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Political reconciliation, the rule of law, and truces

Colleen Murphy

College of Law and Department of Philosophy, University of Illinois at Urbana-Champaign, Champaign, IL, USA

ABSTRACT

Nir Eisikovits argues in *A Theory of Truces* that most contemporary conflicts wind down in a much more piecemeal fashion than our theorizing about the morality of ending wars suggests. Pauses in violence are achieved by securing agreement on narrow questions. Moreover, rather than hoping to do away with violence, theorizing would do best, he writes, to take as its starting point the fact of warfare as part of the human condition. Eisikovits aims to articulate the features of truce thinking, a framework that is more descriptively accurate and normatively useful in navigating contemporary conflicts and promoting reconciliation. After summarizing his view, I argue that Eisikovits' explanation of the contribution of truces to political reconciliation is too narrow; contrary to what he claims, truces can make an important contribution to the rule of law. I also challenge Eisikovits' characterization of the first feature of truce thinking. I argue that while there is an important present focus on immediate benefits from temporary measures, the future looms much larger than Eisikovits recognizes. Truces matter not only for what they make possible now, but also for their ramifications for prospects for future peace. These ramifications go beyond creating conditions for hope or optimism.

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1. Introduction

Nir Eisikovits in his excellent book *A Theory of Truces* draws attention to an important blind spot in our moral thinking about war.¹ While much theoretical attention is paid to the reasons for which war is undertaken and the actions that are morally permissible in war, the morality of ending wars is only recently attracting significant attention. Such discussion as exists about such endings occurs largely within consideration of the *jus post bellum* criteria. Such criteria specify the permissibility of terms for moving from a war to a postwar period, how to deal with the violations that occurred during conflict, and the allocation of responsibilities for postwar reconstruction.²

Eisikovits argues that this way of conceptualizing the ending of wars and the transition from war to peace simplifies and obscures the ways in which most conflicts wind down. Rather than entailing a final move from war to peace with an agreement resolving the issues that led to war in the first place, most contemporary conflicts wind down in a much more piecemeal fashion. In his words, 'War rarely ends with a clear-cut victory

followed by a stable peace'.³ Conflicts see reduced levels of violence for a temporary period followed by a return to violence, in some cases much more ferocious than before. As part of the piecemeal fashion in which conflicts wind down, pauses in violence are achieved not by resolving all outstanding issues of justice and right. Rather, they are achieved by securing agreement on much narrower questions: whether to refrain from certain forms of violence or whether to end conflicts without resolving the underlying causes of friction.

The finality of peace implicit in discussions of *jus post bellum* and our conversations as moral philosophers about war is misleading in another sense for Eisikovits: it implicitly suggests that war is abnormal, an aberration in the structure of human and community interaction that must be overcome in way that allows normal relations to resume. And yet, 'There is strong, historical, psychological, and literary evidence suggesting that war cannot be done away with ... We may be better off thinking about ways to contain, reduce, and control it'.⁴ Rather than hoping to do away with violence, theorizing would do best, he writes, to take as its starting point the fact of warfare as part of the human condition.

In this paper, I first provide an overview of Eisikovits' account. In the second and third sections, I argue that his explanation of the contribution of truces to political reconciliation is too narrow; contrary to what he claims, truces can make an important contribution to the rule of law. In the third section, I also challenge Eisikovits' characterization of the first feature of truce thinking. I argue that while there is an important present focus on immediate benefits from temporary measures, the future looms much larger than Eisikovits recognizes. Truces matter not only for what they make possible now, but also for their ramifications for prospects for future peace. These ramifications go beyond creating conditions for hope or optimism.

2. The theory

Eisikovits focuses on the conceptual and moral dimensions of truces, which play a key role in the winding down of many contemporary conflicts. He defines truces as 'a variety of arrangements that halt war, prevent it from erupting, or reduce its scope, all without bringing about lasting peace'.⁵ As is clear from this definition, truces do not aim to end war; rather they aim to control and contain war in a temporary manner. Though the way philosophers theorize about war's end treats such ending as entailing a final comprehensive resolution to sources of conflict, Eisikovits' emphasis on agreements with much narrower scope is not new. Eisikovits himself notes that truce thinking, as he calls it, has roots in ancient Greek, Christian, Jewish, Islamic thought, and in groundbreaking accounts of international law such as that proposed by Hugo Grotius.

