

AUTHORISATION AND THE MORALITY OF WAR

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Why does it matter that those who fight wars be authorised by the communities on whose behalf they claim to fight? I argue that lacking authorisation generates a moral cost, which counts against a war's proportionality, and that having authorisation allows the transfer of reasons from the members of the community to those who fight, which makes the war more likely to be proportionate. If democratic states are better able than non-democratic states and sub-state groups to gain their community's authorisation, this means that some wars will be proportionate if fought by democracies, disproportionate if not.

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1. INTRODUCTION

Just wars must be proportionate: the moral costs of war must be no greater than are warranted by the positive reasons for fighting. In this paper, I argue that when those who fight are authorised to do so by a larger community whose interests are at stake, their wars are more likely to be proportionate than when they are unauthorised.¹ Lacking authorisation generates an additional cost, which counts against the goods achieved. And having authorisation allows additional positive reasons to count in the war's favour. If, as seems likely, democratic states are better able to secure their communities' authorisation to fight than are non-democratic states and sub-state groups, then some wars will be proportionate if fought by democracies, disproportionate otherwise.

¹ Throughout the paper, when I make claims like this, I mean other things equal.

I begin by briefly distinguishing authorisation from legitimate authority. I then explain how authorisation constrains belligerents at war, before showing how it allows additional justifying reasons into the proportionality calculation. I consider the implications of these arguments, and then conclude.²

2. AUTHORISATION, NOT LEGITIMATE AUTHORITY

I want to start by distinguishing authorisation from legitimate authority. The latter concept has two distinct pedigrees, in political theory and just war theory. In political theory, legitimate authority refers to whether states have the standing to issue authoritative directives, and to whether subjects must take those directives as giving them reasons for action. In just war theory, 'legitimate authority' governs whether wars must be started only by those with proper authority to do so. This paper does not directly engage with those two traditions. I ask instead why it matters that the people who fight wars should be authorised to do so by the people on whose behalf they claim to fight. We can answer that question about authorisation without taking a stance on either of these debates over legitimate authority.

I cannot offer a detailed analysis of authorisation, but I am most interested in three paradigm cases. The first helps to get the phenomenon in focus, but has limited practical relevance. It involves a principal authorising the actions of an agent by consenting to the agent's acting on her behalf. This consent can be ad hoc, given for some specific occasion and purpose, or it can be a standing permission, like the power of attorney. Obviously, however, in war opportunities to explicitly consent are rare. The second and third paradigm cases are more practically salient.

An agent can be authorised to act on a principal's behalf when awaiting consent would be very costly for the principal, and the agent can presume that the principal would consent if she were able to do so. Presumed consent applies only when the principal's most fundamental interests are at stake, the probability of harm is high, and time is short. Surgeons who carry out invasive life-saving surgery on patients who are unconscious count as authorised, on my view, because it is so clear that the patient would consent if she were able to do so (see also [Fabre 2012: 155]). And governments that fight defensive wars against a murderous aggressor, for example, can likewise presume that their population would consent to have their lives saved.

The third kind of authorisation is democratic. When an individual wants to act for a group, she is authorised to do so if the group, through some reasonable democratic process such as majority rule, agrees to her

² I will not address the proportionality of fighting against an unauthorised adversary, though authorisation might be relevant there too.

acting on their behalf. Justifying this claim would make this an essay on democratic theory, rather than on the ethics of war, so I must rely on its intuitive plausibility. For background, I think democratic institutions are justified in acting on behalf of their members because they uniquely both facilitate the coordination necessary for collective life, and institutionalise relations of equality among co-citizens. But I cannot add to what others have already said on this (especially [Pettit 2012; Kolodny 2014]). My aim here is not to offer a comprehensive account of authorisation, but rather to show why paradigmatic kinds of authorisation matter for the ethics of war.

3. LACK OF AUTHORISATION AS A MORAL COST

In this section, I argue that a warring party's lack of authorisation from a broader community for waging war is a moral cost, which makes it harder for their war to be proportionate.

By war, I simply mean armed conflict of a certain scale; the concept does no normative work, so can be left relatively vague. I do want to distinguish, however, between two kinds of wars: public wars involve some people purporting to act on behalf of a broader community; private wars involve fighters acting only on their own behalf. Wars can be public or private in two ways, one of them descriptive, the other moral.

First, in descriptively public wars, some subset of a group uses material, institutional, and ideational resources belonging to the group as a whole. It employs the polity's money, weapons and the lives of its citizens, its armed forces, executive, legislature, revenue service and treasury; and it uses the community's name, claiming to fight on behalf of the whole community. But not all armed conflicts are public in this way: sometimes people rise up to defend themselves against immediate aggression, using only what belongs to them; sometimes they engage in murderous aggression, using only their own and pillaged resources.³ These wars are descriptively private.

