, the multiracial labor movement and Chelsea Manning, Bernie Sanders and Black Lives. An agenda that is victorious in ending all military operations at once, will be a world-historic achievement like few others in the annals. This will have to rely upon a material, intersectional, popular and divisive politics. To even describe wars’ amorphousness and underpinnings, and articulate who and what can be the protagonists and projects of waging anti-war in these 2020s, will be the inescapable first step.

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US help. This must end,” *Guardian*, December 3, 2021; “Lawmakers ask Biden for changes to US counterterror policy,” *Responsible Statecraft*, January 20, 2022.

<sup>31</sup> Zohra Ahmed, “Towards a Law and Political Economy (LPE) Approach to the Global War on Terror,” *LPE Project*, November 24, 2021, [lpeproject.org](http://lpeproject.org)

<sup>32</sup> Robert D. Kaplan, “The False and Dangerous Promise of Humane Wars,” *New York Times*, October 3, 2021; Robert D. Kaplan, “The Return of the Blob,” *Spectator World*, September 4, 2020; Moyn, *Humane: How the United States Abandoned Peace and Reinvented War* (New York: Farrar, Straus and Giroux, 2021).

<sup>33</sup> Steven Pinker, *Enlightenment Now: The Case for Reason, Science, Humanism, and Progress* (New York: Viking, 2018).

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*The Triumph of International Humanitarian Law (and the Dangers of Success)*

In 2002, after the US responded to the 9/11 terrorist attacks on New York City and Washington DC by attacking al-Qaeda camps and overthrowing the Taliban in Afghanistan, Michael Walzer, the preeminent political theorist, wrote an essay entitled “The Triumph of Just War Theory (and the Dangers of Success)” in which he argued that “something radically new in military history” had occurred.<sup>1</sup> Both the US political elite and the professional military had come to believe in the “usefulness of morality” in war. Fighting justly—never deliberately killing civilians, reducing collateral damage as much as possible, and prosecuting war criminals—was no longer seen as a hindrance to victory, but rather as a necessary condition to win hearts and minds abroad and maintain support for the war at home. Walzer concluded that “justice has become, in all Western countries, one of the tests that any proposed military strategy or tactic has to meet - only one of the tests and not the most important one, but this still gives just war theory a place and standing that it never had before.”<sup>2</sup>

Walzer warned, however, against the “radical suspicion” that can accompany the triumph of just war doctrine: the belief that any “killing of civilians is (something close to) murder; therefore any war that leads to the killing of civilians is unjust; therefore every war is unjust...The protest marches on American campuses [in 2001 when the US invaded Afghanistan] featured banners proclaiming, ‘Stop the Bombing!’ and the argument for stopping was very simple (and obviously true): bombing endangers and kills civilians. The marchers did not seem to feel that anything more had to be said.”<sup>3</sup>

After twenty years of war in Afghanistan and continuing US counter-terrorism operations, more clearly needs to be said. And Samuel Moyn has written an important, but problematic book about what could be called the triumph of International Humanitarian Law (IHL), and what he sees as a grave hidden danger that this triumph has created. The book is important since there is no more comprehensive and readable account of how the US military and political elite came to embrace the International Humanitarian Law over the past forty years. Moyn presents a deeply researched account of the individuals and their sometimes public and often secret bureaucratic battles that produced the Pentagon’s post-My Lai massacre law-of-war training programs, the gradual acceptance by the US government that the Additional Protocols to the Geneva Convention (which the US has never ratified) nonetheless applied to the US as binding customary international law, and the intense fights within the George W. Bush Administration over whether water-boarding was legal ‘enhanced interrogation’ or illegal torture.

A long and winding road led to the rule of law. “Today, there are more and more legal obligations to make war more humane,” Moyn notes. He continues, “countries like the United States of America have agreed to obey those obligations, however permissively they interpret them and inadequately apply them in the field. Absolutely and relatively, fewer captives are mistreated and fewer civilians die—by far—than in the past.” (5)

But Moyn’s main purpose is to warn—loudly and often—against what he sees as a grave danger caused by this triumph of International Humanitarian Law: an acceptance of endless war and the expansion of the use of US military force outside of legal conflicts, as defined by the Charter of the United Nations. “We made a moral choice to prioritize humane war, not a peaceful globe,” he laments (7). After the abuses of Abu Ghraib and ‘enhanced interrogation’ techniques were ended, “a

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<sup>1</sup> Michael Walzer, “The Triumph of Just War Theory (and the Dangers of Success),” *Social Research* 69: 4 (Winter 2002): 925-944, quote at 932.