Eisikovits distinguishes among four kinds of truces. Armistices are treaties that end hostilities without necessarily resuming broader normal relationships, including trade or diplomatic ties. Cease-fires are agreements to temporary pauses in fighting, frequently for a defined period of time and often for a particular purpose, such as allowing combatants to collect their dead. Agreements to limit belligerence specify the constraints under which fighting will take place, for instance on what days or under what conditions fighting will occur. Agreements of avoidance are 'meant to get around belligerence altogether, even when the conditions for a long-term, principled, and friendly relationship are

lacking',⁶ by, for example, articulating a division of zones of influence or by attempts at mutual deterrence.

There is a set of psychological and philosophical commitments, some or all of which are reflected as a matter of descriptive fact in truces and the mindset of those who produce such truces. The first is an overarching emphasis on the present, and in particular the immediate benefits to be gained by pauses in violence.⁷ The contrast is with thinking that emphasizes the long-term conditions for a just peace, such as resolution of disputed rights or broader issues of distributive justice as it applies to land and resources. The focus on the present is to some extent future-oriented. Though emphasizing immediate benefits, this aspect of truce thinking is coupled with 'Optimism about the passage of time'.⁸ The thought is that modest partial agreements, when upheld, can alleviate suffering and lay conditions for the possibility of trust. The second aspect of truce thinking is aiming low. Aiming low references the objectives to be achieved by a particular truce. The rationale for this feature is that aiming low (e.g. at a week's pause in violence) can serve to overcome paralysis in the face of high expectations and can counter hopelessness in the face of the tasks that would need to be achieved to facilitate robust, lasting peace. The third aspect of truce thinking is a basic recognition that fighting is not the inevitable conclusion of hatred or conflicting ideological commitments; quiet is compatible with both hatred and disagreement. The fourth aspect of truce thinking is a rejection of a certain absolutist view of principles. Rejected are the idea that certain people should not be negotiated with as a matter of principle and the idea that grand abstract principles of right or justice must always guide negotiations. As Eisikovits writes

the fourth aspect of truce thinking, the tendency to prefer narrower claims of self-interest to larger questions about historical justice and rights, often spring not so much from the disdain for abstraction as from the practical inability to adjudicate and fully pursue questions of right.⁹

The fifth component of truce thinking is the recognition that truces can be strategically useful, and can be used to buy time to improve one's strategic position.

Describing the psychological and philosophical orientation behind truce thinking is not the same as justifying it or the truces that result from it. Indeed, truce thinking of the kind described above can be subject to two primary objections: it encourages morally unjustifiable appeasement and it is biased in favor of the stronger party in a conflict. The appeasement worry concerns the permissibility of conceding unjust demands by unjust powers for the sake of escaping war. The asymmetrical worry is that by putting off larger questions of right and distributive justice, truces merely preserve the status quo and the position of the stronger party, who stands to lose more when final questions are in fact resolved.

In response to these worries, Eisikovits recognizes that not all truces are morally equal, and that there are differences in the extent to which various truces are morally justifiable. The underlying justification for any particular truce is utilitarian. A truce is justified to the extent that it actually economizes the costs of war; it is not to the extent this fails. In Eisikovits' view, the first three commitments of truce thinking (focusing on the present, aiming low, and recognizing that hate and disagreement need not inevitably lead to war) are moral, aimed at such economization. Thus, 'The more an act of truce is motivated by the first three characteristics of truce thinking, the more legitimate it is'.¹⁰ The fourth feature is justified to the extent that it is supported by the first three features; when not so supported it then risks becoming a morally problematic instance of appeasement

where there is no net gain realized by any concessions. Because of their underlying justification, legitimate truces are not instances of appeasement; they do not merely cave to unjust demands but achieve limited agreements that successfully reduce the costs of war. Nor are such truces used simply to entrench positions of stronger powers. Truces that eschew broader questions of right and distributive justice are more legitimate in contexts in which more comprehensive peace agreements are not practically possible to achieve. When broader questions of distributive justice and right can be addressed via a comprehensive peace agreement, then the reason for pursuing more limited agreements is undercut. Broader questions of justice should not be avoided when they can be addressed.

In keeping with the utilitarian foundations of his account of the morality of truces, Eisikovits argues that judgments about the justifiability of particular truces cannot be done in the abstract. To make an educated guess as to the consequences of a given truce requires intimate knowledge of the context in which it takes place. Only with such knowledge can predictions about the likely impact of a truce be reliable. Moreover, judgments about the justifiability of truces are ultimately *ex post facto* in nature. Only after the fact will the actual impact of a truce be clear, and only then can we know if it indeed was justified because economized on the costs of war.