Second, morally public wars are justified (if at all) by reasons that apply to the other members of the community represented by the fighters, rather than only those applying directly to the fighters themselves. In morally private wars, by contrast, reasons that apply directly to the fighters justify (or fail to justify) their actions.

Authorisation matters most for public wars of both kinds, since in private wars the agents can be 'self-authorising'. In this section I focus on the first respect in which wars can be public; in the next, on the second respect.

³ Although Cecil Rhodes and William Walker had government sponsors, their nineteenth-century wars were primarily private, as are many contemporary conflicts.

In descriptively public wars, whether the agents are authorised by the principals is crucial to the moral costs that go into the proportionality calculation, in three ways. First, the group is entitled that subsets not claim to act on its behalf without authorisation, because in public wars the subset uses resources belonging to the group as a whole, as well as claiming to act in the group's name.⁴ The community should determine how its resources and name are used, just as an individual should determine how her property and her name are used. This right protects the group's interests, but this instrumental foundation is only part of the story. To use the group's resources and name without authorisation from its other members is to raise oneself above one's peers, to unilaterally arrogate to oneself the right to act and speak on their behalf. Even if one is motivated to do so by a belief that one is right, one is still supplanting the group's judgements about what they ought to do with one's own. This disrespects the group's members and, in the absence of a standing permission to act on their behalf, implies the irrelevance of their opinion on how their resources and name are used. This can ground the importance of authorisation even when the subset acts in the broader group's shared interests, or aims to bring them to do something they morally ought to do.

I say *both* resources *and* name. Intuitively, using only the resources of a political community to fight an unauthorised war, or only the community's name, do not seem so bad. This is because of the depth of association that the agents claim with the principals, and the plausibility of that claim. If the agents merely take the principals' resources, without pretending to act in their name, then the principals can readily disown the agents' actions: imagine terrorists using their enemy's weapons against them, for example. And if the agents merely claim to act in the principals' name, without having any of their resources, then their claim of representation is hollow, and again easily disavowed. Nobody takes seriously Islamic State's claim to act on behalf of all Muslims. But when the agents claim to act in the principals' name, using their resources—not only money and materiel, but also their institutional capacities, the social structures through which they act together—then it is harder to disown their actions. They are claiming a much deeper association. This makes the requirement to seek authorisation even more exigent.

Second, by fighting wars political and military leaders impose risks on the polities on whose behalf they claim to fight. These risks are both pecuniary and physical: warfare involves a certainty of significant financial expense, an open-ended probability of astronomical ongoing costs, and usually an increased risk of physical harm. And besides these physical and financial risks, the environment is also invariably a casualty of war. Other things equal, if your actions are going to impose significant

⁴ Perhaps these are collective rights, perhaps they are rights jointly held by the group's members. I remain neutral on that matter here.

costs on other people, then you should seek their authorisation before acting.

Often not going to war will also involve risks. Still, unless the risks of not fighting are very great indeed—so we can presume that the polity would consent anyway if asked—authorisation is still needed. This reflects two moral considerations: first, the moral asymmetry between imposing risks and failing to prevent them, equivalent (arguably identical to) the asymmetry between doing and allowing harm. Second, respect for the will of those on whom we impose risks means giving them a decisive say unless the expected benefits of our imposing these risks are so great that we can presume that they would consent. It is worth drawing a contrast, here, between presumed consent and hypothetical consent. Some think that imposing risks on others is permissible if doing so is in the victim's *ex ante* interest—that is, her prospects are better if you impose the risk than if you do not [McMahan 2010]. But this reflects inadequate respect for people's right to have a say over the costs that they bear. We can presume consent, by contrast, only if our intervention is the victim's best hope at escaping a high risk of severe harm. Presumed consent has moral weight that hypothetical consent lacks.

Of course, in warfare the agents will generate significant prudential risks not only to their own community, but to other people as well. These will not only include citizens of the hostile state, but also other inhabitants of the broader region, which will almost always be destabilized. Should these people not also have the power to authorise, or withhold authorisation for, the agents' actions? This raises complex issues about whether all those affected by a decision should contribute to making that decision [Goodin 2007]. I cannot address that bigger question here. Instead, I suggest that prudential risks amplify a demand for authorisation grounded in the agent's use of the group's name and resources, but may not be sufficient to generate that demand on their own.

