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Judaism, Christianity, Islam: How Different Religious Beliefs Justify and Limit the Use of Force

JCSP 47

Exercise Solo Flight

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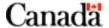
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CANADIAN FORCES COLLEGE – COLLÈGE DES FORCES CANADIENNES

JCSP 47 – PCEMI 47 2020 – 2022

Exercise Solo Flight – Exercice Solo Flight

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JUDAISM, CHRISTIANITY, ISLAM: HOW DIFFERENT RELIGIOUS BELIEFS JUSTIFY AND LIMIT THE USE OF FORCE

Introduction

The recognized international body justifying and limiting the use of force is the Charter of the United Nations (UN)¹. Its article 2(4) expressly prescribes the prohibition to use force, leaving the Security Council as the only authority in charge of determining as to when the threat to the peace justifies: (1) self-defence under article 51, (2) pacific settlement of disputes under Chapter VI, and (3) action with respect to threats to the peace, breaches of peace, and acts of aggression under Chapter VII. 193 countries are currently members of the UN, some secular and some with officially declared state religion. Regardless of their religious status, all 193 countries have ratified the UN Charter and therefore are bound by the rules of the use of force the Charter prescribes suggesting that the norms of the Charter are in harmony with the religious teachings of those countries with officially declared state religion.

From the early years of the UN, people of all denominations worked together to advance and emphasize the religious bases for human rights within their own traditions². The 1948 Universal Declaration of Human Rights recognizes in its first sentence the "inherent dignity and the equal and inalienable rights of all members of the human family" as the "foundation of freedom, justice and peace in the world" and includes the

¹ United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, last accessed 21 April 2022, https://www.refworld.org/docid/3ae6b3930.html.

² United States Commission on International Religious Freedom, "The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Majority Muslim Countries and other OIC Members", last modified 12 August 2012, https://www.justice.gov/eoir/page/file/1267071/download.

³ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), last accessed 21 April 2022, https://www.refworld.org/docid/3ae6b3712c.html. Out of 58 states then in existence, no country voted against the Universal Declaration. Eight states abstained from the UN General

freedom of thought, conscience, and *religion or belief*. Use of force implies such actions that can ultimately cause suffering and loss of life. Analysis of the reasons that can justify behaviour resulting in the elimination of human life is as philosophical and ethical as it is political and legal. The answers to these moral and practical dilemmas may come from a variety of sources. However, an argument can be made that among the most powerful and enduring of these sources are religious traditions, which have consequences in all aspects of human life, not least in situations of conflict and violence⁴.

Looking at the world's monotheistic or "prophetic" religions, this paper will explore how (1) Judaism (2) Christianity and (3) Islam assesses the "just war "concepts and the use of force. Although monotheistic, each of the religions contains further denominations or school of thought, the most prominent being: *Judaism* (Orthodox, Conservative, and Reform); *Christianity* (Western (Catholicism and Protestantism) and Eastern (Orthodoxy); and *Islam* (Shia and Sunni). Analyzing many subtle differences within each of the main stream denominations are outside of the scope of this paper; instead it will attempt to identify how each of the streams views the use of force generally with a brief historic overview facilitating the understanding of the main ideas. This paper will also examine whether there are any significant contradictions between the principles of the use of force in the UN Charter and the principles of use of force under Judaism, Christianity and Islam.

(1) Judaism

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Assembly vote on the UN Declaration of Human Rights: Byelorussia, Czechoslovakia, Poland, Saudi Arabia, South Africa, the former Soviet Union, Ukraine, and Yugoslavia.

⁴ Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 1, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

The three largest denominations within Judaism are *Reform*, emphasizing the primary of the Jewish ethical tradition over the obligations of Jewish law; *Conservative*, seeing Jewish law as obligatory with varying degrees of observance; and *Orthodox*, defined by strict adherence to a traditional understanding of Jewish law as interpreted by rabbinic authorities⁵. Israel is the only country in the world with Judaism as its official state religion. Israel's basic law defines the country as a "Jewish and democratic state." Although "Jewish" could be interpreted in this context as referring to religion, ethnicity or both, Israel is coded as having an official religion in part because the Israeli government gives legal authority to the chief rabbinate and provides special benefits to Judaism, such as support for religious study⁶.

