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Breen, K. (2017). Truce thinking and just war theory. *Journal of Global Ethics*, 13(1), 14-27. Advance online publication. <https://doi.org/10.1080/17449626.2017.1324510>

Published in:
Journal of Global Ethics

Document Version:
Peer reviewed version

Queen's University Belfast - Research Portal:
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Truce Thinking and Just War Theory

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Abstract

In his book, *A Theory of Truces*, Nir Eisikovits offers a perceptive and timely ethics of truces, based on the claim that we need to reject the 'false dichotomy between the ideas of war and peace' underpinning much current thought about conflict and conflict resolution. In this article, I concur that truces and 'truce thinking' should be a focus of concern for any political theory wishing to address the realities of war. However, Eisikovits's account, to be convincing, requires engagement with a tradition of thought figuring only marginally in his reflections on truces, that is, just war theory. I argue this for three reasons. Without incorporation of the just war principles that should inform the decisions to enter conflict, to maintain conflict, and to cease conflict, any theory of truces will be, first, normatively inadequate, failing to provide us with requisite direction, and, second, open to the charge of permitting intolerable injustices, a charge Eisikovits wishes to avoid. Third, engagement with just war theory is important for arriving at a nuanced understanding of peacemaking, one which grants truces their place in our deliberations and spurns simplistic 'war versus peace' binaries whilst keeping more ambitious ideals of peace firmly in sight.

Keywords

¹ Published in *The Journal of Global Ethics*, 17 May 2017 (ID: 1324510 DOI:10.1080/17449626.2017.1324510).

truces, just war, peace, peacemaking

Introduction

How should we think about truces? Should we view truces as mere gaps in fighting, temporary moments of little significance in themselves when compared to the end we ought to seek in war, namely, a durable, stable peace? Or should we, instead, think of them more constructively, as accommodations we should cultivate, embrace, and sometimes prefer over attempts to realize a lasting peace?

These are the questions addressed by Nir Eisikovits in his book *A Theory of Truces* (2016). In addressing them, he argues we need to reject the ‘false dichotomy between the ideas of war and peace’ that he believes underpins current thought about conflict and conflict resolution.² Encouraging us to think that the alternative to war is solely a comprehensive peace, this dichotomy blinds us to the importance of arrangements – cease-fires, armistices, strategies of avoidance, constrained belligerence, provisional compromises, et cetera – which lie between the poles of war and peace. We must attend to these arrangements, Eisikovits asserts, not only because they reflect more accurately how most violent conflicts actually wind down, but also because the dogged pursuit of comprehensive peace settlements oftentimes puts us ‘at risk of fighting longer and harder than we have to’ (*TT*, 7). If we care about minimizing the horrors of war, we must begin to take truces seriously.

I agree with Eisikovits that truces should be a focus of concern for any political theory wishing to address the realities of war. I also see much wisdom in Eisikovits’s explicitly normative theory of truces, which he develops through careful analysis of what he terms the

² Eisikovits (2016, 2). Hereafter cited as *TT*. For his earlier analyses of truce thinking, see Eisikovits (2013, 2015).

five basic ‘philosophical and psychological commitments’ of ‘truce thinking’ and assessment of such thinking in the light of historical cases (*TT*, 3). He is right to emphasize the messiness of many wars, the impossibility of implementing comprehensive peace agreements in all instances, and the need for practical judgement based upon close attention to individual political contexts. However, Eisikovits’s account, to be convincing, requires engagement with a tradition of thought that figures only marginally in his reflections on truce thinking, that is, just war theory. I argue this here for three reasons. Without incorporation of the just war principles that should inform the decisions to enter conflict, to maintain conflict, and to cease conflict, any theory of truces will be, first, normatively inadequate, failing to provide us with requisite direction, and, second – and more worryingly – open to the charge of permitting intolerable injustices, a charge Eisikovits is keen to avoid. Third, engagement with just war theory is important for arriving at a nuanced understanding of peacemaking, one which grants truces their appropriate place in our deliberations and spurns simplistic ‘war versus peace’ binaries whilst nevertheless keeping more ambitious ideals of peace firmly in sight.

I begin my discussion, in the first section, by setting out the main assumptions and claims of Eisikovits’s theory of truces. In the second section, I explain why we should concur with him on the need to take truces seriously and what I believe we can learn from his account. I then move, in section three, to argue that truce thinking is deficient without guidance from just war principles. In the fourth section, I maintain that the just war view of peacemaking proves a valuable resource in reflecting on the resolution of violent conflict and that Eisikovits himself, despite his classical-realist outlook, gives implicit articulation to that view.

Eisikovits on truce thinking

Although self-consciously modest in its goals, Eisikovits's theory of truces has a broad focus, requiring reconsideration of how we approach conflict across all its stages. The mode of thought or attitude displayed by genuine truce thinkers, he contends, is just as crucial to the periods preceding conflict, as exemplified by Burke in his exhortations to the British Parliament in the immediate lead up to the American Revolutionary War, as it is during moments of actual conflict, as shown by Camus's call for a 'civilian truce' during the Algerian War of Independence. It is crucial, likewise, in periods directly succeeding conflict when guns may be silent but antagonism and distrust endure, as embodied in the 'Pact of Forgetting' that enabled Spain's gradual transition to democracy.³ What unites truce thinking across these different moments is its commitment to 'a straightforward moral principle: economizing on the costs of war' through calculated moderation and reduction of conflict (*TT*, 29). And it furthers that aim by attending to what is feasible in moments of contention, rather than aspiring to surmount all hostility and institute a far-reaching, just peace.