Third, the agent also generates *moral* risks to the principal. At least *ex ante*, and probably *ex post* too, for every actual war, there is some probability that it is unjustified. And unjustified wars are among the most fathomlessly evil actions we can together perform. But even justified wars inevitably involve mass wrongful killing. The unintended but unavoidable killing of noncombatants is at least *pro tanto* wrongful, many combatants on the unjustified side are not liable to be killed, and many potentially liable combatants are killed unnecessarily [Lazar 2010]. By taking us to war, our moral and political leaders risk implicating us in this egregious wrongdoing.

We can understand implication in two ways: objective and epistemic. Objectively, an agent implicates a principal when the agent generates moral reasons for the principal to incur costs, in virtue of the agent's actions. These can be *ex post* remedial costs or *ex ante* preventive costs. But not only actual implication matters: we must also take account of when an

agent makes it reasonable for others to believe that a principal is objectively implicated. This is epistemic implication.

The name, resources, and institutional capacities of modern political communities are the common property of those communities' members. We sustain these resources and capacities for our own benefit, even though doing so imposes risks on others. In particular, we maintain a standing army, navy and air force, and the associated industrial economy, even though this increases the risk that we will fight unjust wars. Running this risk might be permissible, even morally required, to achieve collective security. Nonetheless, when these institutions are misused, then we have reasons that others do not to bear costs either to prevent or to remedy the unjust harms they inflict [McMahan 2009: 74]. We are like gun-owners: even if keeping a weapon is permissible, if someone steals my weapon and uses it in an assault, and I could have prevented them from doing so, then I bear some responsibility for the outcome, and some resultant reason to bear costs to avert or to remedy it. Indeed, even if I could not have prevented the theft, I bought the gun knowing the risk that *something* like this would happen, which implicates me to some degree (perhaps not much, but more than somebody with no connection at all to the crime).

When our political and military leaders claim to fight on our behalf, they risk using our name and our resources in acts of egregious evil. This can objectively implicate us, giving us reasons to bear preventive and remedial costs. This is certainly true if we could have done something to prevent our leaders from acting in this way. But it is true even if we could have done nothing on this occasion: after all, we choose to sustain these resources, such as a standing army, for our own benefit, knowing their inherent risks.

But as well as in fact implicating the principals on whose behalf they claim to act, agents can make it reasonable for others to believe the principals implicated, to a greater degree than they in fact are. For example, though the broader polity might genuinely have been taken unawares by their political and military leaders' machinations, it will often (though of course not always—authoritarian states will often be an exception) be reasonable for their adversaries to believe that they could have known, and done something to stop their agents from acting in this way. Here, again, that they are using both the resources and the name of the political community helps make it more reasonable for the adversary to believe that that community has authorised their war. This will likely lead to their perceived moral immunity from harm being diminished. Whether or not they in fact ought to bear additional costs, they will be treated as if they do. We definitely don't want others to actually implicate us through their attempts to act on our behalf. But their making it reasonable for others to believe us implicated is almost as bad.

However, even if members of a political community have some reason to bear costs to stop their state's unjust war, they are not therefore

liable to be killed. In my view, liability to lethal harm is fundamentally non-comparative: one can be liable to be killed only if one is responsible in the right way, and to a sufficient degree, for contributing to some unjustified threat. There must be a ‘fit’ between one’s behaviour and the severe fate of losing one’s right to life [McMahan 1994: 259; Lazar 2009; Bazargan 2014]. Mere implication is not enough. By contrast, some hold a strictly comparative view of liability, according to which a target can be liable just so long as there is any morally relevant difference that makes her a more appropriate bearer of the harm than a wholly innocent victim whose life can be saved by harming the target [McMahan 2005]. On this view, if the principal is liable to bear any degree of cost, however small, she can be liable to bear any degree of cost, however severe. This seems an untenable implication of the comparative view.

4. AUTHORISATION AND JUSTIFYING REASONS

To recall, a war is proportionate only if the moral costs are no greater than warranted by the positive reasons in the war’s favour. The lack of authorisation is one more cost. And having authorisation allows additional positive reasons to count in favour of fighting. In some conflicts, combatants’ own moral reasons are enough to render fighting proportionate—recall that these are morally private wars. When Jews rose up against the Nazis in Warsaw, when Ugandan villagers resist the Lord’s Resistance Army, and when Iraqi Christians repel the advancing Islamic State, each combatant’s own reasons are sufficient to justify her in fighting. However, many conflicts are not like this. In modern states, we also use military force to protect political, and indeed commercial, interests in conflicts where combatants’ own reasons could not justify the scale of lethal force required, either because they lack the requisite weight, or because the combatants would better serve their own interests by staying out of the fight. To render fighting these morally public wars proportionate, combatants must appeal to reasons applying to the community for which they fight. They can make that appeal only if they are authorised to do so by their community.