Unlike Christian and Islamic medieval scholars who had written extensively about the war that presented itself quite frequently throughout their respective histories, medieval Jewish thinkers barely raised the subject, with two significant exceptions⁷: Samuel ibn Naghrela Ha-Nagid (993-1056) and Moses Maimonides (1138-1204) who created a domain for legislation as well as a new body of laws when he wrote his 'Laws of Kings and Their Wars'. "War is not to be fought by Israel for the sake of power, to achieve universal dominion over all other nations; [...] or to convert anyone or everyone

⁵ My Jewish Learning, "The Jewish Denominations," last accessed 19 April 2022, https://www.myjewishlearning.com/article/the-jewish-denominations/.

⁶ Travis Mitchell, "Many Countries Favour Specific Religions, Officially and Unofficially", *Pew Research Centre*, 3 October 2017, https://www.pewresearch.org/religion/2017/10/03/many-countries-favor-specific-religions-officially-or-unofficially/#fn-28865-11.

⁷ Joseph Stern, "Maimonides on Wars and Their Justification," *Journal of Military Ethics* 11, no 3 (September 2012): at 246, https://web-p-ebscohost-com.cfc.idm.oclc.org/ehost/pdfviewer/pdfviewer?vid=8&sid=6a1a4b83-e461-4e88-8016-c4317c5211ef%40redis.

to Judaism, [...] or for material goods, wealth, or land. War should be fought only to spread knowledge of God8".

Maimonides categorizes two types of war: milhemet mitzvah (commanded or obligatory war) and milhemet reshut (permissible or voluntary war). Both types should be fought as holy wars, even though not every holy war will be one or the other. Holiness is a matter not of jus ad bellum but jus in bello. What matters is not just who or what wins the war, but how one plays the game⁹. Within Judaism, even an 'Obligatory '(defensive) war requires a sovereign state and the approval of the high priest. Judaism shares the belief that war is not a natural condition, and also that universal peace will become a reality for the whole of humanity¹⁰. Prior to 1948, all Judaic conceptualizations of war were derivative and hypothetical in the absence of a Jewish state or Jewish military to actually engage in a war. With Israel's creation in 1948, engaging in war was no longer an intellectual construct - a UN member since 1949, Israel was now able to be part of conflicts facing practical and moral challenges of war. "The experience of the Holocaust presented the Jewish people with a horrifying example of the threats that exist, and prompted new thinking for a tradition rooted in peace, which previously had no real foundation for any concept of war"11.

Judaism advocates surrender over mass killing, however, this did not stop Israel from developing nuclear "preventative" weapons for its self-preservation. Judaism permits reciprocity but only within the limits of proportionality. While Judaic law would

⁸ *Ibid.*, 247.

⁹ *Ibid.*, 259.

¹⁰ Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 4, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

¹¹ *Ibid*.

prohibit the use of nuclear weapons even as a response to a nuclear attack, Israel does possess nuclear arsenal begging the question of the consistency of any argument that advocates a country allowing its own destruction. The Israel Defence Forces (IDF)' purity of arms 'code affirms the principle of proportional use of force; however, in recent years several IDF generals have asserted that the situation of Israel demands 'the greater aim 'to be prioritized over proportionality¹².

(2) Christianity

Christianity is the second most common official religion around the world.

Thirteen countries (30% of countries with an official religion) declare Christianity, in general, or a particular Christian denomination to be their official state religion¹³.

