

War in Political Philosophy

Summary

We can distinguish between three moral approaches to war: pacifism, realism, and just war theory. There are various theoretical approaches to war within the just war tradition. One of the central disputes between these approaches concerns whether war is morally exceptional (as held by exceptionalists), or morally continuous with ordinary life (as held by reductive individualists). There are also significant debates concerning key substantive issues in the ethics of war, such as reductivist challenges to the thesis that combatants fighting an unjust war are the moral equals of those fighting a just war, and the challenge to reductivism that it undermines the principle of noncombatant immunity. There are also changing attitudes to wars of humanitarian intervention. One under-explored challenge to the permissibility of such wars lies in the better outcomes of alternative ways of alleviating suffering. The notion of unconventional warfare has also come to recent prominence, not least with respect to the moral status of human shields.

Keywords: war, exceptionalism, reductive individualism, human shields, combatant equality, noncombatant immunity, humanitarian intervention

Introduction

There are three central approaches to war in political philosophy: pacifism, the just war tradition, and realism. We should distinguish here between political pacifism and individual pacifism. Individual pacifism holds that killing is always wrong—whether it's killing in war, self-defense, punishment, or policing. Political pacifism objects to war, and to the institutional structures that support and enable war (Ryan, 2015). Political pacifism holds that war can never be morally justified and is therefore always impermissible but does not deny that individuals may engage in lethal self-defense (nor need its proponents reject capital punishment or lethal law enforcement).

The just war tradition holds that war can, at least theoretically, be morally justified under certain circumstances. And, just war theorists believe that the fighting of war is governed by moral rules. This is compatible with thinking that no actual war has ever been or will be justified—so-called “contingent pacifism.” We might, for example, think that a war that killed only culpable attackers could be justified but deny that any actual war distributes harm in this way.

Realism holds, roughly, that morality has no place in war. Some realists take this to be a kind of practical constraint, arguing that war is the sort of thing that just can't be governed by moral principles. Others take it to be somehow morally inappropriate to try to constrain war with morality, because war is about political interests, and is somehow outside of the moral sphere.

The view that war can sometimes be morally justified is motivated by thought that there are some wrongs that are so morally serious that we may, or perhaps must, use force in order to prevent them if we can. But, war inevitably inflicts harm on wholly innocent people. Many people believe that causing harm is morally worse than allowing harm. Thus, the central moral problem of the ethics of war is explaining how war can be permissible despite the harms that it inflicts.

The traditional just war framework of *jus ad bellum* and *jus in bello* is outlined. Rival theoretical approaches to the ethics of war are explored, with a focus on forms of exceptionalism and reductive individualism. One of the most important contributions of reductive individualism—namely, the undermining of the alleged moral equality of just and unjust combatants—is explained, and a recent aspect of one of the most enduring debates in just war theory—the basis of noncombatant immunity—is explored. Changing attitudes surrounding wars of humanitarian intervention are explored along with whether such wars can be justified in the face of alternatives for relieving suffering. The notion of unconventional

warfare is outlined and the morality of using and harming human shields is examined. Areas for future research are suggested.

The Just War Framework

The standard just war framework distinguishes between the conditions of *jus ad bellum* and the conditions of *jus in bello*. A standard account of the content of *jus ad bellum* holds that, in order to be just, a war must:

- Have a just cause
- Be a last resort for achieving that cause
- Be a proportionate means of achieving that cause
- Have a reasonable prospect of success
- Be fought by a legitimate authority
- Be publicly declared

Jus ad bellum is sometimes said to judge the resort to war (e.g., Orend, 2008). But this suggests that we need to satisfy these conditions only at a war's outset, which is false. A better understanding of the *ad bellum* conditions is that they apply to the war "as a whole," and must be satisfied throughout the war: we must continually assess, for example, whether the war still has a just cause, or can be won with a proportionate amount of force.

The *jus in bello* conditions, in contrast, apply to the conduct of the war. A standard account of the content of *jus in bello* holds that, in order for a war to be justly fought, offensives must:

- Be necessary for securing a military advantage
- Be proportionate to that advantage
- Discriminate between combatants and noncombatants

According to what may be called orthodox just war theory, these two sets of conditions are independent of one another—that is, it is possible for an *ad bellum* just war to be *in bello* unjust, and for an *ad bellum* unjust war to be *in bello* just.

The first of these possibilities seems plausible and familiar. It's perfectly possible that one might go about some just end (such as saving a child's life) using unjust means (such as stealing another child's kidney). But the second possibility is peculiar: it holds that there can be just ways of pursuing an unjust end. In ordinary life, this would be akin to thinking that although stealing a child's kidney is wrong, there can nonetheless be morally right ways to go about it. While we might think that there are better and worse ways to go about stealing a child's kidney—a method that allows her to survive is morally better than one that kills her—few of us would think that the method that allows her to survive is appropriately described as a just means of stealing her kidney. Since the end of stealing her kidney is unjust, any means one takes toward that end are unjust. And yet, orthodox just war theory holds that even when a war is unjust, there are just ways for combatants to fight it.