Start with a case in which authorisation does not seem to matter. Suppose Gordon intends to use lethal force to defend Bruce against an unjust threat posed by Campbell, for which Campbell is fully morally responsible. Killing Campbell is permissible only if Gordon thereby saves Bruce’s life. Some think Bruce has a veto over whether Gordon saves him. If Bruce would prefer that Campbell live, then Gordon is required to let Campbell kill Bruce.

Campbell is sufficiently responsible for an unjustified threat to Bruce’s life, and killing him is necessary and proportionate to avert that

threat. These facts render Campbell liable to be killed, which in turn ensures that killing him is permissible (since doing so does not have other adverse consequences that might rule it out—for example, suppose that Campbell alone knows the cure for cancer). Bruce’s claimed veto is morally effective if it makes killing Campbell impermissible. For it to do so, it must either somehow defeat the argument for liability, or else show that killing Campbell has sufficiently bad consequences that it is impermissible, even if he is liable. Assuming that Bruce’s veto is just a veto, rather than a promise to carry out some atrocity if Campbell is killed, the second avenue is closed. For the veto to be morally effective, it must somehow defeat the liability justification. I can see two ways in which it might do so.

First, we might argue that Bruce has authority over whether other people can use his interests to justify their actions, because they are *his interests*. This means that Gordon cannot invoke Bruce’s interests to render killing Campbell proportionate, unless Bruce permits him to do so. Without the good of Bruce’s continued life to count in favour of killing Campbell, doing so is disproportionate.

This is not a promising line of argument. Bruce’s continued life has *agent-neutral* value: it matters to everybody. Of course, for Bruce it also has agent-relative value (it’s his life!). But this additional agent-relative value is irrelevant to the justification for killing Campbell. And Bruce cannot by mere fiat prevent the continuation of his life from being an agent-neutral good.⁵ So he cannot, by using his veto, make killing Campbell disproportionate.

Second, perhaps Bruce waives his right against Campbell. Thus the threat that Campbell poses is not unjustified, and he cannot be liable to be killed to avert such a threat. This would preserve Bruce’s veto.

This approach is more promising than the first. And yet, I doubt that one can waive one’s most fundamental right in this way, when it is clearly against one’s interests to do so. Ordinarily, consent to suffer some harm releases the agent from a duty not to inflict harm only if it is in fact in the victim’s overall interests. This is particularly important where life and death are at stake [McMahan 2002].⁶ Mere consent does not seem sufficient to waive such an important right.⁷

And even if Bruce could waive the right, so that Campbell’s threat is not strictly speaking unjust (because it is not right-violating), it might still be sufficiently unjustified to make Campbell liable to be killed. Campbell’s purposes are still nefarious, and the implications of his being

⁵ Of course, Bruce could kill himself, so making it the case that killing Campbell was disproportionate and unnecessary.

⁶ In some cases Bruce’s death is in his interests—perhaps Campbell is his only son, and he would rather die than see his son killed (thanks to an editor for this case). In this case, I think Bruce plausibly could waive his right not to be killed, and killing Campbell would be impermissible.

⁷ Defenders of the will, or choice, theory of rights, will reject this view.

allowed to get away with killing Bruce touch not only on his immediate victim, but on all those rendered less secure by his actions.

Finally, most cases in which people in Bruce's situation would want to veto their defence are not ones in which they waive their rights. Even if Bruce wants to veto Gordon's killing Campbell, would he really want to make it the case that Campbell does nothing wrong by killing him?

In standard other-defence, when the target is liable to be killed, the beneficiary's dissent is most probably irrelevant. The permission to kill Campbell derives from his responsibility for contributing to an unjust threat to Bruce's life. Bruce cannot negate the agent-neutral value of saving his life, nor is it plausible that he can waive his right against Campbell's killing him when it is obviously not in his interests to do so. Though he might absolve Gordon from the duty to save him, this can only license Gordon to let him die, not require it.

If the agent-neutral value of saving the victims' lives, combined with the target's liability, could justify the killing involved in war, then authorisation would not matter. However, warfare is not like this. All wars inevitably involve collaterally killing many innocents, and even in the 'best' wars, many of the people combatants intentionally kill will also turn out to be innocent [Lazar 2010]. Often the agent-neutral value of saving lives cannot alone justify all this wrongful harm. We must also invoke at least three additional kinds of reasons: the value of performing our duties to protect victims of unjust threats, achieving contested political goals, and acting on agent-relative reasons. I develop each point in turn.