Christian position on war can be categorized into three groups: pacifism; the just war (Western) and justifiable war ethic (Eastern); and the holy war or crusade¹⁴. The Schism of 1054 divided the European Christian Church into two major branches: the Western Roman Catholic Church and the Eastern Orthodox Church¹⁵. In the 16th century, Protestantism took root as a reaction to medieval Roman Catholic doctrines, becoming the third biggest force of Christianity¹⁶. Although Western tradition on limiting war has its earliest roots in pre-Christian cultures, there are three main theologians who are

¹² Yagil Levy, "Is the IDF Becoming Theocratic?" The Open University of Israel, Research Institute for Policy, Political Economy and Society, Working Paper Series 20 (2012): 6, https://din-online.info/pdf/op12.pdf.

¹³ Travis Mitchell, "Many Countries Favour Specific Religions, Officially and Unofficially", *Pew Research Centre*, 3 October 2017, https://www.pewresearch.org/religion/2017/10/03/many-countries-favor-specific-religions-officially-or-unofficially/#fn-28865-11.

¹⁴ James Turner Johnson, *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry* (Princeton: Princeton University Press, 2014), xxv.

¹⁵ National Geographic, "Jul 16, 1054 CE: Great Schism", last accessed 18 April 2022, https://www.nationalgeographic.org/thisday/jul16/great-schism/.

¹⁶ Encyclopedia Britannica, "Protestantism," last accessed 18 April 2022, https://www.britannica.com/topic/Protestantism.

responsible for the development of just war doctrine, namely, Augustine (354-430 C.E.) the author of creating systematic moral justification for Christian participation in violence; Gratian (died c. 1145) who recovered Augustine's doctrine in his book *Decretum*¹⁷, and Thomas Aquinas (1225-1274) who was particularly influential in giving fundamental shape to Christian just war thought¹⁸. The ideas of Thomas Aquinas on war and vindictive justice became very popular in 16 century - both among Protestants and Catholics: "what matters is setting right a wrong already suffered, punishing (in God's name and as his agent) those who created the wrong" 19. Thomas Aquinas famously states that a war will be just only when three requirements are met, (1) it is conducted with the authorization of a prince (auctoritas principis), (2) for a just cause (causa justa), and (3) with a right intention (recta intentio)²⁰. "The classical period in just war thought culminated with the De jure belli ac pacis of Hugo Grotius (1583–1645). The Dutch jurist made ample use of the earlier sources, and applied them systematically to ad bellum and in bello" 21.

In the Christian traditions, peace is viewed as the normative, baseline condition of humanity. In Catholic thought, God has provided humans with means other than force, with which to solve disputes, and a wronged party must declare his or her grievances to the perpetrator, allowing an opportunity for peaceful resolution before resorting to force.

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¹⁷ Anders Winroth, "Gratian and His Book: How a Medieval Teacher Changed European Law and Religion", *Oxford Journal of Law and Religion* 10, no. 1 (February 2021): 1, https://doi.org/10.1093/ojlr/rwab003.

¹⁸ James Turner Johnson. *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry* (Princeton: Princeton University Press, 2014), xxiv.

¹⁹ James Turner Johnson, *Just War Tradition and the Restraint of War : A Moral and Historical Inquiry* (Princeton: Princeton University Press, 2014), 5.

²⁰ Gregory M. Reichberg, "The Decision to Use Military Force in Classical Just War Thinking," in *The Ashgate Research Companion to Military Ethics*, ed. Johnson, James Turner, and Eric D. Patterson (Taylor & Francis Group, 2015), 15, http://ebookcentral.proquest.com/lib/cfvlibrary-ebooks/detail.action?docID=4456080.

²¹ *Ibid.*, 14.

Catholic Church has the mission of bringing the Kingdom of God and the Lord's Peace to men by preaching the Gospel. At the same time, the Church recognizes that it has to operate within a world scarred by sin which underpins the doctrine of Just War, accepting that violence is sometimes required in acts of self-defence or in the defence of others. This position between pacifism of the Cross and the violent nature of the fallen creation is achieved via strict regulations regarding the use of force²². Protestant Christianity considers aggression to be violence which causes the loss of life or destruction of property, it also recognizes the concept of fighting on another's behalf, assuming the other party has just cause²³.