This peculiarity stems from the orthodox view that war is morally exceptional in some important respects. There are various types of exceptionalism, but they have in common the belief that there are some justifications for killing that obtain only in war.¹ Exceptionalism is typically contrasted with reductivism—that view that the moral rules that govern harming in war are the same as (or "reducible to") the moral rules that govern harming in ordinary life, and that these rules do not combine in any special way in war. According to reductivists, there are no exceptional justifications for killing that obtain in war.

Michael Walzer is the most well-known contemporary proponent of the view that unjust wars can be justly fought. Walzer argues that whether a combatant ends up on a just or unjust side of a war is largely a matter of luck—combatants cannot control which wars their leaders decide to fight (Walzer, 1977). It would thus be unfair, Walzer argues, to condemn combatants simply for fighting in an *ad bellum* unjust war, because those on the just side could just as easily have ended up on the unjust side. Walzer proposes a "division of moral labour," according to which political leaders attend to the justice of war as a whole, and combatants can

fight justly even in an *ad bellum* unjust war, provided they obey the *in bello* rules (Walzer, 1977, p. 38). However, Walzer's form of exceptionalism is especially strong, because it holds that combatants fighting an unjust war ("unjust combatants") are, objectively, the moral equals of combatants fighting a just war ("just combatants"). This claim has become known as the Moral Equality Thesis. Walzer argues that all combatants forfeit their rights not to be killed by taking up arms because each "has allowed himself to be made into a dangerous man" (Walzer, 1977, p. 145). Thus, combatants fighting as part of an unjust war (unjust combatants) may kill combatants fighting as part of a just war (just combatants) without violating their rights.

The Moral Equality Thesis has been convincingly undermined by Jeff McMahan—the most prolific and influential defender of reductive individualism. Reductive individualists combine the reductivist claim that war is morally continuous with ordinary life with a further claim that morality is concerned with individual rights and duties. Few contemporary proponents of exceptionalism defend the claim that just and unjust combatants are moral equals. Rather, they typically focus their efforts on showing that unjust combatants are not the moral equals of unjust killers in ordinary life. Unjust combatants—at least those who fight on behalf of a state—can act with justification that changes the normative status of the killings they inflict.

Exceptionalism and Reductivism

There are various accounts of what might generate exceptional justifications for killing. Jonathan Parry's taxonomy (Parry, 2015) is largely adopted here.

Contractualist exceptionalism holds that the rules of war can be morally justified by the fact that they are rules that participants have most reason to accept. Yitzhak Benbaji is the most well-known contemporary proponent of this approach. Benbaji argues that the traditional rules of war can be defended as the result of a contract that is advantageous for all parties, arguing that "an outcome in which the current war convention is accepted is better for all relevant parties than any other feasible solution" (Benbaji, 2011, p. 41).

Authority-based exceptionalism holds that some groups (usually states) can generate moral reasons for people to act by ordering those actions. These reasons can defeat other moral reasons that would usually prohibit acting. For example, David Estlund argues that combatants are morally obliged to obey orders to kill in an unjust war if their state's decision to go to war meets certain epistemic standards, even when the combatant correctly believes that his war is unjust. According to Estlund, even though killing is normally wrong, "when the state and its procedures are of the right kind the soldier's participation in an unjust war is sanitized precisely because he was following orders." (Estlund, 2007, p. 213).

What Parry terms pragmatic humanitarian exceptionalism holds that war is so far removed from ordinary life that it is impossible to regulate it in line with anything like the moral notions that govern harming in ordinary life, such as responsibility or desert. As soon as we wage war, we have already moved into exceptional territory: as Henry Shue puts it, "[t]he circumstances of war are so different from the context of ordinary life that even when the same fundamental moral touchstones are the reference, the differences in the circumstances yield different specific guidelines." (Shue, 2008, p. 87). Proponents of this approach argue that we should adopt rules of war that minimize suffering, even though these rules will not track the morality of harming in ordinary life (see, e.g., Mavrodes, 1975).

Collectivist exceptionalism invokes the fact that war is undertaken by groups, and combines this with a claim about collective agency. According to this view, the fact that some group of individuals are acting together effects a change in the moral status of the group's actions. In addition to the forms of exceptionalism described by Parry, we might also add what can be called political exceptionalism, which often travels with collectivism. This is the view that it matters morally that war is violence done with the end of furthering a political agenda. For example, Christopher Kutz's account of the rules of war draws both on the collective nature of war, and on the fact that these collectives are pursuing political goals: the exceptional rules of war justify killing only by "political groups engaged in violence in support of political goals, in the sense of aiming at creating (or restoring) a new collective ordering." (Kutz, 2005, p. 176)

Notably, these writers largely depart from the Walzerian view by focusing not on the idea that just combatants somehow forfeit their rights, but rather on the idea that unjust

combatants can have justifications that overcome the presumptive wrongness of killing just combatants. Estlund, for example, grants that just combatants are wronged by being killed but suggests that they are wronged by the aggressive state, not by the unjust combatants who kill them. Some exceptionalists, most notably Seth Lazar, believe that even though just combatants are not legitimate targets, it is still morally better for unjust combatants to target them instead of civilians (Lazar, 2015). But again, Lazar does not take this to show that unjust combatants do nothing wrong when they kill just combatants—merely that it would be even worse to target civilians instead.