First, since warfare always involves violations of rights, its proportionality depends on invoking additional positive reasons, beyond the agent-neutral value of the lives saved. After all, the innocent lives combatants take also have agent-neutral value, and yet we do not normally think warfare permissible just in case it minimises innocent deaths. Moreover, combatants have other reasons not to violate their victims' rights, which must also be overridden for warfare to be permissible. If combatants have duties (whether associative duties, grounded in valuable relationships, or general duties grounded simply in common humanity) to protect the beneficiaries of their defensive actions, then those duties can weigh against their duties not to harm, sometimes rendering fighting proportionate [Lazar 2013].⁸ But if the beneficiaries release the duty-bearers from fulfilling those duties, then they cannot count in the balance to justify killing. It is therefore crucial that the polity authorise its combatants to act in their defence, insofar as that indicates that the beneficiaries do not waive the fulfilment of the duties to protect them.

Second, some unjust aggressions do not involve widespread unconditional unjust threats to people's lives and physical safety. They in-

⁸ Some would confine such justifications to wars that are otherwise just. I disagree, but nothing in this paper depends on that point.

stead aim at territorial gains, securing control of resources, or deposing a political regime [Rodin 2002; Fabre and Lazar 2014]. In conflicts like these, proportionality might depend on appeal to these *political* interests.

Authorisation matters for wars fought to preserve political goods for two reasons. First, the underlying value that grounds a right to defend political sovereignty and territorial integrity is the political independence of a community—that is, the capacity of a group of people to decide their collective fate. If a government goes to war to defend the political independence of a people *who do not want to go to war*, then they are contravening the very interest that they aim to defend.

Second, and relatedly, the value of these political goods is sensitive to whether people actually prize them. If enough members of the community are not interested in their collective political independence, then their sovereignty and territorial integrity either lack value entirely, or do so in rough proportion to the proportion of the polity that do not care about them. For example, if a bloodless invasion or annexation is welcomed by enough of the population of the annexed territory, then the sovereignty and territorial integrity of the aggressed-against state lack sufficient weight to render defensive war proportionate. The political self-determination of some group cannot matter enough to justify killing innocent people unless enough members of that group actually care about it. This is especially obvious when what is at stake is not *protecting*, but *establishing* a sovereign political community. A simple majority in a referendum of all those within the territory of the potential new state is the very lowest bar that must plausibly be met for secession to be justified [Buchanan 1991].

Of course, everyone has reason to care about there being a stable international system of states, and assaults on sovereignty and territorial integrity upset that system. So even if the polity whose interests are directly at stake is indifferent to being annexed, there may still be *some* value in preserving its independence.

Third, many philosophers think that the proportionality calculation can include *agent-relative reasons*—that is, reasons whose specification makes some essential reference to the agent to whom they apply [McNaughton and Rawling 1995]. These come in two main varieties: first, individuals' *agent-centred prerogatives* to give more weight to their own interests than they are impartially worth, which some think can ground rights to self-defence, especially against innocent threats [Davis 1984; Frowe 2008; Quong 2009]. Second, *associative duties*, which members of political communities have to protect one another from the threats involved in war. Some of these duties are grounded simply in shared membership of a valuable political community [Lazar 2010]. Others are based on more intimate relationships, such as those between family members, friends, colleagues, and comrades-in-arms [Lazar 2013].

At a minimum, one person cannot act on another's agent-relative reasons without being authorised to do so.⁹ If they could, then the reason would not be agent-relative. So agent-relative reasons can be relevant to proportionality judgements in war only if they either apply directly to the people fighting, or else those doing the killing are authorised to act on those reasons by those to whom the agent-relative reasons do apply. The proposal, then, is this: when combatants are authorised to fight by a broader community, they can draw on positive reasons for fighting that would not otherwise apply. This can make killing proportionate in some circumstances in which, in the absence of those reasons, it would be disproportionate.

This proposal is likely to invite more objections than the first two in this section. Some people think that there are no agent-relative reasons [Tadros 2011]. Others believe there are such reasons, but they are too morally lightweight to justify killing in war [Lefkowitz 2009; Haque Forthcoming]. I deal with those worries elsewhere [Lazar 2013, 2014]. Here I want to address a different objection, which concedes that agent-relative reasons could be relevant to proportionality in war, but insists that they can justify only actions of the agents to whom they apply.

This is a quite natural approach to agent-relative reasons—they are, after all, *agent*-relative. How could a combatant perform *my* duty to protect my son? And if he cannot fulfil my duty for me, then how can he invoke its moral weight to justify his actions? Regardless of whether a polity's members authorise the combatants to act on their behalf, perhaps their agent-relative reasons cannot be transferred.