Both Catholicism and Eastern Orthodoxy divide war into defensive and offensive. In Roman Catholicism, a defensive war requires no special authority and an offensive war is seen as a choice rather than a necessity. Protestant thought insists that war may only be fought when the enemy attacks first, and refuses offers of peace or arbitration. If the Western church has a fully developed 'just war theory', justifying war by reference to justice, the Eastern Church has a less systematic 'justifiable war ethic', accounting for war by reference to necessity. Although necessity justifies war, it does not make it just, because it involves actions, such as killing, which are in normal circumstances wrong²⁴.

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²² David J. Lonsdale, "Nuclear Strategy and Catholicism," *Journal of Military Ethics* 11, no. 3 (September 2012): 186, https://web-p-ebscohost-com.cfc.idm.oclc.org/ehost/detail/vid=4&sid=9da7683e-01c9-414b-a4eb-

²³ Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 3, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

²⁴ Paul Robinson, "On Resistance to Evil by Force: Ivan II'in and the Necessity of War", Journal of Military Ethics (June 2003): 147, https://web-s-ebscohost-com.cfc.idm.oclc.org/ehost/pdfviewer/pdfviewer?vid=10&sid=904d68b4-8b65-4155-9047-

Western just war theory lays down some general principles about how much force is justified and against whom it may be used. These considerations of proportionality and discrimination seem never to enter into Russian discussions on the use of force²⁵. The Eastern Orthodox Church not only has high respect for the Christian virtues of soldiers who follow the precepts of a just war, but also rewards these soldiers by canonizing them as saints²⁶.

(3) Islam

Islam is the world's most common official religion. Among the 43 countries with a state religion, 27 (63%) name Sunni Islam, Shia Islam or just Islam in general as their official faith²⁷. Four basic principles known as "roots of jurisprudence" in Islam are (1) the word of God himself in the Quran, (2) the divinely inspired conduct of Sunna of the Prophet, (3) the reasoning by analogy and (4) the consensus of opinion²⁸. Apart from the first indisputable principle, the other three pose many different interpretations between two main disciplines of Islam: Sunni and Shia. However, since each group has further complex divisions within themselves, "the term "Shiite law" can only be used by way of the broadest generalization and is often, without further qualification, as meaningless as the term "Sunnite law"²⁹. In Islamic tradition *jus ad bellum* is part of jihad, an Arabic word that means "struggle" and can be categorized as major (process of self-purification) and minor (struggle for self-defence achieved by tongue, pen or sword - read diplomacy

²⁵ *Ibid.*, 158.

²⁶Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 7, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

²⁷ Travis Mitchell, "Many Countries Favour Specific Religions, Officially and Unofficially", *Pew Research Centre*, 3 October 2017, https://www.pewresearch.org/religion/2017/10/03/many-countries-favor-specific-religions-officially-or-unofficially/#fn-28865-11.

²⁸ N.J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 2005), 76 ²⁹ *Ibid.*, 106.

or war). Jihad can be further categorized into defensive and offensive theories of the use of force³⁰.

Under Islam, no authority is required for defensive war and all citizens including women and children are required to fight. Offensive war is regulated much more strictly, with conditions including legitimate authority, the pursuit of peace and the declaration of hostilities before engaging in war. The internal differences between the main Islamic denominations of Shi'ite and Sunni relate fundamentally to the legitimate political and religious leadership of Muslims; while Shi'ite Islam dictates that offensive war may only be conducted with the authorization of an Infallible Imam, Sunni Islam requires the approval of the Caliph. The current lack of either an Infallible Imam or a Caliph within Islam dictates that offensive Jihad is prohibited, in the prevailing consensus among Islamic scholars³¹.