<sup>2</sup> Walzer, “The Triumph of Just War Theory,” 933.

<sup>3</sup> Walzer, “The Triumph of Just War Theory,” 934.

mainstream consensus crystalized around the ethics of humane fighting, rather than the immorality of the war on terror” (254).

While traditional just war theorists, like Walzer, keep separate the rules about going to war (*jus ad bellum*) and rules about the conduct of war (*jus in bello*) Moyn makes an important intellectual and empirical connection between them. American military operations have gradually evolved to kill fewer civilians than in past wars, but that is the source of what Moyn sees the problem: “The American way of war is more and more defined by a near complete immunity from harm for one side and an unprecedented care when it comes to killing people on the other. It is informed by the standards of international law that constrain fighting. Most remarkably, America’s military operations have become more expansive in scope and perpetual in time *by virtue of these very facts*” (emphasis added, 9).

Moyn’s warning about the moral hazard of making war more humane is important, but his conclusions and evidence used to support them are problematic. I say this for four reasons.

First, is it true that the reason the US government expanded the scope and timing of counterterrorist attacks is *because* US military operations had become more humane? (That is, after all, what “by virtue of these very facts” means.) While Moyn is correct to note that less collateral damage against civilians made it easier for the Obama and Trump administrations to justify overseas combat operations at home, most of the causal weight for the decisions to maintain US counterterrorist attacks lies elsewhere. The reasons the two administrations both expanded the scope of counterterrorism operations into Syria, for example, had less to do with the more humane effects of drone attacks there (which we now know were less humane than was reported at the time<sup>4</sup>), and more to do with the development of Islamic State of Iraq and Syria (ISIS) terrorist attacks against American and allied civilians. While Moyn deplores President Barack Obama’s “troubling” 2014 decision to strike against ISIS targets in Syria, he does not mention the ISIS-related attacks in San Bernardino and Orlando, in London, Brussels, and Paris, and 2015 the 2015 torture, rape, and murder in Syria of captive American aid-worker Kayla Mueller by ISIS leader Abu Bakr al-Baghdadi. The American public simply (and unfortunately in my view) cares far more about protecting US troops and stopping and avenging the killing of American civilians than it cares about the deaths of innocent civilians overseas.<sup>5</sup> Moreover, there were fewer protests about American troops dying in the Afghanistan and Iraq wars compared to Vietnam was not only because those wars were fought more humanely than Vietnam (though they were); but also because far fewer American troops died and because the development of the volunteer army meant that most Americans no longer knew fallen soldiers or had skin in the game themselves.<sup>6</sup>

Second, Moyn elevates following the rules of law above the principles of morality. He strongly criticizes, for example, President Bill Clinton’s decision to bomb Serbia, in 1999, to stop the Serbian mass killing of civilians in Kosovo. He notes that “the absence of United Nations Security Council authorization made it illegal, but it was publicly justified as moral *in spite of* this fact...To their credit, some American international lawyers who recalled why the United Nations system had been set up in the first place said that its charter ought to be respected, pending a better system of protecting victims. For most, however, right made might.” (229, emphasis in original.) But Moyn does not discuss the horrendous scope of the

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<sup>4</sup> Azmat Khan, “Hidden Pentagon Records Reveal Patterns of Failure in Deadly Airstrikes,” *New York Times*, December 18, 2021, <https://www.nytimes.com/interactive/2021/12/18/us/airstrikes-pentagon-records-civilian-deaths.html>.