I have two responses to this objection. First, suppose that Ben and Ian are tied to two separate train tracks, each with a train rushing towards him. Karen is Ben's mother, Toni is Ian's. Each has a valuable relationship with her son, which grounds an associative duty to protect him. Each can save her son only by diverting the onrushing train down a side-track, where it will kill an innocent rail-worker.

Many people would think that Karen and Toni must simply resign themselves to their sons' fate. Killing an innocent person, even in this comparatively benign way (not using him as a means, diverting an existing threat) is morally more serious than letting one die, so they must let their sons die. Everyone who believes associative duties matter to the ethics of killing, by contrast, thinks that Karen and Toni's relationships with their sons make a difference to what it is permissible for them to do here [Hurka 2005; Kamm 2005; McMahan 2014]. Because Karen and Toni are protecting their children by intervening, their agent-relative reasons can override the presumption against killing an innocent person, making it permissible to divert the two trains.

⁹ I set aside the difficult case in which the person with the reason is unable to authorise the agent because of some debility or incapacity.

Now alter the case, switching Ian and Ben; only the other's parent can save each child. Karen and Toni can communicate, and reach an agreement. I think each can permissibly divert the train onto the side-track, even though doing so proximately saves the other's child, not her own. By saving Ben, Toni saves her own child; likewise by saving Ian, Karen saves Ben. Each mother is justified in switching the train not only by the life she directly saves, but because, given her compact with the other, her doing so is the only way to save her own child. Only if Toni trusts Karen to save Ian will Toni switch the train to save Ben, and vice versa.

Objection: killing a stranger to save a stranger is impermissible; each of Toni and Karen is promising to do something impermissible, in order to induce the other parent to do something impermissible. So how can they end up acting permissibly? By what alchemy are prohibited actions turned into permissible ones?

When Karen saves her own son directly, what licenses her in switching the train is her agent-neutral reason to save an innocent person combined with her agent-relative reason to save her son. Precisely the same justification applies when Karen saves her son by saving Toni's child. What justifies her in switching the train is the combination of her agent-neutral reason to save an innocent person, and her agent-relative reason to save her own son; likewise for Toni. There is no alchemy here, because neither is promising to do something impermissible: if saving Toni's son will save hers, then Karen's reasons to save Toni's son include her agent-relative reasons to save her own. Note also that in both scenarios (where each saves her own child, and each saves the other's) *what they together do* is just the same. If it is permissible in the first scenario, it should be permissible in the second as well.

This simple model can be scaled up to much more complex scenarios.¹⁰ In collective defence we enter a reciprocal compact with the other defenders, to join our efforts to defend the people we each care about. Even though my own actions might be indirectly connected to the protection of my family, they will be protected only if I, and others like me, fight to protect everyone's families. My use of lethal force is in part justified because I thereby protect the people I care most about. Authorisation matters, therefore, because it constitutes this agreement for mutual defence. It is the general means by which a society acts together to protect those who are loved by its members.

Of course, sometimes I perform my associative duties better by spurning the collective effort, which can generate some difficult dilemmas. Imagine, for example, that the military abandon the town where my family is trapped. But I do not claim that associative duties *always* justify

¹⁰ The case covers only unintended killing, because most people think that agent-relative reasons cannot justify intentional killing. I think this is a mistake. But even if these reasons were relevant only to unintentional killing, they could still play a crucial role in the ethics of war, since war inevitably involves so much unintended killing.

fighting, only that they are part of the normative picture. Additionally, it may be possible to perform my associative duties better by free riding on the defensive efforts of others. But while we obviously want to protect those we care about, we have other values too, and we should try to protect our loved ones without free riding on others' sacrifices.

Authorisation, as an expression of the general agreement underpinning collective defence, allows combatants' own agent-relative reasons to justify their actions in war, even when their fighting does not directly protect their loved ones. Authorisation and agent-relative reasons matter for the ethics of war in virtue of this reciprocity-based justification, even if agent-relative reasons cannot be transferred in any other way. However, I also think that when combatants fight public wars, they act on behalf of a broader community; and can indeed act on agent-relative reasons that apply to the community's members, without an explicitly reciprocal arrangement being in place.¹¹

If the war as a whole is proportionate, then the reasons for fighting that apply to the whole community at war—individually and together—justify all the wrongful harm that fighting will cause. This judgement can properly incorporate agent-relative reasons, since the members of the community are the agents whose joint (or perhaps collective) action needs to be justified. The whole community is at war. Of course, only a subset does the fighting: they are the instruments through which the community acts. The justification of their actions depends on their community's war being proportionate overall (or their campaign being a justified element in a morally heterogeneous war).