The independence of *jus ad bellum* from *jus in bello*, and the view that killing in war is morally exceptional, is reflected in international law. Whether a war satisfies the conditions of *jus ad bellum* is taken to be the business of political leaders. Hence, only leaders can be guilty of the crime of aggression. Ordinary combatants are expected to concern themselves only with how their war is fought, not with whether they should be fighting at all. They can be prosecuted for war crimes—for breaching the *in bello* rules—but not merely for fighting in an unjust war.

As this taxonomy suggests, states typically play an important role in exceptionalist views. Benbaji's contractualism is based on the idea of contracts between (minimally decent) states. Estlund's authority-based view requires that combatants are killing on the orders of their state. Kutz's account is collective and political—states may not be the only groups that can meet his criteria, but they are certainly the most obvious candidates. As Parry argues, once we move away from states, it becomes increasingly hard to demonstrate the collective agency and “linking of wills” that motivates Kutz's account.

The moral significance accorded to the state is another way in which the orthodox account has shaped not only the development of the formal just war framework but also the substantive content of that framework. For example, over time, the criterion of just cause developed into a condition that could be met only by states, given that it focused on repelling threats to sovereignty. Sovereignty is usually understood as rights to political and territorial integrity—that is, the sort of rights that states (but only states) allegedly have to control their political systems and exclude people from their borders. Correspondingly, the crime of aggression in international law is defined as a threat to another state's sovereignty and, until the early 21st century, defense against aggression was the only legal justification for war. (However, this legal stance has shifted somewhat with the development of the doctrine of the Responsibility to Protect (R2P), which also recognizes the violation of people's rights within or by their own state as a just cause for war and gives a legal basis for intervention.)

The criterion of legitimate authority has also often been interpreted as entailing that only heads of states, or representatives of groups aspiring to become states, have the capacity to justly declare war. This requirement emerges, at least in part, as an attempt by Christian theologians to reconcile killing in war with biblical teachings prohibiting killing. Augustine argues that killing can be permissible, but only when it is either directly ordered by God (as when Abraham is ordered to kill Isaac), or ordered by a divinely appointed monarch who is speaking for God (Augustine of Hippo, 400, 22.73–74). By requiring that wars be fought only on the authority of a (Christian) monarch, we can ensure that combatants fight without sinning. On this view, a war fought without or against the orders of a monarch will be unjust.

Of course, the notion of legitimate authority has now lost both its identification with monarchs and its religious justification. And, many writers have challenged the idea that all or only states can be legitimate authorities for the purposes of declaring war. Lionel McPherson points out that many influential accounts of legitimate authority, such as that proposed by Thomas Hobbes, understand legitimacy as something like the ability to impose civil order on a population (McPherson, 2007). But because brutal dictatorships can achieve these kinds of ends, it doesn't seem as if legitimate authority is any indication of moral standing. Thus, it's unclear why merely being a head of state confers any kind of moral legitimacy on one's decision to wage war. And, of course, civil wars have always presented a challenge to this view—it's hard to believe that, for example, the African National Congress lacked the authority to try to overthrow Apartheid, whereas the Botha government counted as a legitimate authority representing its citizens' interests. Thus, many just war theorists now take the relevant form of authority to be enjoyed only by the leaders of “minimally decent states,” or by representative authorities of sub-state groups (where representation requires something like the consent of the people for whom one is claiming to act). The rise of international asymmetric warfare—that

is, conflicts between states and sub-state organizations, such as al-Qaeda—also presents a challenge to the idea that war is a relationship between states.

Since the early 21st century, the orthodox, exceptionalist approach to war has been subjected to sustained criticism, primarily by proponents of reductive individualism. Reductive individualism comprises two strands that are normally characterized in the following way. The reductivist strand holds that the moral principles that justify harming in war are wholly reducible to the moral principles that govern harming between individuals in ordinary life. By working out the conditions under which private individuals are permitted to cause harm—for example, in self-defense—we can work out the conditions of permissible harming in war. Reductivism thus rejects the idea that there can be justifications for killing that obtain only in war. The individualist strand of this view holds that the proper objects of moral evaluation and prescription are individuals, rather than collectives. And, individualists typically believe that all morally relevant values are reducible to their value for individuals.

This approach yields various revisionary implications for the ethics of war. Reductivists deny, then, that the fact that war is a political, collective enterprise makes a difference to the permissibility of harming. And, while there might be reasons of the sort that pragmatic humanitarians suggest not to change the current laws of war, this doesn't undermine certain moral facts about war. For example, the transition costs that we would incur in changing the law might speak against making such changes, while lending no support to the idea that the current laws are the morally best laws. Reductivists might grant authority some scope in justifications for harming, but they don't take this justification to be unique to war, nor to justify inflicting very serious harms such as killing. For example, McMahan argues that it may be permissible for a prison guard not to release someone whom he knows to be innocent, and that his doing so is not akin to a private citizen's wrongly imprisoning a person. But it would be impermissible for an executioner to execute someone whom he knew to be innocent, even if the person had been convicted after a fair trial (McMahan, 2009).