Eisikovits ends his book by considering the relationship between political reconciliation and truce thinking, arguing that there are in fact affinities between the two. One kind of affinity is instrumental in nature. Truces can be instrumentally valuable in setting the conditions for seeking political reconciliation in the future; in his words, ‘under some circumstances the seeds of ambitious peacemaking can be located in the modest truces and cease-fires the parties reach’.¹¹

To see how truces may in fact lay such seeds, Eisikovits examines a number of accounts of political reconciliation, including mine, which have been recently developed. In my account, the repairing and rebuilding of political relationships in which reconciliation consists requires cultivation of the rule of law, trust that is reasonable, and core relational capabilities.¹² Eisikovits argues that truces in particular can cultivate some trust, a trust which can grow with time.¹³ Describing the leap of trust that a truce can represent, Eisikovits argues that truces can entail taking an optimistic view of those trusted (optimistic about their good will and judgment) and an anticipation of trust responsiveness (that those trusted will be moved by the fact of the trust placed in them to fulfill the expectations of the truster). He also claims that truces can sow seeds for respect, as promises of restraint are kept; and hope, as conflict restrained opens up possibilities for conflicts being contained and not necessarily cycling into greater brutality.

3. Truces and the rule of law

In the previous section, I summarized the main outlines of Eisikovits’ view. In this section, I challenge one claim he makes. Specifically, Eisikovits claims that truces ‘have little or no bearing on the restoration of the rule of law’, a central component of political reconciliation in the view I develop and which he discusses. However, I argue below, truces can have key bearing on the rule of law. Adhering to the terms of a truce is itself adhering to the rule of law. Truces can also play a critical role in establishing the social and moral conditions on which the rule of law depends. Eisikovits thus underestimates the contributions of truces

to political reconciliation. After explaining in greater detail what the rule of law entails, I explain why truces can make these contributions.

As Eisikovits notes, I follow the general view of the rule of law developed by Lon Fuller.¹⁴ Law is, on this view, the process of 'subjecting human conduct to the governance of rules'.¹⁵ Such governance is possible, Fuller famously argues, only if legal rules have a specific form. When considering a legal system, rules must to a threshold level be clear, non-contradictory, prospective, promulgated, stable, and general; and must demand what it is practically possible for subjects and officials to do or forbear. Systematic adherence to these requirements ensures that legal requirements are such that they can figure in the practical reasoning of legal subjects and officials. The final requirement is that of congruence, according to which the actions of officials and their responses to legal subjects must be based on what legal rules require, prohibit, and permit. As Fuller wrote, implicit in the rule of law is the following commitment by officials to subjects: 'Government says to the citizen in effect, "These are the rules we expect you to follow. If you follow them, you have our assurance that they are the rules that will be applied to your conduct"'.¹⁶ Legal subjects, for their part, are expected to follow the rules so laid out, taking into account in their practical deliberations what rules permit, prohibit, or require.

One important and distinctive feature of Fuller's account of the rule of law is his emphasis on the social and moral conditions that make law possible.¹⁷ Law is maintained insofar as officials and legal subjects are willing to reciprocally restrain themselves as the legal rules specify. Governance by law requires mutual constraint on the part of government officials and legal subjects. Officials cannot pursue policies in the most efficient manner, when efficiency contradicts the restrictions on official conduct laid out by declared rules. Legal subjects must also be restrained in the actions they engage in as well, pursuing their objectives within the parameters permitted by legal rules. Systematic dismissal or disregard of the requirements of the rule of law renders the actions of others to maintain the law futile. Officials can pass rules that are clear and prospective, but unless subjects are willing to take such rules into account when deliberating about how to act such legal rules will not govern conduct. Subjects may be willing to constrain themselves as the law demands, but unless officials are willing to respect the demand of congruence and specify rules that can figure in the practical reasoning of citizens, such constraint will either not be possible or not rewarded. For these reasons, the achievement of law is always fragile, dependent upon the maintenance of the mutual willingness to have conduct be restrained and governed in the ways that legal rules specify.