<sup>5</sup> For evidence see Janina Dill and Livia I. Schubiger, “Attitudes Towards the Use of Force: Instrumental Imperatives, Moral Principles, and International Law,” *American Journal of Political Science* 65:3 (2021): 612-633; Scott D. Sagan and Benjamin A. Valentino, “Revisiting Hiroshima in Iran: What Americans Really Think About Using Nuclear Weapons and Killing Noncombatants,” *International Security* 42:1 (2017): 41-79, doi:10.1162/ISEC\_a\_00284; and Paul Slovic, C.K. Mertz, David M. Markowitz, Andrew Quist, and Daniel Västfjäll, “Virtuous Violence from War Room to Death Row,” *Proceedings of the National Academy of Sciences* 117:34 (2020): 20474-20482, DOI: <https://doi.org/10.1073/pnas.2001583117>.

<sup>6</sup> See the essays in David M. Kennedy, ed. “The American Military,” *Daedalus* 140:3 (2011).

Serbian killing of innocent Kosovar civilians that occurred prior to NATO military intervention (an estimated 10,000 Kosovar civilians were murdered, according to later war crimes trials<sup>7</sup>) nor the likely worse consequences if the US and NATO had not stopped Serbia's ethnic cleansing campaign.

Moyn similarly criticizes Obama's decision to approve counter-terrorist drone terrorists outside of battle zones, if an attack was considered imminent, but not currently underway, as the strictest interpretation the UN charter might require. "Not only was targeted killing allowed in self-defense, but Obama asserted the legality of doing it preemptively, avoiding the word only to embrace the thing," he argues (287-288). Most international lawyers, however, consider preemptive attacks, or anticipatory self-defense, to be legal today, despite the fact that they are not being enshrined in the UN Charter.<sup>8</sup> The serious debates that exist in this arena are about how to define "imminent and unavoidable" and not about whether preemption *per se* is legal.

Moyn's focus on US counter-terrorist campaigns, moreover, leads him to miss a broader challenge: situations in the modern world in which preventive strikes, not just preemptive attacks, can be morally justifiable, even though they are patently illegal. The 2007 Israeli air strike against the nuclear reactor being built by the North Koreans in Syria to produce materials for a nuclear bomb, for example, was clearly illegal under international law, but was I think morally and politically justifiable. (The fact that in the UN only the Syrians and North Koreans protested the Israeli attack was a sign that vast majority of governments around the globe agreed with that assessment.) Similarly, the Obama administration's offensive cyber-operations and sabotage against the Iranian uranium enrichment program and North Korean missile testing program were clear violations of those states' national sovereignty as protected by the UN Charter. But these operations delayed the development of nuclear bomb-grade material in Iran and long-range delivery systems in North Korea, delays that arguably decreased the risk of mass killings of US and allied civilians in the future.<sup>9</sup>

Third, while Moyn presents a particularly detailed analysis of the Obama administration's embrace of drone strikes outside of traditional war zones and its expansive definition of "imminent threat," he fails to engage the debate about interpretations of the law, but instead simply resorts to derision. "In a parody of having their cake and eating it, too, Obama's lawyers invoked the 'elongated imminence' of threats they said justified force, which skeptics regarded as a deadly if laughable oxymoron" he asserts. (287).<sup>10</sup> Moyn calls the Obama's "troubling" 2014 decision to bomb ISIS targets inside Syria "the most remarkable violation of the rules meant to keep war from breaking out" and derides Ambassador Samantha Power's defense of the decision in the UN. Powers maintained that it was permissible to attack terrorists in a foreign state if its government was "unwilling or unable" to control them, an argument which Moyn says was "made up from scratch." (288-299). Instead of addressing the logic of legal interpretations contrary to his own, Moyn merely asserts that "the doctrine was latter canonized in some ad hoc principles and given flimsy substantiation in an academic piece by a former government lawyer" (289). Moyn further calls Obama's policy "global militarism" (311) and accuses the administration's lawyers as having "channeled the spirit of humanitarianism as cosmetic prettification" (294).

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<sup>7</sup> See [https://1997-2001.state.gov/global/human\\_rights/kosovoii/homepage.html](https://1997-2001.state.gov/global/human_rights/kosovoii/homepage.html).

<sup>8</sup> Thomas M. Franck, *Recourse to Force: State Action against Threats and Armed Attacks* (Cambridge: Cambridge University Press, 2002): 97-108.

<sup>9</sup> See Scott D. Sagan, "Armed and Dangerous: When Dictators Get the Bomb," *Foreign Affairs* (November/December 2018).