The Moral Equality Thesis

One of the most important contributions of reductivist work has been its undermining of the Moral Equality Thesis—the Walzerian view we considered previously that holds that combatants fighting for an unjust cause are the moral equals of combatants fighting for a just cause. It's easy to see how this thesis emerges from the orthodox division of *jus ad bellum* and *jus in bello*. If one believes that the overall justice of a war is the business of leaders, it seems that, as Walzer argues, it would be unfair to condemn combatants simply because their state decides to fight an unjust war. Again, international law reflects this orthodox moral view, granting combatants on all sides of a conflict a “combatant's privilege” that exempts them from prosecution for the killings they carry out during the war, provided that these killings adhere to the *in bello* rules.

McMahan argues that it is implausible to think that unjust combatants are the moral equals of just combatants. Provided that they obey the *in bello* rules, just combatants are engaged in legitimate self-defense. One does not forfeit one's ordinary rights not to be harmed by using legitimate defensive force—if you attack me, and I try to fend you off, we don't become moral equals merely because we are now both using force. Nor do I forfeit any of my usual rights by using defensive force against you. Rather, defenders who use only necessary and proportionate force against attackers are morally innocent people who retain their rights not to be killed. In contrast, people who responsibly pose unjust threats, as unjust combatants typically do, forfeit their rights not to be subjected to necessary and proportionate defensive harm. They thereby become what McMahan calls liable to defensive harm: harming them does not wrong them, and they have no justified complaint against being harmed. McMahan's view holds that unjust combatants violate the rights of the just combatants whom they kill.

McMahan thus rejects the idea that *jus in bello* is independent of *jus ad bellum*, because it matters whether combatants are fighting for a just cause. And it is not only implausible to think that unjust attackers and legitimate defenders are on a moral par. Lacking a just cause also frustrates a combatant's ability to satisfy the *in bello* conditions. Recall that accounts of *jus in bello* standardly hold that a combatant's use of force must be proportionate to the sought military advantage, be necessary for achieving that advantage, and discriminate

between legitimate and illegitimate targets. Proportionality is usually thought to require that the collateral harms that one inflicts on civilians are warranted by the significance of the military end. But McMahan points out that morally significant harms, such as the harming of civilians, can be outweighed only by morally significant goods. And when a combatant is fighting an unjust war, her actions typically can't achieve any morally significant goods, because achieving a military advantage for an unjust side of a war is morally bad.

We can say similar things about the idea that force must be necessary for achieving a given military advantage. Necessity can contribute to justifications for harming only when harming is necessary for achieving some morally good end. I may trample over your foot if doing so is necessary to pull a drowning child out of a lake. But I may not trample over your foot in order to steal someone's purse. When the end is morally bad, necessity doesn't help justify either intentional or collateral harms.

Finally, McMahan's view undermines the idea that the requirement of discrimination enjoins combatants to distinguish between combatants and civilians, aiming harm only at combatants. He argues that the relevant moral distinction is between the liable and the non-liable—and on his view, just combatants are non-liable provided that they obey the *in bello* rules. If this is correct, unjust combatants can't satisfy the requirement of discrimination by aiming force at just combatants—rather, unjust combatants typically have no legitimate targets at all.

The Moral Status of Noncombatants

One of the most pervasive problems in just war theory concerns the justification of the Principle of Noncombatant Immunity (PNI)—that is, the claim that it's always impermissible to target noncombatants, even though one may cause them collateral harm. A common explanation, as defended by Walzer, is that, unlike combatants, noncombatants don't pose threats. But it's hard to sustain an account of posing a threat that will be broad enough to include all combatants—including those working behind the front lines—but exclude all noncombatants (May, 2005).

Seth Lazar argues that the PNI poses a particular challenge for reductive individualists in the form of what he calls the Responsibility Dilemma. He suggests that this dilemma forces reductivists to either reject the PNI, or embrace pacifism (Lazar, 2010). The dilemma arises because reductivists explain the permissibility of killing combatants in war largely by invoking each individual combatant's liability to defensive harm in the way previously described. According to most reductivists, a person can be liable to defensive harm only if she is morally responsible for a threat of unjust harm (McMahan, 2009; Frowe, 2014; Fabre, 2012; Rodin, 2008). Liability thus comprises two components: moral responsibility and causal responsibility.

Lazar argues that if it's true that all or most combatants fighting in an unjust war are liable to be killed, the degree of causal responsibility required for liability must be quite slight. Causal responsibility is notoriously tricky, but whatever account of causation we choose, it's likely to tell us that the extent of combatants' causal contributions to a war varies enormously. Some combatants kill many people, help to capture important cities and bases, plan entire campaigns, destroy vital parts of the enemy's infrastructure and so on. But others make much smaller contributions, such as guarding prisoners or mending communications equipment. Many work entirely behind the front lines, driving trucks or training soldiers. If all these people are liable to be killed, making even fairly small, indirect contributions to the harms of war must be a sufficient causal contribution to ground liability.

But many civilians also make causal contributions to their country's unjust war. Some of these contributions will be comparatively trivial at the individual level, such as paying taxes or voting for warmongering leaders (although, of course, these individually small contributions combine to be significant). Others will be more obviously military and more substantial, such as designing or building weapons and supplying military vehicles, clothing, and other equipment. And some will be very significant, such as supplying intelligence, breaking codes, or inventing nerve gas. Of course, civilian contributions to threats of harm are typically indirect: they are not doing any killing themselves. But few reductivists restrict liability to defensive harm to only those doing the killing—people further back in the causal chain (such as the mafia boss who hires a hit man) can also be liable to defensive harm (Frowe, 2014).