The cooperative action and interaction required by law goes deeper. Even when there exists the reciprocal willingness to govern conduct by law, further cooperative interaction is necessary for officials and legal subjects to be in agreement regarding what general rules entail in particular situations. When there exist shared, public understandings of what general rules entail, the norms of law are then public shared norms that can provide reliable guidelines for predicting how other legal subjects and government officials will respond to one's actions. Absent shared understandings of what general rules require in particular situations, the application and enforcement of legal rules can become arbitrary from the perspective of citizens, who will not be in a position to determine in advance what a particular rule requires.

For subjects to be motivated to engage in the restraint and cooperative interaction necessary for law to govern conduct in practice, Fuller notes, they must have faith in

law. Faith in law refers to faith that officials are, in Fuller's words, 'playing the game of law fairly', by adhering to the requirement of the rule of law in their formulation of rules and by actually respecting and enforcing those requirements in practice.¹⁸ Without faith in law and in the officials who codify and enforce law, citizens have little reason to restrain themselves in the ways that law demands. As Fuller writes

If the citizen knew in advance that in dealing with him government would pay no attention to its own declared rules, he would have little incentive to abide by them. The publication of rules carries with it the 'social meaning' that the rulemaker will himself abide by his own rules.¹⁹

When that social meaning is proven to be empty, faith in law subsequently declines. Faith is not unbreakable as a matter of description and as a matter of justification. That is, in fact legal subjects who have faith in law do not retain faith in law regardless of how officials act. Nor should they, according to Fuller.

As Eisikovits notes, in my analysis of political reconciliation, I follow Fuller in claiming that there are important social consequences of failure or success in adhering to the rule of law. Eisikovits correctly attributes to my view the claim that the failure of officials to adhere to the requirements of the rule of law breeds resentment on the part of legal subjects; they resent being held to a standard of conduct they had no real opportunity to follow, either because the standards of conduct were not known or not clear or because the standards declared were not the standards applied to conduct or followed by officials. Failures to adhere to the rule of law also generates distrust, as legal subjects cannot turn to legal rules to form reliable expectations regarding how other legal subjects or government officials will act or respond to their conduct. However, what is left out is my recognition that this distrust in turn erodes a critical social condition for the rule of law: faith in law.

The preceding discussion is relevant for understanding truces for three reasons. It highlights why the keeping to the terms specified in truces itself constitutes an instance of the restraint constitutive of abiding by the rule of law. It draws attention to the potential contribution of truces to the cultivation of the social conditions on which the rule of law depends. And it helps us understand why the violation of truces, even when the terms of truces are minimal, can be so devastating for communities.

First, the mutual, reciprocal adhering to the terms of truces provides a concrete demonstration of the restraint and willingness to be governed by rules that the rule of law demands. Law at its core, Fuller claims, is governance of conduct on the basis of declared rules. In keeping to the terms of a truce, parties are reciprocally governing their conduct on the basis of the rules outlined in such truces. By cooperatively agreeing to terms specified in a truce and then abiding by those standards, parties to a truce demonstrate that they are capable of and willing to limit their conduct as rules demand. Truces can provide evidence of the possible efficacy of a broader framework of legal rules, as laid forth by domestic governments or in international law, in restraining future conduct. The possibility of mutual restraint as required by declared rules is especially significant in contexts in which such restraint has been previously absent, and often such contexts are found precisely in the entrenched, frequently asymmetrical conflicts in the contemporary world.

Second, the maintenance of a truce can provide some grounds for faith in the law on the part of legal subjects. Especially in a conflict that is protracted and in which the possibility of a comprehensive peace deal seems remote, seeing parties to a conflict govern

their conduct on the basis of terms set out in a truce can contribute to the slow cultivation of faith in law as a method of governing conduct. The 'social meaning' that law normally carries may begin to be developed or, if it was never completely destroyed, strengthened.