The key obstacle to recognizing the value of truce thinking, according to Eisikovits, is the regrettable truth that 'Western political philosophy', as well as Western political practice, 'has so far neglected, marginalized, or completely rejected this way of thinking' (*TT*, 27). This is because both philosophers and practitioners have been in thrall to a 'war/peace dichotomy' that has stunted our political imagination and constricted our normative vocabulary.⁴ The source of this dichotomy is the liberal cosmopolitan vision of international

³ For Eisikovits on Burke, see Eisikovits (*TT*, 4, 88–94); on Camus, see Eisikovits (*TT*, 3, 22–23); on the Spanish 'Pact of Forgetting', see Eisikovits (*TT*, 100–107).

⁴ Eisikovits (*TT*, 41). Among the practitioners cited as enthralled by this dichotomy are the Liberal peer Viscount Bryce, chair of the *Committee on Alleged German Outrages* established under Asquith in 1914, US Secretary of State Robert Lansing in Wilson's World War I administration, President Roosevelt at junctures during World War II, and the Israeli

order born in the Enlightenment and given clearest expression by Kant in his *Perpetual Peace* (1795). Buoyed by the belief that war can be eliminated from the human condition, Kant and his heirs deem the only meaningful alternative or conclusion to war a peace that is agreed according to shared norms of conduct and in which mutual recognition and the rights of all parties are affirmed. From this demanding perspective, every accommodation short of permanent peace necessarily appears morally suspect, a “mere cessation of arms” or “patched-up compromise” unworthy of our attention (*TT*, 2, 12, 16).

Resting on the binary assumption that either we have permanent peace or a state of war, Kantian cosmopolitanism restricts the options permitted to us and fails to give the realities of human conflict their due. For Eisikovits, one reality neglected under this vision is the truth emphasized by Freud (1930), that war and conflict are ‘too irresistible to be eliminated,’ will always be part of the human condition on account of their enduring ‘allure’ and our innate bellicosity (*TT*, 17–19). Another is that very few wars have ended or are likely to end in a manner conducive to cosmopolitan principles. Most wars, in particular asymmetrical wars as experienced since the mid-twentieth century, are characterized by “ragged endings” where there is no clear victory for any side in the conflict that could pave the way for a settled peace (*TT*, 13). But perhaps the gravest problem with the cosmopolitan ideal of peace is that adherence to it encourages the intensification, rather than mitigation, of conflict. This was the case, Eisikovits submits, with the Allied policy of ‘unconditional surrender,’ which in its purist commitment to realizing a definitive settlement and refusal of negotiation effectively spurred on and hardened Axis resistance.⁵ And history reveals, too, that while pursuit of

Prime Ministers Ehud Barak and Benjamin Netanyahu in their handlings of the Israel-Palestine conflict (*TT*, 2, 5–6, 10–11, 94–100).

⁵ Eisikovits (*TT*, 10–11). For a quite different assessment of that policy, at least in relation to Germany, see Walzer (2000, 111–117).

permanent peace can tragically escalate violence, holding out for lesser arrangements – the Concert of Europe succeeding the Napoleonic Wars, the cautious *détente* between the US and the USSR – sometimes offers better routes to security and calm (*TT*, 12).

On the basis of these classical-realist insights, Eisikovits arrives at the five philosophical commitments he sees as underlying truce thinking.⁶ The first three commitments issue directly from the consequentialist demand to economize on suffering and bloodshed. Thus, when durable settlements lie beyond our reach, we must, first, set our sights on present ‘immediate benefits,’ such as temporary respite and quiet, and prioritize these ‘over more abstract considerations regarding the rights of the parties, mutual acknowledgement, and settling questions about distributive justice’ (*TT*, 20). Second, we should rein in expectations and ‘aim low’ in our initial negotiations so as to secure ‘a modest, narrow area of agreement’ that in the passage of time may promote more favourable circumstances (*TT*, 22). Third, we need to recognize that enemies with irreconcilable aims ‘don’t have to fight,’ that they can contend without resorting to violence and war (*TT*, 23–25). To these three normative injunctions, Eisikovits adds two largely strategic injunctions. Hence, the fourth commitment of truce thinking urges the avoidance of what Hume (1742) condemned as “imprudent vehemence” in devotion to our principles or the justness of our cause. Acknowledging the endemic ‘practical inability to adjudicate and fully pursue questions of right’ in times of heated divergence, responsible actors give precedence to their

⁶ He also draws these commitments from an exploration of Islamic jurisprudential thought (*TT*, 14–16). I cannot discuss that exploration– or his study of truces within the ancient Greek, biblical Judaic, and medieval Christian worlds – for reasons of space. For Eisikovits’s affirmation of the classical realism of Kennan and Morgenthau, see Eisikovits (*TT*, 23–25, 32–33, 82–87); on classical realism more generally, see Coates (1997, 15–37) and Coady (2005).