Islamic law allows the use of force in self-defence and in defence of those who are oppressed and unable to defend themselves. In contrast, the offensive theory of jihad is untenable. Muslim states follow the defensive theory of jihad. Islamic law also allows, under certain conditions, anticipatory self-defence. Only the head of a Muslim state (a ruler or caliph) is allowed to declare jihad. Declarations made by non-state actors, e.g. Al-Qaeda, have no validity under Islamic law which imposes certain restrictions on the use of force in self-defence, i.e., military necessity, distinction, and proportionality³².

³⁰ Niaz A. Shah, "The Use of Force under Islamic Law," *European Journal of International Law* 24, no. 1

⁽February 2013): 344<u>, https://doi.org/10.1093/ejil/cht013</u>.

31 Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations*

University Press I (2007): 7, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

Niaz A. Shah, "The Use of Force under Islamic Law," *European Journal of International Law* 24, no. 1 (February 2013): 343, https://doi.org/10.1093/ejil/cht013.

In regards to the highly disputable topic of Islamist terrorism, the term 'Jihad 'is particularly divisive; while some claim that passages in the Qur'an permit or even encourage extended violence against non-believers (to varying degrees), others ascertain that the context and language of Jihad does not allow for action pertaining to war and killing. "In some radical interpretations of Jihad, any non-Islamic presence in the lands of Islam is seen as warranting a defensive war, and any nationals of states supporting such a non-Islamic presence are legitimate targets, including civilians" ³³. As such, the mass killing of civilians is justified by the contemporary radical Islamic terrorism.

Out of 46 Muslim majority countries in the world, only 27 have declared Islam as a state religion such that Islam (i.e., the Qur'an and the Sunnah) is the, or at least a, source of law. The constitutions in these countries stipulate that any existing law that conflicts with Islam is considered void and no new law that conflicts with Islam can be enacted³⁴. The fact that the Muslim states are members of the UN that have accepted the Charter rules on the use of force presumably means that these countries see no conflict between the use of force under Islamic law and the Charter³⁵.

³³ Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 7, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

³⁴ United States Commission on International Religious Freedom, 'The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Majority Muslim Countries and other OIC Members', 12 August 2012, at 8, https://www.justice.gov/eoir/page/file/1267071/download

³⁵ Niaz A. Shah, "The Use of Force under Islamic Law," *European Journal of International Law* 24, no. 1 (February 2013): 364, https://doi.org/10.1093/ejil/cht013.

Conclusion

Ever since man came into being, there have been religions, and for as long as man has existed, there has also been violence³⁶. All three religions studied by this paper are no strangers to the use of force through Judaic "wars of Yahweh"; the Western Christian Crusades and missionizing wars; and the Quran's calls to war reflecting the specific situation of the Prophet in the Medina period. If the Middle Ages had religious doctrine at the forefront of justification for using force (at least within the Western Christian tradition), rational and scientific forms of the 17-18 century Enlightenment thought provided a growing challenge to religion³⁷. Mainly secular in context, 20th century world politics mostly ignored religion³⁸ until such events as the collapse of Yugoslavia with its bloody religious ethnicities conflict, 9/11 attack and most recently Russian Orthodox Church condoning "special operation" made it imperative to acknowledge that religion is alive and very powerful. When observed, freedom of religion or belief is one of the cornerstones of stable, democratic, productive societies in which the rule of law and human rights are respected and accorded value. When denied, generations of intolerance, authoritarianism and resulting societal instability may be sown³⁹.

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³⁶ Hans Küng, "Religion, Violence and "Holy Wars," *International Review of the Red Cross* 87, no. 858 (June 2005): 253, https://ebookcentral.proquest.com/lib/cfvlibrary-ebooks/reader.action?docID=6264271&ppg=181.

³⁷ Kevin Harrison and Tony Boyd, "The role of ideology in politics and society," in *Understanding political ideas and movements: a guide for A2 politics students (*Manchester: University Press, 2003), 137, https://library.oapen.org/bitstream/handle/20.500.12657/34987/341409.pdf;jsessionid=8F9060B5326456AF-66CF5D6DD6846E66?sequence=1.