Third, and conversely, the above discussion provides resources for understanding why the consequences of a truce broken can be so significant for communities. Eisikovits links the consequences of a truce broken to its impact on trust, the absence of which can lead to a vicious cycle of escalation in violence. He writes

If the projection of trust inherent in the attempt to broker a truce is not reciprocated, if it is not met with trust responsiveness, the truster, his original judgment rebuffed, now has an even worse opinion of the trustee and a greater degree of animosity towards him. The virtuous cycle turns into a vicious one, and escalation may well follow.²⁰

But, given that the adherence to the terms of a truce is itself an instance of adherence to the rule of law, the consequences of a broken truce go beyond its impact on trust. It can affect the very possibility of faith in law. In discussing why citizens can come to lose faith in law, Fuller notes two ways in which this can take place. One is through the gradual erosion of adherence to legal requirements on the part of government officials. The second, however, is through a public, dramatic violation of the requirements laid down by declared rules. In his words

Precisely because this faith plays so important a role in the functioning of a legal system, a single dramatic disappointment of it, or a less conspicuous but persistent disregard for legality over a whole branch of law, can undermine the moral foundations of a legal order, both for those subject to it and for those who administer it.²¹

Faith in law, in the ability of officials and legal subjects to adhere to the terms outlined in declared rules and to see those terms enforced, can be significantly undermined when a minimal effort at legal restraint fails. Failure in adhering to demands that are minimal (relative to the larger claims of rights and of justice that are at issue in a war) can lead to despair at the possibility of seeing more robust demands that rules may make respected.

4. Colombia, Syria, and the future orientation of truce thinking

Eisikovits' attention to truces is particularly welcome at the time of writing this response, given events unfolding in both Colombia and Syria. In this section, I first show how some of the considerations about the rule of law are evident in the successes and failures of truce making. I then use these cases to press Eisikovits on the first feature of truce thinking. As a matter of description and as a matter of justification, the future plays a greater role I claim. Descriptively, present pauses are the most immediate focus, but always shaped by the past conflict and with an eye to possible ramifications for future peace. Normatively, the future should always be shaping such thinking. Only with firm attention to the consequences for future peace will truces actually succeed in economizing on the suffering of war.

Consider first Colombia. On 26 September 2016, the government of Colombia signed in a public ceremony a historic peace agreement with the Revolutionary Armed Forces of Colombia (FARC) to end over 50 years of conflict. The human toll of the conflict is significant, including more than 220,000 killed, '25,000 disappeared and 5.7 million displaced'.²² The historic significance of the agreement was not lost. On the day of the signing, President Juan Manuel Santos stated

Swapping bullets for votes and weapons for ideas is the bravest and most intelligent decision that any rebel group could take. When you begin your return to society (...) as head of state of the homeland that we all love, I welcome you to democracy.

The agreement contains a number of provisions, including the handing over of weapons by rebels; the establishment of FARC as a political party; a commitment to five seats in the Senate and in the lower chamber of Congress for FARC representatives for two terms; and a transitional justice system.²³ Prior to the referendum on the agreement 2 October, the content of the agreement's terms were intensely debated. Though the agreement was lauded for its emphasis on gender,²⁴ controversy surrounded the commitment to political inclusion for FARC representatives and about the alternative judicial process. Objections to both have voiced concern that the provisions constitute a reward for terror. Reflecting the intensity of this debate, the agreement fell short of being agreed upon by 0.4% in a vote by the public on 2 October, with 50.2% against the agreement and 49.8% for it.²⁵

Eisikovits' analysis is valuable in part because it draws our attention to the moral significance of the efforts that preceded this final agreement, as well as to what is interesting about what was *not* the subject of discussion in the debates leading up to the public vote. The peace agreement itself was the product of four years of formal negotiations preceded by two years of secret talks.²⁶ Cuba, Chile, Norway, and Venezuela played especially important roles in facilitating these negotiations. The negotiations were a period that saw the temporary, present-oriented agreements that truce thinking celebrates but that moral and political philosophers concentrate less attention upon. For example, in February of 2012 FARC issued a statement renouncing kidnapping and indicating it would release its remaining political prisoners.²⁷ While this was unilateral, it reflected an agreement to limit belligerence. This commitment aimed low in the sense that it did not address broader issues of rights at issue in the conflict and in the sense that it did not forgo violence of any kind. Other month-long unilateral cease-fires by the FARC occurred through the four-year negotiating period.

Not all agreements during the period of negotiations were unilateral. There were also joint communiqués issued. In July 2015, for example, the FARC and government negotiators reached an agreement according to which FARC would suspend offensive military actions and the government would de-escalate its military operations following this suspension. Nor was the process during this four-year period completely smooth. The armed forces bombed a FARC military camp in 2 December 2012, and the FARC launched a grenade attack on a police station in 31 December 2012, during the period of an unilateral truce. Reaching a comprehensive agreement was not a foregone conclusion.