‘vital interests’ by prudentially ‘de-emphasizing abstract claims of justice in favor of workable, mutually beneficial arrangements’ (*TT*, 25, 60, 68). The fifth commitment, finally, speaks directly to actors’ self-interest in recommending truces as means to replenishing one’s forces in preparation for future confrontation, should that prove necessary (*TT*, 26).

Taken together, these commitments ‘all converge into a focus on managing, containing, partially avoiding, and postponing conflict rather than completely eradicating it’ (*TT*, 27). When far-reaching agreement is off the table, they mandate accommodation, concession, and compromise with our adversaries. Yet whether we should aim for truce and compromise in a specific instance depends, ultimately, on two considerations. The first is that the question whether to compromise or not will necessarily be contingent upon the context at hand and our knowledge and understanding of those opposing us. In this we cannot turn to political philosophy, which deals in generalities and not particulars, but instead must rely upon experience and practical judgement (*TT*, 32). In coming to our judgements, we must, second, distinguish between those truces that are perhaps difficult to stomach but morally tolerable and those that amount to “rotten compromises,” accommodations which in subjecting individuals to “cruelty and humiliation” offend against our ‘shared humanity’ and morality itself (*TT*, 34–35, citing Margalit, 2009). Although practical judgement will again play a large part in distinguishing between permissible and impermissible truces, Eisikovits suggests that a truce properly motivated by the first three normative commitments of truce thinking, focused as they are on lessening bloodshed and easing conflict, is ‘unlikely’ to foster egregious injustice (*TT*, 38).

Complexity, moderation, and judgement

To my mind, Eisikovits's theory of truces merits attention on three counts. The first relates to the prominence it accords moral complexity and complication in the appraisal of real-world conflicts, an emphasis lacking in more optimistic visions of peacemaking and the conclusion of wars. This emphasis is lacking, for instance, in Brian Orend's (2000, 2002) otherwise impressive theory of *jus post bellum* or justice after war. Decrying 'patchwork "solutions"' and 'ad hoc arrangements' in the ending of wars, Orend (2002, 43–44, 56) insists we need a set of moral principles – ranging from rights vindication and proportionality in settlements, through punishment for war crimes, to victim compensation and the rehabilitation of aggressor states – that provides a 'compelling moral blueprint' for justly concluding conflict. The difficulty with that 'moral blueprint' is not the principles upheld, which are generally praiseworthy, but the political dispensation tacitly assumed by Orend in setting it out. The dispensation assumed is one akin to that of the Persian Gulf War and, especially, World Wars I and II, where there were clear victors who, with the right will, had the power to enforce just settlements. We know, however, that many conventional wars – witness the Korean War, the Iran-Iraq War, the Falklands War, et cetera – and even fewer non-conventional wars conclude in that way. Instead, they tend to draw to a close with stalemate, exhaustion, or partial victories (*TT*, 41–42). Given these untidy conclusions, one inconvenient truth we therefore have to accept is the unlikelihood of realizing settlements that fully satisfy our moral expectations.

Another inconvenient truth at play here, again highlighted by Eisikovits, is that when there exists a possibility of settlement, it sometimes involves substantial moral loss. This was the case, for instance, with the 'Pact of Forgetting' in which, after the death of Franco in 1975, the Left and Right of Spain's political elite prioritized order and stability over justice for Franco's victims (*TT*, 42–43, 104–106). While the Pact enabled the creation of democratic institutions and a better future for present and future generations, it did so on condition of the

parties remaining silent on past atrocity and murder. And yet, as pointed out by Bass (2004, 405) in relation to similar cases, if there is to be political progress during such moments ‘[t]he duty of peace must outweigh the duty of justice,’ though this represents ‘an excruciating tradeoff, and not one to be taken lightly.’

Underscoring the importance of ‘immediate benefits,’ aiming low, and ‘mutually beneficial arrangements,’ the first, second, and fourth commitments of truce thinking reveal the limits we at times face within non-ideal circumstances, even if, as I argue below as regards the fourth commitment (shunning “‘imprudent vehemence’”), these circumstances are framed by Eisikovits in a problematic manner. The question of limits also indicates a further reason for attending to Eisikovits’s theory of truces: its salutary espousal of an ethic of moderation and care. Along with the admonition to eschew “‘imprudent vehemence,’” the third maxim of truce thinking – that avowed enemies ‘don’t have to fight’ or, if they do, that their fighting does not have to ‘tend to the uttermost extreme’ (*TT*, 64) – lays the ground for that ethic in pointing to the necessity of self-control and restraint in our struggles. Without exercising self-control and restraint, we can steadily succumb to the self-righteous belief that we alone have justice on our side. That belief, in turn, all too easily contributes to a hubristic will to victory in which compromise and accommodation are dismissed as inherently objectionable. The result is a crusading mentality recognizing few restrictions on our actions in war and casting our adversaries as wicked and inhuman, implacable foes whom we must utterly defeat.