The critic who objects to the transmission of agent-relative justifications might deny that combatants can become a means through which other people act. It might sound ominously close to the 'just following orders' line, beloved of war criminals throughout history. But this worry is misplaced. Those who act on behalf of the community are responsible for deciding to do so, and for each action in the community's service. Their acting (in part) on reasons that apply to their community entails nothing about responsibility.

The critic might still insist: but how can these reasons be agent-relative if they can be acted on by others besides the agents to whom they apply? My response: these remain agent-relative reasons: first, in contrast with agent-neutral reasons, the agents to whom they apply have total authority over whether others can invoke them to justify their actions; se-

¹¹ Cécile Fabre [2009, 2012] thinks that if we believe agent-relative reasons weighty enough to ground a right to use lethal force, we should think them weighty enough to ground a power to transfer that permission to others. I think she gives too little shrift to the worry about agent-relativity. Just because the reasons are agent-relative, we could consistently argue that they can ground a right to defend oneself, but not a power to transfer that permission. For related discussion, see [Quong 2014].

cond, the reasons still apply to the community's members, whose collective action must be justified for the combatants to be justified in acting on their behalf.

Return to the runaway trains. Suppose there is only one track, and one train hurtling towards both children. Two innocent rail-workers stand on the side-track. There is only one lever, but it is stiff: Toni alone cannot operate it; she needs Karen's help. If diverting the two trains with two levers was permissible, then it is surely permissible to divert one train with one lever, since they save and kill the same people.

Now suppose only Toni can reach the lever, which one person can operate, and she is within earshot of Karen. Toni's agent-relative reasons to save her son Ian's life, combined with her agent-neutral reason to save Ben, cannot justify killing two innocent people (change the numbers if you disagree). But I think Toni is permitted to proceed if Karen authorises her to save Ben's life (or if she can presume Karen would do so, if she were able). Karen saves Ben's life through Toni, and if Karen and Toni may proceed separately in the first case, and together in the second, then it is permissible for Toni to proceed on behalf of both (when authorised to do so) in the third, even though she secures no reciprocal commitment from Karen. In the second version of the case, Karen contributed by adding her weight to the lever; in the third she contributes by adding the normative weight of her reasons to save Ben.

Might this view have implausible implications? What if Ben's father, Matt, also transfers his agent-relative reasons to Toni: could she then aggregate those reasons and Karen's, and divert the train even if more than two innocent people die? This could quickly get absurd; clearly these reasons do not aggregate in that way. Having more people with agent-relative reasons to save Ben does not generate a stronger overall reason to save Ben. But this phenomenon is general: imagine everyone in the example is a stranger to the others, so there are no associative duties in play at all. And suppose the two threats occur at separate times, but there are more people milling around when Ben is at risk than when Ian is. The presence of more people, each of whom has some duty to save Ben, does not make the overall reason to save him stronger than when there is only one person around. General duties to protect do not aggregate in this way, so we should not expect their associative counterparts to do so either.

What if neither Toni nor Karen can reach the lever, but only a stranger, Michelle, can do so? Could Michelle act on Toni's and Karen's agent-relative reasons, despite having no connection to them at all? I am not sure, but it seems unlikely. Mere *ad hoc* authorisation does not seem sufficient for the transfer of agent-relative reasons to take place. There must be some appropriate connection between the principal and the agent, which permits this transfer. There are two ways to ground this connection: either in the pre-existing relationship between the principal and the agent; or in the compact that they form on a forward-looking ba-

sis. If Karen and Toni merely ask Michelle to flip the switch, and she is a random stranger who will then disappear from their lives, then it seems that she cannot act on reasons that apply to them. But if Karen, say, were to make Michelle the guardian of her son, as a standing relationship of fiduciary responsibility, then it seems like Michelle *could* act on Karen's reasons. I lack the space to explore these relationships in detail, and to uncover the general principles that underpin them, but two examples seem paradigmatic: where both principal and agent have loved ones at stake, as in the case of Toni and Karen; and when a subset of a group acts on behalf of the group as a whole, with the group's authorisation to do so (this may just be the Toni and Karen case on a grander scale). It is plausible that in this case, the *group* is acting through its subset, and as such, the group is the relevant agent, able to act on reasons that apply to its constituent members [List and Pettit 2011]. A full defence of that claim, however, is beyond the scope of this paper. For now I must be content with identifying those two paradigm cases.