Moreover, if we limited liability to only those posing direct threats, many combatants would not be liable either. Many combatants do no killing at all.

Differences in causal responsibility, then, are unlikely to support a difference in the liability of combatants and civilians. This leaves moral responsibility. Being morally responsible for a threat of unjust harm requires that one meet certain conditions in addition to being causally responsible for the threat. Exactly what these conditions are is disputed. For example, perhaps one has to also culpably intend the unjust harm. Or, it may be sufficient that one knows that one poses a threat of unjust harm even if it is not intended, or if one is reckless about threatening such harm. Or, it might be enough that one intentionally or knowingly or recklessly poses a threat, even if one does not know that the threat is unjust (Otsuka, 1994; Frowe, 2014).

The problem, again, is that whatever the relevant conditions of moral responsibility are, they cannot be very stringent if they are to be satisfied by most combatants. Many combatants will have excuses for fighting. Some will fight as a result of some form of duress, and so will not be fully culpable. Some will have epistemic excuses—they will reasonably but mistakenly believe that their war is just, for example, and so will not know that they pose unjust threats of harm. Many combatants are young and comparatively uneducated, and thus not well-placed to engage in sophisticated moral deliberation about the justness of their war—again, they will not know that their threats are unjust. In order to support the claim that a large majority of combatants are morally responsible for the threats they pose in war, a reductivist must hold that even these people count as morally responsible.

But, Lazar argues, once we set the threshold for responsibility so low, it's inevitable that many civilians will count as morally responsible for unjust threats as well. They too might reasonably but mistakenly believe that their war is just. Indeed, many noncombatants will be better placed than combatants to deliberate about the justness of their country's war: they will be better educated, have access to more information, and so on. Some will be fervent supporters of the war, who voluntarily encourage people to contribute. It certainly doesn't seem that there will be any significant difference in moral responsibility between combatants and civilians that can support the idea that nearly all, but only, combatants are liable to be killed. Thus, it looks like reductive individualism cannot support the (almost universally endorsed) idea that civilians are wronged by being targeted in war.

Lazar argues that the only way for reductivists to avoid this undermining of noncombatant immunity is to make the conditions for liability more stringent: perhaps one must be fully culpable in order to be liable, or make a very significant causal contribution. But, of course, this will exclude many or most combatants from liability. If many or most combatants are not liable to be killed, reductivists will struggle to justify fighting wars at all. The number of rights that will be violated in a defensive war is likely to make war nearly always morally worse than failing to resist aggression, and it looks like we should embrace pacifism under such conditions.

One reductivist response to this dilemma is to grant that reductivism does undermine noncombatant immunity (Frowe, 2014). There will be lots of civilians who render themselves liable to attack in war. But liability does not entail permissibility: there can be people who lack rights not to be killed whom it can nevertheless be impermissible to kill. An obvious example is a fully culpable attacker who can be defeated only in ways that will inflict disproportionate harm on bystanders. The attacker is liable to be killed, but defensive action against her is rendered all-things-considered impermissible by the inevitability of disproportionate collateral harm. Similarly in war, it may be that many civilians are liable to be killed, but that their location in the wider civilian population means that targeting them will inevitably cause harm to bystanders that is disproportionate to the good such an attack can achieve. This is especially so when we consider that the good of killing any particular civilian will likely be very small, especially if her only contribution to the war lies in the past (such as having voted for the aggressive government). These kinds of argument provide contingent support for maintaining the impermissibility of targeting civilians, even while granting that many civilians will be liable to attack.

The Responsibility to Protect

A war of humanitarian intervention is a war that aims at the defense of citizens in another state without the consent of the foreign state's leaders. Often, the goal of intervention is protecting citizens from rights violations being perpetrated against them by their own government, or by groups whom their government is tacitly supporting or culpably failing to stop. However, there could also be cases of intervention that arise if a government culpably refuses outside assistance in the aftermath of a natural disaster.

Arguments in favor of humanitarian intervention go back at least as early as Francisco de Vitoria (1483–1546). Vitoria rejects the idea that a state's right to wage war is limited to protection of its own territory and the recovery of its own resources, arguing that there is a "world community" that can rightfully wage war to prevent or repair wrongdoing against others (Vitoria, 1999). However, as outlined, traditional just war theory (and, until recently, international law) has developed in favor of the view that the only just cause for war is defense against aggression, which is understood as one state violating another state's sovereignty. This rules out waging wars of intervention that aim to prevent a state from harming, or failing to protect, its own citizens.

This traditional view has now been roundly rejected by many just war theorists and international lawyers (Smith, 1998; Fletcher & Ohlin, 2008; Fabre, 2012; Tesón, 2001; Frowe, 2014). The impetus for much of the change in attitude toward intervention was the 1999 Kosovo intervention, which aimed to curtail the ethnic cleansing of Albanian Kosovars in Serbia. NATO troops employed a series of air strikes without authorization from the UN Security Council. The strikes were effective in forcing the Serbian president, Slobodan Milošević, to the negotiating table, and were carried out with no combatant casualties. Both the apparent success of the intervention and the minimal human cost to the interveners were key features in changing opinion about the legitimacy of intervention. Remorse concerning the failure to intervene to prevent the 1994 Rwandan genocide was also instrumental. Even though NATO's action were illegal, they were nonetheless widely regarded as morally justified. As Fernando Tesón puts it, Kosovo "gave expression to the moral consensus in the international community that severe tyranny should not be tolerated," and served as a legal precedent for interventionist wars (Tesón, 2009). This change in attitude eventually manifested as the doctrine of the Responsibility to Protect, adopted by the UN in 2005.