Eisikovits rightly condemns this mentality and the excesses it has historically occasioned. That said, he goes astray in describing it as a particular danger of liberal cosmopolitanism, and this despite the fact that he himself, as discussed in section four, makes appeal to cosmopolitan principles. A.J.P. Taylor’s dismissal of twentieth-century liberalism as especially prone to extremity – “‘Bismarck fought ‘necessary’ wars and killed thousands;

the idealists of the twentieth century fought ‘just’ wars and killed millions” (Taylor 1955, 79) – cited approvingly by Eisikovits (*TT*, 26), neglects, most obviously, the truth that twentieth-century liberalism faced enemies of an exceptionally immoderate and sanguinary sort. It also ignores the internal, albeit fallible, brakes on extremity within liberalism, the most significant being, of course, its commitment to human rights. However, Eisikovits’s chief error here is his ascription of self-righteous hubris to one political ideology, when it is instead a vice to which ideologies in general are prone.

Setting this criticism aside for now, the priority accorded the virtue of moderation by Eisikovits remains vital for the ethics of war. It remains vital because moderation and care for the world check the slide towards total war and the temptation, horrifically exhibited in events such as the Sinhalese massacre of Tamils during the destruction of the LTTE (see Tonge 2014), to overreach into excess. Moreover, the willingness and ability to hold back from excess rest upon and give reality to an attitude indispensable to retaining decency during struggle: of basic respect and regard for one’s adversaries, notwithstanding their hostility, as fellow human beings (Arendt 2005, 175–185; see also Breen 2007; May 2007). And it is this attitude of basic respect, more than anything else, which stays our hand and prevents the commission of deeds that would render subsequent peace unthinkable.

The third reason for attending to Eisikovits is the methodological approach he adopts to the normative assessment of conflict. The central assumption of this approach is that reliable normative analysis requires attention to history and scrutiny of real-world cases. This stands in contrast with some current normative theorizing on war, which has a tendency to rely on hypothetical cases and stylized, counter-intuitive scenarios.⁷ While reflection on hypothetical

⁷ One striking example of counter-intuitive hypotheticals is Jeff McMahan’s (2004, 718–722) examination of the extent of individual liability to defensive attack through the scenario of

cases can be important for conceptual clarity, we should, following Lazar, be wary and ‘proportionately less confident of our intuitions the more removed ... [a] test case is from our lived experience.’ This is because the more removed a case is from experience, the more likely it is to be ‘epistemically unsound’ and inattentive to ‘morally relevant details’ (Lazar 2016, 4). Hence the appropriateness of Eisikovits’s insistence that coming to a proper decision on how to proceed in a conflict requires intimate knowledge of its circumstances, as illustrated by his own evaluation of the 2014 Gaza War (*TT*, 97–100). Equally appropriate is his further insistence, with Aristotle, that in arriving at answers we must be content “‘to indicate the truth roughly and in outline,’” since in ethical matters it is chiefly practical judgement or wisdom, *phronēsis*, based on careful interpretation of the information available, and not theoretical reflection, that in the final instance enables us to distinguish what is right and prudent from what is wrong and imprudent.⁸

Of course, given the ineliminable role of interpretation and judgement, there will be scope for questioning Eisikovits’s claims as regards specific truces and his understanding of their political significance. His assertion, for example, that the truce embodied in the Concert of Europe ‘kept Europe quiet for almost a century’ seems open to considerable doubt.⁹ I will not pursue these empirical issues here. Instead, in the next section I explore two questions the

an ‘Implacable Pursuer’ under the mind control of a malevolent ‘Initiator.’ For criticism of that scenario, see Walzer (2006) and, more broadly, Fabre (2012, 15).

⁸ Eisikovits (*TT*, 32), citing Aristotle (*NE*, 1094^b19–1094^b20). On the importance of *phronēsis* in practical affairs, see Gadamer (1989) and Dunne (1993).

⁹ Eisikovits (*TT*, 12). The assertion appears plausible only if one downplays the Crimean War, the various wars of national independence (Greek, Hungarian, Italian), the Schleswig Wars, the Austro-Prussian War, the Franco-Prussian War, et cetera, as well as the imperialist wars conducted by European powers outside Europe.

answers to which necessitate in my view revision to Eisikovits's theory and a turn toward a body of thought, just war theory, that is conspicuous for its relative absence in the case he makes for truce thinking.¹⁰ Are, first, the three expressly normative commitments or principles of truce thinking sufficient to ensure the 'legitimacy' of a truce and the avoidance of "rotten compromises"? And, second, do the commitments of truce thinking, viewed collectively and accepting the requirement for practical judgement, provide adequate guidance to our reflections over whether to maintain or to cease conflict?

Just war theory I: rights, prudence, and principled judgement

In addressing the first question, we must keep in mind Eisikovits's principal goal of developing a normatively *defensible* account of truce thinking. This underpins the contention that a truce visiting cruelty or humiliation on third parties and allowing 'crimes against humanity to take place can never be justified,' since it 'undermines the very conditions of morality' (*TT*, 35, 38). In his view, as pointed out above, the first three commitments of truce thinking – securing 'immediate benefits,' aiming low, averting violence – together yield a strong bulwark against rotten compromises, because they each advance the basic moral principle of 'economizing on the costs of war.'¹¹ This principle is further advanced when, in deciding whether to treat or not with unjust and brutal regimes, we engage in a thorough

¹⁰ Just war theory is expressly mentioned by Eisikovits, with a near exclusive focus on the category of *jus in bello*, in only four places (see *TT*, 52, 54–56, 113 footnote 23, 116 footnote 20), and gestured at in a brief examination of Grotius (*TT*, 61–66).