Colombia provides an example of how agreements upheld, even when the terms of the agreement are temporary and minimal, can facilitate the rule of law. The party who upholds the terms of an agreement demonstrates its capability of being restrained and governed by rules. Such restraint pays off over time in renewed faith in law. Evidence of the faith in law on the part of FARC rebels is reflected in their willingness to become a regular political party governed by the laws structuring the political process. As such, they will compete in Congress with other politicians for the codification of legal rules that further their political interests. Even more basically, both parties were willing to submit the agreement to a public vote, a vote structured and taking place according to processes laid down by legal rules. Equally interesting, the objections articulated by those who voted against the agreement were not based on skepticism regarding the

possibility of FARC being governed by law and participating as a regular political party, but rather were to the justifiability of such inclusion in politics and to the legitimacy of envisioned legal processes for dealing with past wrongs.²⁸

In evaluating what aspects of truce thinking contribute to the utilitarian aim of reducing suffering, Eisikovits emphasizes the positive contribution of focusing on immediate benefits to be gained from a truce, rather than on a comprehensive peace in which all outstanding issues of justice and rights are addressed and resolved. However, there is an important future orientation to truce thinking that I do not believe Eisikovits quite fully captures. The focus on the present is coupled with an emphasis on the future, not only in the sense of hoping that small steps will lead to later possibilities and greater trust, but also in the sense that an orientation towards the future and hopefully a comprehensive peace accord can shore up truces that may otherwise be too fragile to be sustained.

Indeed, this future orientation is reflected in how the truces leading to the comprehensive agreement were framed by the Colombian government and FARC representatives. For example, part of the motivation for the renunciation of kidnapping in 2012 by FARC was the fact that the Colombian government would not enter into peace talks absent such commitment. President Santos was quoted as saying, 'We are going to be vigilant over what was agreed today ... And four months from now, depending on whether the FARC comply, I will make the decision about whether or not we continue with the process'.²⁹ As Eisikovits recognizes, little steps can have big ramifications, both positive and negative depending on whether the little steps are successful. This broader strategic significance of truces seems to be both a constitutive dimension of much truce thinking, and a dimension the awareness of which can significantly influence the impact of a truce. Without keeping in mind the impact of present-oriented truces on the possibilities for the future peace agreements, the utilitarian aim is not likely to be achieved.

The importance of the future-oriented dimension of truce thinking for economizing on war becomes even more vivid when we consider Syria. At the time of writing, we are witnessing the sixth year of fighting in the Syrian civil war. The Syrian conflict is complex and multi-layered, with a number of different conflicts being waged at once.³⁰ In the context of the Arab Spring, the originating conflict is between President Bashar al-Assad with his supporters and the forces opposed to his rule; there are multiple militias fighting for each side. This conflict also has international dimensions, with the United States and Saudi Arabia supporting the rebels and with Iran, Russia, and Hezbollah supporting Assad. The United States and Russia are supplying weapons to the respective sides they support. Ethnic Kurds are also fighting the Syrian state and the Islamic State with support from the United States; they have carved out a semi-autonomous territory. The Islamic State finally has areas of Syrian territory under its control.

To date, estimated 400,000 individuals have been killed and 12 million individuals displaced within and to countries outside of Syria. 'With 4 m UN-registered refugees abroad, at least 1 m more unregistered and 7 m internally displaced people, more than half the country's population has been forced to move'.³¹ Comparatively speaking, in 1/10 of the time that the Colombian conflict spanned, more than 8 times the number of individuals have been killed in a country with currently 1/3 of the population of Colombia.³² It is not just the numbers that convey the brutality of the conflict. This is a conflict characterized by atrocities, primarily at the hands of Assad's forces. Starvation, chemical weapons,

barrel bombs, targeting of hospitals, and other violations of international humanitarian law have occurred.

The international community recognizes the urgency of truces for humanitarian relief, if nothing else. However, truces, brokered and attempted by the United States and Russia, have largely failed, and their failure has prompted even more vicious fighting. Most recently, a cease-fire deal negotiated on 9 September 2016 by Russia and the United States required Syrian government forces around the rebel-held Aleppo to withdraw to permit humanitarian aid in.³³ The agreement was effective 12 September. However, the US forces hit Syrian forces instead of Islamic State forces they were targeting on Saturday, 17 September, and then Monday, 19 September, Russian planes were blamed for bombing an aid convoy killing 20.³⁴ The cease-fire quickly unraveled, and bombings even more ferocious than previously resumed. "It's as if the planes are trying to compensate for all the days they didn't drop bombs" during the ceasefire, Ammar al-Selmo, the head of the civil defense rescue service in opposition-held eastern Aleppo, told Reuters.³⁵ On 29 September 2016 The US ambassador to the UN Samantha Power described the escalation in Syria as "the most savage week we've seen in an incredibly savage five-plus-year war", with more than 1,000 people killed by 1,700 airstrikes on east Aleppo alone.³⁶ In the face of the inhumane bombing campaign in Aleppo, the United States suspended talks with Russia on Monday, 3 October 2016.³⁷