Much of the debate about the legitimacy of the doctrine of the Responsibility to Protect concerned how to reconcile individual citizens' rights to be aided with states' rights of sovereignty. One popular view that has emerged out of these debates is that states enjoy only conditional sovereignty—that is, they have rights over their territory and political system only if they protect their citizens' basic human rights (Smith, 1998). States that fail to protect human rights, either by harming citizens themselves, or by culpably failing to prevent harm, forfeit their sovereignty rights. Wars waged in such states therefore do not violate sovereignty rights.

Alternatives to War

Various moral controversies persist concerning wars of humanitarian intervention. On the one hand, these seem like they could be the morally best sort of wars—they are (ostensibly) undertaken altruistically to rescue people from very serious rights violations. On the other hand, they involve risking the lives of members of one state's armed forces for the benefit of foreigners. Moreover, states are selective about where they intervene, which makes people suspicious about what really motivates wars of intervention. And, interventions raise issues of self-determination and fears of colonialism masked as assistance.

A different, under-explored objection to wars of intervention compares the value of intervention with other forms of aiding, such as alleviating famine and disease (Pogge, 2008; Tadros, 2016). Assume that our main reason for engaging in intervention is that we are trying to save the lives (or protect the basic interests) of innocent people. Given that states have limited resources that they are willing to direct toward the saving of people in other countries, it is plausible that they should use those resources in whichever way saves the most innocent lives. However, it seems very unlikely that war will ever be the most efficient method of saving innocent lives compared to, say, eradicating diseases or alleviating famine. War is fraught with moral controversy and moral risks. There is likely to be significant and often reasonable

disagreement about whether a given war is just. We know in advance that innocent people will be killed, war crimes will likely be committed, and, despite inflicting all these harms, the war may not succeed in its aims. There are no similar worries about treating disease or alleviating famine: these means of saving innocent lives are straightforwardly permissible, with far fewer moral risks.

Thus, in order to show that humanitarian wars are permissible, it must be shown that we are not required to use our resources to save a greater number of innocent lives through reducing disease and famine, even though those alternative ways of saving lives will not typically involve killing anyone, and do not risk engaging in wrongdoing. We could perhaps still justify waging wars of national self-defense if states may weigh the lives of their own citizens more heavily than the lives of foreigners, or if we are not obliged to use resources we need to defend ourselves to rescue others in need. However, when it comes to a choice between different ways of saving the lives of people in other states, war looks to be a much less efficient mechanism for achieving that end than famine relief.

We might respond to this worry by suggesting that there is a morally significant distinction between harms that arise from “natural” causes, such as disease, and harms that are also rights violations, such as unjust killings. Thus, we are permitted to care more about the kind of harms that take place in violently oppressive states than we do about harms arising from poverty. But even if we grant this distinction—which is controversial among philosophers—it must still be shown that the harms arising from poverty are not also rights violations. And yet, plausibly, many instances of poverty are at least partially caused by the behavior of the wealthy (Pogge, 2008). If so, harms resulting from these instances of poverty are also likely to be rights violations. Moreover, even in cases where poverty is not caused by wealthy states, it may still be true that those suffering from poverty-related diseases have a right to be aided. Thus, failing to aid them is a *prima facie* rights violation. If so, the distinction between harm and injustice may not reliably track difference between intervention and poverty relief.

Furthermore, in order to support the permissibility of wars of intervention, it must not only be shown that we may care more about violent deaths compared to poverty-related deaths, but also that we may care *very much* more about these deaths, given the number of lives we could save by alleviating diseases and famine, compared to the number of lives saved in humanitarian wars. As a rough illustration, compare the costs and benefits of eradicating malaria with the costs and benefits of halting the genocide in Kosovo. The estimated cost of eradicating malaria is \$5.1 billion. Malaria kills an estimated 438,000 people each year. The Kosovo intervention cost is estimated to have cost \$30 billion (including rebuilding and peacekeeping work). Assume that, unhindered, Serbian forces would have killed the entire Albanian population of Kosovo—an estimated 1.8 million people. Of course, there are further complexities here—for example, we should also consider the number of people killed by the NATO intervention. But even setting those issues aside, these figures indicate that 17% of the money spent on the Kosovo intervention could have eradicated malaria. Within four years, the number of lives thereby saved would have been 1.75 million—very nearly the number of lives saved by the intervention. Put another way, saving one life by military force in Kosovo cost approximately \$16,666. The cost of preventing each malaria death over that four-year period would have been \$2,914. And that figure only decreases as time goes on, given that every year, people who would have died from malaria will instead survive. To justify spending vastly more money to save a similar or smaller number of people from being violently killed, we will have to show that violent deaths are far more morally significant than deaths from preventable disease. If violent deaths are not sufficiently morally worse to justify preventing violent deaths at the expense of failing to prevent a similar or greater number of deaths from disease, it seems plausible that morality nearly always requires that we alleviate disease rather than engage in military intervention, if we are not willing or able to do both.