<sup>10</sup> More balanced discussions of the "elongated imminence" concept include Michael Lewis, "Elongated Imminence and Operational Realities" *OpinioJuris*, January 29, 2013, <http://opiniojuris.org/2013/01/29/elongated-imminence-and-operational-realities/> and Tamar Meisels and Jeremy Waldron, *Debating Targeted Killing: Counter-Terrorism or Extrajudicial Execution?* (Oxford: Oxford University Press, 2020).

Fourth, and finally, Moyn conclusions slip into the “radical suspicion” that all wars are unjust, which Walzer warned of back in 2002, when he rails against the “immorality of the war on terror” (254). With this book, Moyn is waving a protest banner exclaiming, “End the Endless Wars.”

But are the endless wars really endless? In Afghanistan, clearly not. It is not fair to criticize Moyn for not predicting that the US would withdrawal from Afghanistan in 2021, ending one of the endless wars he critiques, nor for failing to predict that the Taliban would take over immediately after the US left. After all, the Pentagon generals who recommended against withdrawal were not sure Biden would continue with the deal Trump Administration had negotiated with the Taliban. Nor did the CIA predict that the Afghan government would collapse so quickly, thereby ending one endless war (at least for the US).

And can (or should) the US really end the ongoing war against terrorist organizations? *Humane*, which focuses readers’ attention on the complex connection between the decisions to go to war and the conduct of military operations, can be faulted for not even raising questions about whether the US withdrawal from Afghanistan would increase or decrease the risks of future al-Qaeda attacks on the United States.<sup>11</sup> Ending one endless war may well ignite another.

The book also ignores the changes in the US focus on counter-terrorism operations, changes already underway before the Biden Administration took office. The US Department of Homeland Security had already determined, under the Trump Administration, that domestic right-wing terrorism was emerging as a greater threat to the nation than foreign jihadi extremists.<sup>12</sup> It is just as important inside the US, as abroad, to combat the social causes of extremism and terrorism, but also to defeat and defend against violent acts when they occur.

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<sup>11</sup> See Daniel Byman, “The Good Enough Doctrine: Learning to Live with Terrorism,” *Foreign Affairs*, 100:5 (September/October 2021): 32-43.

<sup>12</sup> See Testimony of FBI Director Christopher Wray, “Worldwide Threats to the Homeland,” September 17, 2020, <https://www.fbi.gov/news/testimony/worldwide-threats-to-the-homeland-091720>; and Betsy Woodruff Swan, “DHS Draft Document: White Supremacists are Greatest Terrorist Threats,” *Politico*, September 4, 2020, <https://www.politico.com/news/2020/09/04/white-supremacists-terror-threat-dhs-409236>.

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RESPONSE BY SAMUEL MOYN, YALE UNIVERSITY

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I am very grateful to H-Diplo for publishing this forum, to Sarah Snyder for introducing it, and — above all — to Anne Kornhauser, Jana Lipman, Tejasvi Nagaraja, and Scott Sagan for taking their valuable time to engage my book. I agree with most of their comments, so my approach in this brief response is to examine the criticisms of *Humane* and to reflect on how I might meet at least a few of them.

*Humane* is based on a dichotomy or tension between institutionalizing peace and humanizing war. I don't mean to idealize "peacemakers" of course. In one of several instances of attributing arguments to my book that are effectively the opposite of the ones it actually expresses, Nagaraja ignores my claim that such figures intentionally or inadvertently made *pax Americana* possible, with its transatlantic security zone accompanied by globalized violence on a permanent basis. For all their appealing features, actors on both sides of my dichotomy are flawed, and the consequences of their righteous engagement paradoxical.

Dwelling on the 1940s, Kornhauser rightly points out that institutionalizing peace is no simple matter, even if I am right in my critique of humanizing war. She accurately observes that neither the United Nations Charter nor the Nuremberg prioritization of the problem of aggressive war reflected a genuine enough commitment to institutionalizing peace — nor do I or would I argue otherwise. But the fact is that they provided powerful and indeed unprecedented tools to stigmatize new wars, as responses to Russian President Vladimir Putin's noxious Ukrainian intervention are proving. The peacemakers also staged a far more open debate around the risks of humanizing war than any since that time.