¹¹ 'The more an act of truce is motivated by the first three characteristics of truce thinking, the more legitimate it is' (*TT*, 30, 74). We should note here that the fifth commitment of truce thinking, securing time to replenish one's forces, has little normative significance.

‘comparison of causalities,’ weighing the ‘projected benefit’ of coming to a compromise against ‘the potential harms’ of doing so (*TT*, 40).

The difficulty with this attempt to defend truce thinking from the charge of permitting rotten compromises is not hard to see. We can readily imagine situations in which the imperative of economizing on the costs of war in line with the three normative principles of truce thinking is genuinely satisfied and yet cruelty and humiliation occur. A compromise might very well secure much needed respite from bloodshed for large numbers of people, clear a way towards modest agreement, and significantly avert violence, but nonetheless entail cruel or humiliating treatment for a substantial minority of third parties. This would be the case, for instance, with truces concluded on condition of amnestying prisoners guilty of atrocities (adding to the humiliation of victims) or lulls in hostility that grant belligerents the breathing space to wipe out internal opposition (abetting arbitrary terror and killing), and so forth. If we weigh the benefits and harms of these truces and lulls solely in terms of economizing on the costs of war, the only normative question we can ask is the consequentialist one of whether they actually reduce the degree and severity of suffering overall, *not* whether they do so at the expense of third parties.

The problem, in short, with the first three commitments of truce thinking is the problem attaching generally to consequentialist approaches to the ethics of war: that they do not properly recognize the ‘separateness of persons’ and fail to ground a duty to respect fundamental individual rights (Primoratz 1997, 223–224; Norman 1995). Because a concern for fundamental rights as such is missing from his enumeration of the three normative commitments of truce thinking, Eisikovits’s theory is therefore not well positioned to counter the slide towards the violation of these rights, despite his intentions. Making good on this deficiency would require according the individual rights to life, bodily integrity, liberty, and

minimal security a foundational role within his theory.¹² And this is precisely where his theory needs to move onto the normative terrain set out by the just war understanding and evaluation of war. Notwithstanding the differences between its traditionalist and revisionist, as well as communitarian and cosmopolitan, articulations, the greater part of just war theory is united in situating individual rights at the centre of moral reflection.¹³ From the just war perspective, the badness of war consists, when reduced to its essentials, not simply in its destructiveness but in the fact that it massively and grossly violates the rights of human beings. This insight explains why in contemporary just war theory the only acceptable justification for resorting to war, under the *jus ad bellum* principle of just cause, is the protection and vindication of individual rights against their violation. It also explains the theory's insistence, under the *jus in bello* principle of discrimination, on distinguishing between those who are morally liable to defensive violence and those who are not.

If Eisikovits's theory of truces is to fully respect the 'conditions of morality,' these core just war principles must find place at the heart of its considerations. This requires the addition of a further normative commitment to truce thinking, one which would regulate and check the three existing normative commitments. In considering the justifiability of a truce, we therefore need to consider not only the importance of securing immediate benefits, of aiming low, and of averting violence, but also, and above all, of *aiming right*. Aiming right in the sense intended here does not mean settling on courses of action that best advance our self-

¹² Indeed, the forcefulness of Eisikovits's (*TT*, 35) condemnation of the injustices occasioned by the Great Compromise and Operation Keelhaul suggests an unspoken accord of a basic role to individual rights.

¹³ This rings true of just war thinkers, to list but a few, as diverse as Coady (2009), Coates (1997), Fabre (2012), Luban (1980), Lango (2014), McMahan (1994, 2009), Orend (2000, 2002), Rawls (1999), and Walzer (2000, 2004).

interests alone. Instead, it means determining those courses of action that best vindicate, in current circumstances and to the extent open to us, our shared fundamental rights. Going beyond the demand to economize on bloodshed, the criterion of aiming right requires, positively, that truces involve either the (at least partial) satisfaction of fundamental rights or the curbing of their ongoing infraction. Examples would include ceasefires allowing for the temporary lifting of sieges and provision of humanitarian aid. Negatively, the criterion prohibits accommodations premised on foreseeable violations of basic rights, as when, for instance, a party agrees to abandon vulnerable groups it had previously sworn to protect.