Unconventional Warfare

Since the late 20th century, there has been a significant rise in what we can call unconventional warfare. Accounts of unconventional wars often focus on various asymmetries between the warring parties. Of course, asymmetry in war is nothing new. There will often be asymmetry

between the capacities of belligerents—for example, a militarily strong state might attack a much weaker state that has only a fairly rudimentary army. However, when philosophers talk about asymmetric warfare, they tend to have in mind a different sort of asymmetry. Some accounts focus on the asymmetry between what we might call the “pedigree” of fighters—whether they fight on behalf of a state, or on behalf of some nonstate group such as ISIS or Boko Haram. Others focus on asymmetry in targets (usually, military vs. nonmilitary targets). Still other accounts focus on asymmetry in tactics. For example, one party might fight using the more traditional forms of combat (air, land, and naval forces employing tanks, missiles, and submarines), while its enemy fights using suicide bombs, assassination, and guerrilla attacks (in which the combatants hide among the civilian population). Often, these forms of asymmetry will overlap: al-Qaeda, for example, is a nonstate group fighting against states, targeting civilians while its enemies (mostly) target combatants, and often using cheap, homemade devices such as suicide jackets and improvised explosive devices (IEDs), while their adversaries employ sophisticated unmanned aerial vehicles (commonly known as drones).

The asymmetry in targets has perhaps attracted the most philosophical attention, because a distinguishing characteristic of terrorism is usually taken to be that it targets noncombatants or civilian infrastructure rather than combatants or military infrastructure. A popular way to distinguish terrorists from ordinary combatants is that terrorists intend the harm they cause to civilians and, moreover, intend to use those civilians (or their deaths) as a means to further their political agenda (Scheffler, 2006). Terrorism has been described as a “tactic of the weak”: because nonstate groups cannot hope to defeat states using the methods of conventional warfare—they do not have planes, ships, or tanks—they can fight only with unconventional means. Killing civilians with homemade bombs is a comparatively cheap way to wage war. While some accounts hold that terrorism is wrong by definition (Rodin, 2004), others argue that it may sometimes be permissible to resort to such tactics if the cause is sufficiently important (Fabre, 2012). The use of terrorism by the African National Congress in a bid to overthrow Apartheid is an oft-cited example of justified terrorism. Another aspect of unconventional warfare that has started to attract increasing interest is the use of human shields in conflict. This is due in no small part to well-documented cases of both Hamas and the Israeli Defense Force (IDF) using civilians as human shields to protect their troops or military installations during conflicts in Gaza.

We can distinguish between various kinds of shields. First, there are different ways of shielding: it may be that civilians are moved into proximity with military objects or personnel (active shielding), or that these military objects or personnel are moved into proximity to civilians (passive shielding). And, some shields are intended to function as physical obstacles that block access to a target, whereas others are intended to function solely as moral obstacles: the wrongness of killing civilians, or the enemy’s aversion to killing civilians, serves to dissuade attacks on the military objects. Finally, there are different degrees of voluntariness. Some people shield involuntarily, perhaps as a result of duress or physical coercion, such as being tied to a military vehicle. Others shield voluntarily, because they support the combatants and want to help prevent attacks on them.

Human shields raise two central moral questions. The first is whether using a person as a shield can ever be permissible. The second is whether the harming of a human shield is morally different from the harming of an ordinary civilian. Philosophers disagree about both of these questions. Cecile Fabre, for example, argues that the use of human shields can be more easily justified than is usually supposed. One argument she offers in favor of this view is that civilians whose country is fighting a just war ought to be prepared to bear some of the risks of defense—it is unfair if all those risks are borne by their country’s combatants. Fabre draws a comparison with conscription, arguing that it can sometimes be permissible to force people to enlist in the military even though this significantly increases their chances of being killed. Fabre suggests that in some cases, especially when shields are serving as moral obstacles, “it may very well be that the risk of harm which they would incur would be lower than the risk of harm to which they would be exposed if they were armed combatants. And if, moreover, that risk turned out to be lower than the risk which combatants are under a duty to incur for the sake of national self-defence, then it would seem that [noncombatants] are under a duty to serve as shields.” (Fabre, 2012, p. 262)

Secondly, Fabre argues that using a civilian as shield is less wrong than collaterally harming a civilian, because one does not kill the shield oneself. If she is killed, it will be by the

enemy (Fabre, 2012, p. 267). Interestingly, this is the converse of the view proposed by the IDF, which is that one may discount the killing of human shields compared to the killing of other combatants, because responsibility for harms to them can be ascribed to the force who decided to use them as shields (Israeli Ministry for Foreign Affairs, 2014).²

Drawing on the moral significance of the distinction between doing and allowing, Adil Ahmad Haque argues that there are morally significant differences between the kinds of contributions that human shields make compared to conscripted combatants (Haque, 2015). It's true that shields don't simply allow harm: their presence makes life harder for the enemy. But, Haque argues, nor do shields directly cause harm—unlike conscripted combatants, they're not killing anyone. Some philosophers believe that while one ought to bear very significant costs to avoid directly killing innocent people, one need bear only more moderate costs to avoid making people worse off in other ways (Frowe, 2014). Thus, a civilian who is forced to serve as a shield under serious duress may succumb to the duress without forfeiting her rights because she is not required to bear a very high cost in order to avoiding indirectly making other people worse off. But a combatant who will kill innocent people may be required to bear a much higher cost to avoid doing so, and may thus forfeit her rights if she succumbs to a similar level of duress. However, Haque grants that voluntary shields, who intend to dissuade or prevent attacks on unjust combatants or military targets, can compromise their rights not to be harmed.