Where Nagaraja idealizes a different set of grassroots actors with their own mixed record, Kornhauser argues that world federalists — who hoped to improve on a great power peace that Americans achieved — had blind spots. I'm sure she is correct about this. As I see it, the point of history can't be to reclaim perfect actors or solutions, but rather to seek the basis for better choices in our own future in the mistakes of the past. Central to *Humane* is a comparative question: have the potentially restraining uses of peace law, for all its own limitations, been spurned, in the name of the facilitating and legitimating uses of humanity law, for all the good it often does? Do the paradoxes which led a peace agenda towards a brutal era of American war nonetheless make it a more promising resource than the paradoxes of its recent legal humanization have involved?

It is in the name of these questions that I dwell in my epilogue — contrary once again to Nagaraja, who says I don't — on the dialectic of abolition and harm reduction. Part of the reason to interdict aggression in the international system, in an abolitionist or at least antiwar spirit, is the range of harms that it unleashes. This includes the legal death of combatants in great numbers, collateral civilian harm that the law allows up to a point, grievous misallocation of national and international resources, and a fateful legacy of local and regional destabilization.

In this connection it is worth raising Nagaraja's plea for substantiation of my allusion to the large amount of harm that can come indirectly from aggressive interventions. According to the Iraq Body Count, American forces reportedly killed 13 percent of civilians who died violently there between 2003-11, while amid the mass death since the 2011 American withdrawal that figure has dropped to essentially zero.<sup>73</sup> Of course, no one knows if this figure is exactly right. But on any fair reading of *Humane*, the point of such information is to intensify American moral responsibility rather than preempt it. International law governing how wars are fought permits ongoing harm and legitimation, where focusing on the resort to war in the first place allows assignment of blame for everything that follows in consequence of illegality. (In contrast, Nagaraja is probably right that I trivialized the effect of the changes President Donald Trump wrought while focusing on the genuine legacies of prior administrations: it was President Barack Obama who initiated the war against ISIS and exempted it from the rules of humane targeted killing he devised for elsewhere.)

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<sup>73</sup> <https://www.iraqbodycount.org/analysis/numbers/2011/>.

I think Nagaraja is absolutely correct to call for more structural analyses of war (and peace). But that doesn't mean that law, lawyers, and lawyering are irrelevant. This is my own first book on those topics, because I generally think other things are more important. And it is entirely appropriate for Nagaraja to prefer the broadest explanations for the forms and functions of ongoing American war, citing a host of factors that I concur are worthwhile. I just decided to write about "humane" legalism which I didn't feel had gotten enough critical analysis, and because I felt I was better positioned to provide it than to take on some other problems, and to make an original contribution along the way. I appreciate Kornhauser's consideration in her generous and genial review that, as a kind of "philosophical history," *Humane* might "not require a comprehensive investigation into the complexities of all covered topics typical of historical methodology." More generally, a choice of focus is not necessarily a statement of importance, though in overall results small contributions often make a big difference.

And just because you are uninterested in law doesn't mean it isn't interested in you. I remain troubled by rule naivete among even the most critical analysts of how American war in particular and imperial violence in general play out. If I don't idealize peace law — arguing that it also provided a rationale for US imperium — it is certainly true that my dominant concern is with humanity law given its prevalence in certain circles and debates in recent years. This includes, of course, the left, which is not above strategic mistake and paradox. Nagaraja argues that law was broken in the war on terror, and that the main point to make about humanity law is that it forbids things that the United States has done. While this is a familiar part of the truth, this stance ignores the fact that, when it comes to most legal regimes to date, the function of law is generally permissive and legitimating.

For this important reason, how the law was brought to the war on terror — by the left and right alike — fascinated me. At the same time, I never write, contrary to another of Nagaraja's suggestions, that law and lawyering were "chiefly" responsible for the evolution of the war on terror, only that they were a troubling part of the story. Nagaraja as well as Scott Sagan emphasize that it is hard to claim causal input at all, even when I am anything but committed to monocausal determination. All I can say in response to this observation is that there is enough causality for me in the fact that appeals to humanity played an extraordinary and unprecedented role — evidenced by Obama's speeches on which I spend so much time in the book — both in delegitimizing early forms of the war on terror and legitimating later ones.