However, giving aiming right its due requires another revision to Eisikovits's theory: a readjustment of his classical realist-inspired framing, expressed in the fourth commitment of truce thinking, of Hume's injunction to eschew "imprudent vehemence." As interpreted by Eisikovits (*TT*, 30, 68, 71, 94), that injunction at times mandates the 'de-emphasis of principle' and of abstract 'questions about historical justice and rights' in favour of 'narrower claims of self-interest.' We should, in other words, be willing to consciously prize prudence over principle. This conclusion, while admirable in rejecting self-righteous hubris, appears questionable for a number of reasons. One concerns its arguable misreading of Hume. In criticizing eighteenth-century British foreign policy, Hume declared that '[o]ur wars with FRANCE have been begun with justice, and even, perhaps, from necessity; but have always been *too far pushed* from obstinacy and passion' (Hume 1742, 339, my emphasis). Here he was not recommending a de-emphasis of principle, or arguing that the British should have chosen prudence over justice. Rather, Hume's point was that the British imprudently failed to keep their claims of justice *within* their rightful bounds. Under this alternative reading, prudence does not stand opposed to principle or morality, but figures instead as a virtue the

exercise of which is indispensable to determining the morally appropriate response in particular contexts.¹⁴

Eisikovits's interpretation of Hume's injunction errs, then, in setting prudence and principle in competition with one another. An additional reason for disputing his interpretation of Hume is the overgeneralizing suggestion, again with A.J.P Taylor and other critics of 'liberal idealism,' that the pursuit of justice itself oftentimes tends us toward extremity. Although the pursuit of justice can degenerate into moralizing hubris, what this suggestion neglects is that the avoidance of excess and respect for limits are themselves mandated by justice. In just wars, in contrast to crusades, strict bounds are placed upon the extent to which we may pursue a cause and on what we may do to our enemies. Indeed, the very purpose of just war theory across its three categories – its strictures on the resort to, the conduct in, and the ending of war – is to limit our aims, constrain our actions, and prevent the slide into total war.¹⁵ In other words, it is an emphasis on principle, and not its de-emphasis, that makes room for moderation in conflict.

Yet the main reason for reconfiguring the fourth commitment of truce thinking concerns rotten compromises and the coherence of Eisikovits's theory overall. If we are, as Eisikovits demands, to spurn rotten compromises, we simply cannot regard questions of justice as more 'abstract' than 'immediate benefits' and 'claims of self-interest' or urge a de-emphasis of principle. This is because many matters of justice – not least the expectation not to be unjustifiably killed or harmed – are not at all abstract but viscerally concrete. It is also

¹⁴ As Coady (2009, 89; see also Coady 2005) puts it, 'properly understood, prudence is ... part of morality ... is concerned with the judicious, feasible, and efficacious implementation of moral principles and virtuous injunctions as well as plans and objectives.'

¹⁵ On the centrality of limits and limited war within just war theory, see, amongst many others, Coates (1997, 45–55, 147–156), Orend (2000, 122–123), and O'Brien (1981).

because the prevention of rotten compromises entails keeping issues of principle continually in view. While Eisikovits is correct in deeming it at times difficult to ‘adjudicate and fully pursue questions of right,’ we nonetheless cannot but take a stance on many of these questions, since it is only by taking a stance that we can aim right and thus distinguish tolerable from intolerable compromises. Moreover, and returning to the theme of moral loss discussed in the previous section, it is only with principle kept firmly in mind that we are able to recognize what precisely we have lost and how far we have failed to aim right in those moments – the Spanish ‘Pact of Forgetting’ being a tragic example – when necessity has truly compelled us to accede to grave injustices.¹⁶

Taking the above just war considerations on board would significantly alter, but nonetheless strengthen, Eisikovits’s theory of truces. This leads to my second query as regards truce thinking, whether its commitments provide adequate guidance on when to continue or to cease conflict. We need adequate guidance here for the reason that particular truces may not ‘serve the purposes of humanity,’ but instead ‘fix the conditions under which the fighting will be resumed, at a later time and with a new intensity,’ or, just as undesirably, involve ‘a loss of values the avoidance of which was worth a war’ (Walzer 2000, 123). In deciding this matter either way, the commitments of truce thinking appear of limited use. This is because any reasoned endorsement of these commitments (aiming low rather than high, prioritizing short-term benefits over long-term aims, et cetera) hinges upon the question of engaging or not in a truce having *already* been answered. They are, thus, more a guide to

¹⁶ In relation to this point, without having kept principle in sight and recognizing how far the Pact did fail justice, Eisikovits’s criticism of resistance to the 2007 Law of Historical Memory as an ‘unacceptable refusal to reopen the past’ would make little sense (*TT*, 106).

how we should proceed after that question has been determined, and less a guide to the question itself.¹⁷

Eisikovits, we saw, is very much aware of this, which explains his avowal that establishing the appropriateness of a truce necessitates deep ‘familiarity with the particulars of a given situation’ and the exercise of practical judgement (*TT*, 32). As I argued above, no one can sensibly object to the significance he accords experience and informed judgement in the ethics of war, or to the Aristotelian observation that political philosophy cannot tell us what to do in specific contexts. Nevertheless, while political philosophy cannot tell us what to do, it can prompt us to raise the right issues in moving towards answers. And this, once more, would oblige a theory of truces to directly incorporate just war principles.