Both Haque and Victor Tadros reject the claim that there is a morally significant difference between usefully harming a person, and making use of her in a way that gives rise to her being harmed by someone else (Haque, 2015; Tadros, 2015). If they are right, using a person as a human shield in cases where this results in their being shot by the enemy will not be less morally serious than collaterally killing a civilian. Rather, it will be morally akin to making lethal use of a person, a form of harming that is usually thought to be especially difficult to justify. Indeed, in the literature on the ethics of self-defense, the use of a person as a human shield is often given as a paradigm example of wrongful means of defense in which one impermissibly exploits another person (Otsuka, 1994; Frowe, 2008).

Noam Zohar argues that harming civilians who are being used as shields by the enemy is morally distinct from killing other civilians. Zohar argues that if we allow civilians to function as moral shields—that is, if we refrain from harming them and thereby refrain from harming enemy combatants—we allow unscrupulous people to exploit morality. Zohar's view holds that when people deliberately aim to manipulate the moral commitments of other people, we have reason to ignore those commitments lest we “reward brutal immorality” (Zohar, 2014, p. 168). But this kind of argument has worrying implications, because any moral constraints on force in some way limit what can be done to culpable attackers. For example, I may use only proportionate force to defend myself against an attacker. But it's perfectly possible that someone will attack me when I have only disproportionate means of defense at my disposal—indeed, she may choose this moment precisely because I have no proportionate means of defense available. If the only way to stop her from slapping me is to push her off a cliff, I may not prevent her from slapping me. Granting the existence of any moral constraints on force is to grant that, sometimes, it will be impermissible to prevent wrongdoing. But the alternative is to let people push culpable

Future Research

One of the most interesting challenges that has been recently leveled at just war theorists, particularly reductivists, concerns the accounts of causation that underlie claims about responsibility and liability (Christie, 2016). Most accounts of liability require causal responsibility for an unjust threat. Many also refer to “degrees of causal contribution,” or the “causal significance” of a contribution to a threat. Yet, as Lars Christie has argued, both these ideas require an account of causation that just war theorists haven't offered. For example, it's unclear what it means for a contribution to be significant. Can one make a significant contribution to an outcome that was over-determined? What should we say about contributions that look small (such as changing the battery in the communications radio) but turns out to be essential? Developing accounts of causation and considering their implications for accounts of liability is likely going to be an important part of future research.

One of the most difficult questions that has arisen in recent just war theory concerns the relationship between the morality of war and the laws of war (Shue, 2011; McMahan, 2011). Reductivism has challenged the moral underpinnings of various aspects of current international law, and the changing character of war also makes parts of the law ill-suited to the task of regulating modern conflict. And yet, reductivists don't typically advocate changes in the law—or at least, they think that much would have to be done in terms of broader social change before changes in the law could be considered (McMahan, 2014). For example, arguments undermining the moral equality of combatants also undermine the arguments given in support of legal immunity for combatants fighting in unjust wars. But when a country's armed forces are typically constituted by people from its poorer, more disadvantaged backgrounds, there are serious worries about compounding the social injustices that pushed these people to enlist by prosecuting them for fighting in unjust wars. And, even if it's true that civilians are often liable to be killed, it would likely be much worse for innocent people overall if we changed the law on targeting civilians. This appears to be another area of just war theory that requires much more development (although see Haque, 2017).

A third area of future research looks likely to be the permissibility of making indirect contributions to a conflict. In the wake of the wars in Afghanistan and Iraq, many governments are reluctant to put "boots on the ground" in foreign conflicts. Instead, the focus has shifted to indirect forms of assistance. These indirect alternatives to war include, among other things, sanctions targeted at oppressive regimes, asset-freezing, imposing individual travel bans, enforcing no-fly zones, and providing military training, supplies, or financial support to rebel groups. This kind of indirect intervention isn't new—Britain sent arms into Sierra Leone in the 1990s, for example, and the United States has supplied various anti-communist movements since the Regan era. But these interventions were largely covert, perhaps because they were more obviously politically motivated. What's new about recent indirect interventions is that they are very publicly discussed and implemented, and are often perceived and presented as a morally safe way of discharging our duties to aid—as a middle ground between doing nothing and waging war. Virtually no philosophical work has been done on the ethics of making these kinds of contributions to foreign domestic conflicts (although see Pattison, 2015). Given that they are likely to become a central part of many governments' foreign policies, this looks like an especially fruitful line of future inquiry.

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1 The term exceptionalist originates, I think, with Seth Lazar (e.g., Lazar, 2015)

2 See (“Cabinet Approves Ground Operation—July 17.”) Israeli Ministry of Foreign Affairs website.