Syria shows vividly the negative impact cease-fires can have upon the rule of law, when the terms they stipulate are violated. Violations themselves constitute a failure of restraint that rules outlined in the terms of a cease-fire demand and, in the case of Syria, are required by international law. Actions that violate the terms of a truce fail to demonstrate the restraint that the rule of law demands. Part of what makes the Syrian conflict so troubling is the open flouting of the requirements of International Humanitarian Law. Such violations further undermine faith in the prospects for seeing conduct being governed by rules in the future. The conduct of the conflict in Syria provides little reason to believe opponents will exercise constraint in the ways that the rule of law demands.

Syria also highlights the moral consequences of the future-oriented aspects of truce thinking I highlighted above. Unlike Colombia there is no agreement among parties in the conflict as to the desirability of a final agreement or what such an agreement might entail. There is in fact deep disagreement about, for example, the possibility of Assad remaining in power in any agreement that is ultimately signed. There is thus no context for robust peace negotiations like in Colombia, negotiations which make the stakes of keeping truces clear and can shore up willingness to adhere to the terms of a truce so as to keep prospects for future peace open.

5. Conclusion

Eisikovits' account of truces is a valuable contribution to our understanding of the morality of mitigating and controlling violent conflict. His account highlights the necessity of paying attention to the partial and limited agreements parties to a conflict may make, for such agreements can, under certain conditions, provide the foundation for more comprehensive agreements or, under other conditions, can open the door to greater violence and brutality. Eisikovits successfully makes the case that truces are a subject matter that philosophers should more seriously and systematically take up. In my argument above,

I claimed that Eisikovits underestimates the relationship between truces and the rule of law; the keeping of truces constitutes an instance of abiding by the rule of law and can foster greater faith in law where it is absent. There is also, I suggested, a greater future-oriented aspect to truce thinking than Eisikovits acknowledges; while focused on immediate benefits from a pause or reduction in violence, there is often also an eye to the ramifications of this pause for the possibility of future peace.

Notes

1. Nir Eisikovits, *A Theory of Truces* (New York: Palgrave MacMillon, 2016).
2. Examples of discussions of *jus post bellum* include Brian Orend, "Jus Post Bellum," *Journal of Social Philosophy*, 31, no. 1 (2000): 117–137; Brian Orend, *War & International Justice: A Kantian Perspective* (Waterloo, ON, Wilfrid Laurier University Press, 2000); Brian Orend, "Justice after War," *Ethics & International Affairs*, 16 (2002): 43–56. Gary J. Bass, "Jus Post Bellum," *Philosophy and Public Affairs*, 32, no. 4 (2004), 384–412; Alex J. Bellamy, "The Responsibilities of Victory: *Jus Post Bellum* and the Just War," *Review of International Studies* 34, no. 4 (2008): 601–625; Mark Evans, "Moral Responsibilities and the Conflicting Demands of Jus Post Bellum," *Ethics & International Affairs* 23, no. 2 (2009): 147–164; and Alexandra Gheciu and Jennifer Welsh, "The Imperative to Rebuild: Assessing the Normative Case for Postconflict Reconstruction," *Ethics & International Affairs* 23, no. 2 (2009): 121–146; Larry May, *After War Ends: A Philosophical Perspective* (New York: Cambridge, 2012).
3. Eisikovits, *Truces*, 13.
4. *Ibid.*, 19.
5. *Ibid.*, 8.
6. *Ibid.*, 9.
7. *Ibid.*, 19.
8. *Ibid.*, 3.
9. *Ibid.*, 68.
10. *Ibid.*, 30.
11. *Ibid.*, 75.
12. See Colleen Murphy, *A Moral Theory of Political Reconciliation* (New York: Cambridge University Press, 2010).
13. Eisikovits, *Truces*, 78.
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