If I am right here, when contemplating engagement in a truce we would have to form our judgement in accordance with principles pertaining to four levels or dimensions of our current conflict. The first relates to our initial reasons for fighting and the *jus ad bellum* principle of just cause. Thus, would the cause we had for initiating war be undermined by an accommodation at this moment in time; have circumstances changed in ways either strengthening or lessening the justness of that cause and the proportionality of pursuing it; and might our adversaries also have some justice on their side that could warrant moving towards an accommodation? The second concerns *jus in bello* questions as to the conduct of the war to date and what that conduct reveals about the character of our adversaries and of us ourselves (see Rawls 1999, 96; Bass 2004, 388). Have our enemies shown at least some regard for the principles of discrimination and proportionate force in their prosecution of war;

¹⁷ The partial exception here is Eisikovits’s third commitment of averting violence, which evokes *jus ad bellum* criteria in asking us to consider whether we ought to resort to violence (principle of last resort) and whether it would be proportionate (principle of macro-proportionality).

have they by their actions proven themselves actors with whom one can treat or do their deeds suggest reaching an accommodation is both fanciful and repugnant; and how might they judge us by these same criteria? The third, differently, encompasses considerations – *jus ex bello* or ‘war exit’ considerations – specific to the immediate termination of conflict. For example, would ceasing conflict now lead to new injustices, especially for third parties, and are there diplomatic means presently available to us that could prove a viable alternative to continuing war (Mollendorf 2008, 132–136)? Finally, the fourth relates to longer-term, prospective *jus post bellum* questions, in particular whether a truce at this moment has any likelihood of leading to a political dispensation better, however minimally, than the *status quo ante bellum* (Walzer 2000, 121).

This sketch, of course, is radically incomplete, no more than a gesture towards some of the issues and principles that should inform our judgements. A satisfactory account would require far greater treatment than is possible here. Yet it does reveal the variety of questions that must be asked in arriving at defensible judgements on truces and the necessity of harnessing just war thinking in doing so.

Just war theory II: negative and positive peace

The last of the four questions we should ask when deciding on a truce – has it any chance of contributing to peace, no matter how slight? – leads me to my third just war-centred query as regards Eisikovits’s position. This relates to his claim that we stand blinded by a ‘war/peace dichotomy,’ his classical-realist criticism of liberal cosmopolitanism, and his understanding of peace generally. Two points merit initial note here. The first is that his criticism of liberal cosmopolitanism rests in the main on very compressed discussions of Kant. As described by Eisikovits (*TT*, 2), Kant and the liberal cosmopolitanism he inspired appear hopelessly

utopian in viewing peace as demanding ‘the reliable and comprehensive eradication of war ... [and] the replacement of killing by a just international legal order.’ The problem with this criticism is that it fails to note that comprehensive peace is, within liberal cosmopolitanism and other perspectives, an ideal towards which we should work, rather than an accurate description of what is presently possible in international politics. Indeed, Kant was under no illusion that a cosmopolitan pacific order could be realized in his time, but instead saw it as ‘a very distant future prospect’ (Orend 1999, 343; see also Rodin 2002, 198). This somewhat weakens the claim that we have long stood blinded by ‘a war/peace dichotomy,’ since for even the arch-idealist Kant there are intermediate stages between persistent war and perpetual peace.¹⁸

The second initial point is that nowhere does Eisikovits offer a sustained exploration of the concept of peace itself. This is a notable omission, as there are many different conceptualizations of peace, some very minimal in their implications and some quite demanding.¹⁹ That omission perhaps explains why Eisikovits in different parts of his study adopts three distinct stances on peace and the ending of war. The most minimal and pessimistic appears in his discussion of Freud and ‘war’s allure’ (*TT*, 17–19). There he comes close to the radical-realist view that war is, contrary to the naïve hopes of Enlightenment *philosophes*, our normal condition rather than an aberration, and that the best ‘peace’ attainable in the international state of nature is a pause in overt violence. Insofar as it relies on a skewed account of the human condition and places excessive constraints on our normative

¹⁸ It is also somewhat weakened by the characterization of Grotius, a major historical figure within just war theory, as an exemplary truce thinker (*TT*, 61–66).

¹⁹ See, for instance, Fiala (2014, 2–5) and Fox (2014, 177–202). Another notable lacuna is the absence of engagement with pacifist arguments and reflection on the implications these might have for a theory of truces. I have no space to explore those implications here.

aspirations, this view is deeply suspect. Hence Eisikovits's espousal, elsewhere, of the more temperate, classical-realist vision of peace as a balance of power and of George Kennan's doctrine of containment (*TT*, 9, 24, 70, 82–87). Under that vision and doctrine, peace amounts to a long game of cautious positioning between adversaries who vehemently disagree on normative and other essentials and yet seek to ensure that no one party can dominate and rule over other parties.

This understanding of peace is considerably more robust than the radical-realist view. It does not, however, rule out acceptance of intolerable injustices and may in fact actively encourage these if they were deemed necessary to maintain a balance of forces – witness, for instance, American foreign policy in relation to the Vietnam War and other wars. Nor does Eisikovits rest content with it. In several places he makes explicit appeal to a richer, more comprehensive understanding of peace. Arguing for an intimate link between truce thinking and political reconciliation – reconciliation being itself an integral aspect of comprehensive visions of peace – he makes clear that one of the central reasons for engaging in truces is that they might instil empathy, trust, and hope among adversaries and thus sow ‘the seeds of ambitious peacemaking’ (*TT*, 75, 81). He goes further than this at other points, declaring, in relation to President Carter's efforts to bring Egypt and Israel into far-reaching agreement, that at times we should deliberately try to realize the ‘robust, ambitious cosmopolitan ideal of peace’ (*TT*, 73). Eisikovits's (at least partial) commitment to that ideal helps to explicate his demand, contra what many classical realists would advise (‘let the dead attend to the dead’), that we should not bury or remain silent on past injustices, but must address these at the appropriate time (*TT*, 42–43, 106–107). At other junctures still he clearly subordinates truces to lasting peace arrangements in order of value. Truce thinking, we are told, represents in the end a ‘useful *surrogate* for cosmopolitan peacemaking,’ a ‘*complement* to the liberal view of peace, to be used where the latter is inappropriate’ (*TT*, 31, 75, my emphasis).