Sagan is on firm ground in pointing, from his own perspective, to the difference between law and morality. I deliberated about whether I should frame the ascent of humanizing law in relation to the marginalization of pacifying law or just from my own moral and political perspective. I made the first choice for two reasons, though obviously it hardly excluded the second, as Kornhauser compellingly notes in calling *Humane* "a moral statement."

First, the intralegal frame helped establish just how big a contrast there was between the public and professional salience of the rules concerning the resort to force and the rules governing the conduct of hostilities from age to age. One of the main points of the Vietnam chapter in *Humane* is to prove an almost complete reversal in this regard between the past and the present. Second, as I observed above, not just abstract morality but a partial legal regime on force was achieved in the middle of the twentieth century, and the reason for law is for it to serve as a tool to prevent the need to stick with morality alone, even if it would never make sense to treat the former as an adequate proxy for the latter.

The biggest difference between Nagaraja's views and mine concerns actors and audience. I take most seriously Nagaraja's critique of my choice to privilege elites in both respects. It is certainly a pertinent observation. As Lipman says, I am writing for "well-educated liberals." The only extenuation I can plead is that such elites are powerful to date. Furthermore, reaching a slightly more ideologically diverse audience, a strategy Nagaraja (himself an Ivy League professor) also indicts, has some political uses alongside its limits. All choices, after all, have the virtues of their vices. And politics is often a matter of shifting coalitions, sometimes even making the reclamation of old enemies urgent.

Lipman's review is so valuable because it shows that our priors are in need of constant reassessment. That the author of so brilliant and classic a history of Guantánamo would register the paradoxes attendant on focusing on that site intellectually

and mobilizationally worthwhile is extraordinary, and was all I hoped to achieve in writing the book.<sup>74</sup> To consider the risks of humane entrenchment is not, as others have assumed, to blame good deeds or even to pretend better ones were possible. It is, however, to note risks in our fervent commitments that may have been incurred in spite of our good intentions.

That said, Lipman, like Nagaraja, is entirely right that *Humane* doesn't succeed in providing a satisfactory account of the eclipse of the cause of peace in our time. In what I regard as the most important chapter of the book, on the rise of anti-cruelty optics, I stress cultural and ideological factors in moving American and other elites into a new moral culture that made humanitarian and humane American power more credible. Kornhauser is alive to this argument; but I think Lipman is correct that I missed something in the effect of the transition from a conscript to a "volunteer" army. On the other hand, the most frightening fact is that the transition to new forms of counterterrorism relying on armed drones and special forces has reduced the need for troops no matter how they are sourced.

The rest of Sagan's critique is helpful not least because, in this forum, it reminds readers of mainstream perspectives, the existence of which might get lost in disputes on the left, however reflective. In relation to the other contributions, his essay dramatizes just how pressing it is to acknowledge a diversity of views about American war across the intellectual and political spectrum.

What that means, of course, is that people with different moralities and different understandings of opportunities and risks have different starting points, while still hoping to convince each other of their conclusions. Sagan's own version of placing humane legalism against the backdrop of other contexts involves endorsement of preemption. If I can't agree, it is in part because the more permissive doctrines of the resort to force become, the greater the risk pretextual abuse becomes — pretextual abuse of the kind in which Putin blatantly engaged.

But in convincing Sagan a lot would depend on reaching consensus on what the overall effects of allowing such wars are, and exploring why our ancestors hoped to close the gateway to aggressive war (which certainly included preemption as a legal matter) because of the terrible consequences caused by states that pass through it. Whether any wars beyond preemptive ones are credible to fight strikes me as an empirical matter, since non-preemptive wars also generally have dire consequences. I will say that there are likely to be some defensive wars that are genuine and just. It is simply that this exception to the prohibition of force would not cover the great many wars that have set America and the world back in recent decades. Indeed, I know of few wars in history that the exception would permit. Nor is humanizing them adequate compensation, especially if it entrenches them.

It remains to thank the commentators once again, whose insight contributes to a collective ongoing discussion about the ethics and law of war and peace that will not wane soon—nor should it.

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<sup>74</sup>Jana K. Lipman, *Guantanamo: A Working-Class History between Empire and Revolution* (Berkeley: University of California Press, 2009).