5. IMPLICATIONS

When combatants fight public wars, using the resources and reasons of a broader community, their lacking authorisation to do so counts against their fighting; if they are authorised, the reasons that apply to the broader community can justify actions taken on their behalf. I now address the implications of the arguments just offered.

First, these considerations apply to the ethical evaluation of the war as a whole, throughout its stages from initiation, through prosecution, to termination. It matters also to evaluating the individual actions that compose the war. This is in contrast to the traditional just war principle of proper authority, which was considered salient only to the initiation of war.

Second, the authorisation of individual actions is somewhat distinct from authorisation of the war as a whole. Combatants' actions are sometimes self-authorising acts of justified self- and other-defence. More importantly, it would be absurd to hold a plebiscite on every decision to pull the trigger. Combatants' actions are authorised when responsive to orders from the body with the authorisation to fight the war as a whole, and consistent with rules of engagement set out by that body.

Third, these arguments from authorisation provide one set of reasons among others that contribute to the proportionality calculation. An unauthorised public war can still be proportionate, for example if the group withholds authorisation, but its members actually have a duty to contribute to fighting the war. This could be true for humanitarian intervention, for example.¹² In general, humanitarian intervention raises many

¹² I owe this point to Jonathan Parry.

interesting questions for authorisation that I cannot address here (though see [Benbaji forthcoming; Feldman forthcoming]).

Fourth, and most important, democratic states with armed forces that have a robust command structure are likely to better satisfy the authorisation requirement than groups without democratic institutions or properly constituted armed forces. Groups that lack institutions to authorise the war will be authorised to fight only if the broader community presumptively consents to the conflict. The set of such conflicts is smaller than the set that would be authorised if the institutions for authorisation exist. And groups that lack properly constituted armed forces will lack the moral machinery for the transmission of the broader community's reasons to the people who claim to fight on their behalf will also be lacking.

This would help explain the conventional norm that non-state groups may launch wars (for example of secession) only when prompted by severe oppression, in violation of their members' fundamental rights [Buchanan 1997]. It would also suggest that non-democratic states have less extensive military permissions than democratic states. Where fundamental rights are at stake—people's rights to life and security, for example, or to remain in their homeland—consent can be presumed, so even without appropriate institutions, a subset of the group can fight on the whole group's behalf. But when more political goods are at stake, we cannot always presume that the broader community authorises its agents to fight in their defence. Non-democratic states and non-state groups might lack defensive permissions against these more political kinds of aggression, such as wars of regime change, for example. The militaries of democratic political communities, by contrast, have the institutions in place to gain authorisation to fight even purely political wars.

This runs counter to most recent work on legitimate authority, which has argued for moral equivalence between state and non-state groups [Fabre 2008; Finlay 2010; Reitberger 2013; Schwenkenbecher 2013]. I agree with this equivalence thesis for private wars and for public wars in defence of fundamental rights, for which the broader community's consent can be presumed. I disagree for public wars fought to defend purely political goods, where consent cannot be presumed.

6. CONCLUSION

In this paper, I have explored the role of authorisation in the ethics of war. After distinguishing this idea from legitimate authority in just war theory and political theory, I showed that lacking authorisation is a moral cost that weighs against a war's proportionality; its presence signifies not only the absence of that cost, but the availability of a pool of positive justifying reasons that make the proportionality constraint easier to satisfy. When a subset of the group fights for the group as a whole, there is an intrinsic

demand for authorisation because the subset is using the resources and name of the group as a whole, as well as generating prudential and moral risks for the group's other members. Additionally, if combatants are authorised to fight on behalf of a broader community, they can justify their actions by appeal to reasons applying to their constituents, like those grounded in their duties to protect others, contentious political goods, and agent-relative reasons. Contrary to appearances, it is conceptually possible for someone else to act on agent-relative reasons that apply to me.

Authorisation matters for the justification of warfare in at least (though not only) these ways. This has significant practical implications: the better developed the institutions within a political community for securing and conveying the authorisation of the community, the greater the range of conflicts in which their military can permissibly use lethal force. Without developed institutions for securing and conveying authorisation, military forces will have reasons against fighting any wars which they cannot presume that their principals would consent to their fighting on the community's behalf. Lacking authorisation, they will have a smaller pool of justifying reasons to which they can appeal. If democratic states are better able to secure the authorisation of their polities, then the permissions to use lethal force that they enjoy are likely to be more extensive than those available to undemocratic states or to non-state groups. Of course, even undemocratic states and non-state groups can fight some justified wars—especially those to avert threats to people's fundamental rights. But they will have less scope to defend themselves against purely political threats than will democratic states.¹³

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