I have no quarrel with Eisikovits's endorsement of a more comprehensive understanding of peace; indeed, I profoundly agree with him here. However, in endorsing that understanding of peace, he does move onto conceptual ground shared with, among others, Kantians and cosmopolitan liberals, even while his position remains distinct from theirs. We cannot, therefore, say that his overall understanding of peace is a straightforwardly realist one based on national interest and directed towards upholding balances of power in the least costly way. Instead, his overall understanding of peace is essentially a *hybrid* vision that lies between the poles of realism and liberal idealism, realism and utopianism. And it this hybrid vision that is also essentially the vision of peace at work in just war theory.

Among the clearest statements of the just war vision of peace is that provided by A.J. Coates. For Coates, just war theory understands peace 'in a dialectical way, as a synthesis of "realist" and "utopian" elements that are normally held apart' (Coates 1997, 283). The realist element centres on 'the negative and limited aim of preventing or of curbing conflict' – negative in the sense that a moment of non-violence is secured, though the likelihood of re-ignition persists – whilst the utopian element points toward the ultimate positive goal of peacemaking, the 'restoration of community among ... warring parties' and the eventual reduction, perhaps even elimination, of the prospect of war.²⁰ Without recognition and pursuit of this positive goal there would be no possibility of progressively transforming relations between warring parties or of gradually moving towards a more harmonious international order. Yet this harmonious international order should be seen as an 'ever-receding moral

²⁰ Coates (1997, 283, 286). On the distinction between negative and positive peace, see Fiala (2014, 3). Note that while the just war understanding of positive peace shares much with the Kantian ideal of comprehensive peace, it does not necessarily presume a commitment to cosmopolitanism. It could, alternatively, as in the case of Coates and Walzer, rest on the ideal of a cooperative international society of independent states.

horizon' towards which we should strive, but which we most likely will never fully attain. Moreover, and importantly, its 'moral attraction and indispensability' must never 'be allowed to diminish the perceived virtues and practical imperatives of a less than perfect peace,' since such lesser, negative peace may very well be all we can presently realize (Coates, 1997, 283).

The proximity of the just war view of peace to Eisikovits's overall understanding of peace should be clear. In the just war view, truces are not at all 'dismissed as illegitimate political goals' (*TT*, 14), but seen as vital parts in a broader practice of peacemaking. Instead of a simplistic 'war/peace dichotomy,' we find a construal of peacemaking as a dynamic interplay between negative and positive moments, the one allowing for gaps in conflict to open up, the other reaching beyond conflict. Yet adopting the hybrid just war stance on peace, as Eisikovits appears to do in places, does have significant repercussions for how we should theorize truces. Although important and legitimate – since, when appropriately regulated, they lessen bloodshed and save lives – truces will remain 'mere' insofar as they do not secure what we really desire from the ending of war, a stable peace. They will remain 'mere' because, in contrast to the positive ideal of comprehensive peace, they possess instrumental rather than intrinsic value, being a means to an end rather than an end in itself. Contra Eisikovits (*TT*, 8), we can therefore never really 'prefer' truces to 'permanent, just, and lasting peace agreements,' since it is these agreements, however distant, which give point and purpose to both war and peacemaking generally. We can at best 'accept' truces and limited accommodations as the most we can do for now, as surrogates or stand-ins to be left behind when the opportunity arises for a securer, more just peace.

Conclusion

The above observations do not diminish the significance of Eisikovits's project. If it is to be complete, an account of the ethics of war must address truces and truce thinking and accord them their proper place. It would have to comprehend, with Eisikovits, truce thinking as a normative, and not simply a strategic, concern, and it would have to stress, again with Eisikovits, the importance of attending to moral complexity and context and the centrality of the virtue of moderation in the amelioration of conflict. On these and other matters, Eisikovits's claims ring true. My argument has been that to be fully convincing, a theoretical understanding of truces must incorporate insights basic to just war theory. I very much believe Eisikovits's theory of truces can incorporate these insights, though this would entail a reorientation in how key issues are framed and the explicit addition of principles that are currently lacking or underplayed in the theory. *A Theory of Truces*, then, is a work which delivers much, yet nonetheless a work still in progress.²¹

²¹ My thanks to Thom Brooks, Cillian McBride, Josh Milburn, Fabian Schuppert, Meghan Van Portfliet, Jeremy Watkins, and the audience at a meeting of Queen's University's *Research Seminars in Political Theory* for their comments on a draft of this paper.

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