³⁸ Jeffrey Haynes, "Religion and International Conflict," in *International Security Studies: Theory and Practice*, ed. Peter Hough, Andrew Moran, Bruce Pilbeam and Wendy Stokes (Milton: Taylor & Francis Group, 2020), 165.

³⁹ United States Commission on International Religious Freedom, "The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Majority

Article 2(4) UN Charter prohibits its members from using force, leaving the Security Council in charge of making determinations when, under exceptional circumstances, use of force is authorized. Interestingly, the codified law under the UN Charter reflects the religious principles of all three monotheistic religions: Judaism, Christianity and Islam. This paper suggests that when we have a closer look through the religious lens, the principles justifying and limiting the use of force are often overlapping in different teachings:

- all three religions prohibit any use of force for revenge or acquisitive reasons (this principle corresponds to art 2(4) UN Charter);
- self-defence is universally upheld as the strongest, if not the only reason for going to war, often justified by the 'natural law 'of self-preservation (this principle corresponds to article 51 UN Charter);
- the types of wars can be categorized into 'defensive' and 'offensive', with significantly stricter jus ad bellum requirements for the latter⁴⁰ (this principle corresponds to articles 2(4) and 2(7) UN Charter);
- peace is the ultimate goal, but the war remains unavoidable due to human nature and therefore, it needs to be regulated (this principle corresponds to Chapter V UN Charter creating Security Council).

https://www.justice.gov/eoir/page/file/1267071/download.

Muslim Countries and other OIC Members", last modified 12 August 2012,

⁴⁰Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 4, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

As such, attitudes towards the use of force are more corresponding than contradicting among religions, and share a general understanding aimed at promoting restraint.

Analyzing the true spirit as opposed to various interpretations of religious teachings allows to determine that very similar principles surrounding the use of force existed in all denominations ever since their respective origins. "The relatively recent convergence of prevailing thought between religions, despite strong divergent opinions within each tradition, shows that there are possibilities for cross-cultural agreement and international co-operation regarding the use of force. ⁴¹" Secular and religious, current 193 UN member countries have ratified UN Charter and therefore are bound by the rules of the use of force the Charter prescribes which, as this paper suggests, reflect various religious teachings.

Today, when mankind has the new technical means to destroy itself, all religions should be doing their utmost to avoid wars and promote peace⁴² as it is prescribed within their respective teachings. A year like 2022, when the Holy Month of Ramadan, Western Easter, Eastern Orthodox Easter and Passover all fall within the same month, occurs only every thirty or so years – unfortunately, such coincidence calls for more tensions than harmony⁴³. The dialogue between international actors and religious traditions must continue to play an important role in international efforts to meet contemporary challenges, such as weapons of mass destruction, asymmetric warfare, terrorism and the need for humanitarian intervention⁴⁴. Use of force potentially takes away lives and

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⁴¹ *Ibid.*, 7.

⁴² Hans Küng, "Religion, Violence and "Holy Wars," *International Review of the Red Cross* 87, no. 858 (June 2005): 264, http://ebookcentral.proquest.com/lib/cfvlibrary-ebooks/reader.action?docID=6264271&ppg=181.

⁴³ "Religious Tension Turn Violent in Jerusalem," YouTube video, 1:49, posted by CBC Radio-Canada, 15 April 2022, https://youtu.be/pfCLsP0X8Pg.

⁴⁴ Vesselin Popovski and Nicholas Turner, "Religious Perspectives on the Use of Force," *United Nations University Press* I (2007): 7, https://www.files.ethz.ch/isn/46080/rb01-07.pdf.

therefore its strict regulation remains paramount in international law. Arguably, religion can also be called "force" that can be used for achieving different means. When regulated through international law, this force serves to unite rather than create conflict based on different denominations' specific interpretations.

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