

# Method in the morality of war

## 1. Introduction

When your topic is the ethics of maiming and killing, it is hard to care about methodology, still harder to care about which theorists of maiming and killing fall into which camp. Most essays about war should be about war, not about thinking about war. This is not only a philosophical, but perhaps also a moral imperative.

Yet unless we periodically step back and take an overview of the debate, and engage in some self-conscious reflection about how and why we write just war theory, we are likely to find ourselves ploughing ever narrower and less productive furrows. In this chapter, I attempt such an overview. I show how disputes over first-order questions about the permissibility of particular act-types in war have been conflated with second-order disputes about how to do just war theory. We can make progress by separating the two kinds of enquiry, giving each the independent attention that they deserve.

The ‘first-order’ history of contemporary just war theory is easy to write. Michael Walzer’s 1977 book, *Just and Unjust Wars*, defined, if not created the field.<sup>1</sup> It presented a philosophical vindication (with some revisions) of the central principles of the international law of armed conflict. States may go to war to defend their political sovereignty and territorial integrity. Humanitarian interventions are justified only to avert rare and extreme catastrophes. Noncombatants are immune from attack in war, but may be killed as an unintended side-effect, if that is proportionate to the military advantage combatants thereby achieve and if the combatants take on additional risks themselves to reduce risk to non-combatants (here Walzer *anticipated* international law: article 57 of the first additional protocol to the Geneva conventions, also promulgated in 1977, caught up). Combatants, regardless of the justice or injustice of their cause, face the same liabilities and constraints, and enjoy the same permissions. As article 43(2) of the first additional protocol states: ‘combatants have the right to participate directly in hostilities’. And as the preamble states, its strictures and permissions apply ‘without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict’.

Although these views substantially depart from much that was traditional in just war theory,<sup>2</sup> we can call it the orthodoxy, since it dominated intellectual discussion of the ethics of war for at least two decades. Outside of philosophy—in military education, public policy, and other academic disciplines—it remains the orthodoxy. Only in philosophy has it come under sustained attack. In rough chronological order, David Luban, Charles Beitz, Robert Holmes, Jeff McMahan, Richard Norman and David Rodin repeatedly put pressure on each element of Walzer’s orthodoxy.<sup>3</sup> We can call these philosophers, and the many who followed them with similar arguments, the ‘revisionists’.

Revisionists are not a unified camp; they share only their rejection of Walzer’s or-

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<sup>1</sup> Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977).

<sup>2</sup> As Greg Reichberg and Pablo Kalmanovitz show in their chapters for this volume, Walzer’s approach owes its origins to the ‘regular war’ tradition. *Just war* theorists, such as Vitoria and Suarez, have more in common with Walzer’s critics.

<sup>3</sup> David Luban, ‘Just War and Human Rights’, *Philosophy and Public Affairs*, 9/2 (1980), 160-81; Charles R. Beitz, ‘Nonintervention and Communal Integrity’, *Philosophy and Public Affairs*, 9 (1980), 385-91; Robert Holmes, *On War and Morality* (Princeton: Princeton University Press, 1989); Jeff McMahan, ‘Innocence, Self-Defense and Killing in War’, *Journal of Political Philosophy*, 2/3 (1994), 193-221; Richard Norman, *Ethics, Killing and War* (Cambridge: Cambridge University Press, 1995); David Rodin, *War and Self-Defense* (Oxford: Clarendon Press, 2002); Jeff McMahan, ‘The Ethics of Killing in War’, *Ethics*, 114/1 (2004), 693-732. Luban, however, is definitely now in the reformist camp.

thodoxy. The most significant divides are between those who advocate outright pacifism, those who espouse contingent pacifism (wars could be just in theory, but never will be in practice) and those who think that some actual wars can be just.<sup>4</sup>

The revisionists did not only disagree with Walzer about which acts of war were permissible. They disagreed about how to do just war theory. Walzer's method was to start with international law and military history, and present his arguments as an interpretation of 'the war convention'. His opponents built their critiques from analyses of permissible harm outside of war. As their isolated criticisms became a groundswell, they coalesced into a distinct methodological approach. They were *reductivists*, because they thought that any justified killing in war must be justified by appeal to the same properties that justify killing outside of war. And they were *individualists*, because they thought that considering interpersonal interactions between individuals sufficed to explain permissible killing both in war and outside of it.<sup>5</sup> Walzer developed his account of the morality of war by thinking about war; the revisionists theirs by thinking, at least in the first instance, about individual self- and other-defence.<sup>6</sup>

As barbaric as they might appear when considered in abstraction, the laws of war, and the orthodoxy they express, stand among the great moral advances made by humanity, alongside the abolition of slavery and the advance of social and political equality worldwide. They contrast with customs and practices that preceded them, according to which wars could be launched for naked political purposes, and fought without restraint. Unsurprisingly, then, the orthodoxy has its defenders.<sup>7</sup> Let us call them the 'reformists', because

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<sup>4</sup> Holmes and Norman are outright pacifists; Larry May has used revisionist arguments to defend contingent pacifism; David Rodin often appears to be a contingent pacifist; Uwe Steinhoff has defended a similar view. All the other revisionists think that some actual wars can be justified, though most leave open the possibility that contingent pacifism is true. See Larry May, 'Contingent Pacifism and the Moral Risks of Participating in War', *Public Affairs Quarterly*, 25/2 (2011), 95-111; David Rodin, 'The Myth of National Self-Defence', in Seth Lazar and Cecile Fabre (eds.), *The Morality of Defensive War* (Oxford: Oxford University Press, 2014), 69-89; Uwe Steinhoff, *On the Ethics of War and Terrorism* (Oxford: Oxford University Press, 2007).

<sup>5</sup> The terminology is owed to David Rodin, though my usage is more general than his, which relates to his specific typology for theories of justified killing. See Rodin, *War and Self-Defense*.

<sup>6</sup> Most recent books on the ethics of war, by revisionists and reformists, have this structure: the first chapter or part of the book determines what the correct principles are for permissible killing in self- and other-defence; the rest applies those principles to war. See, for example, *ibid.*; Cécile Fabre, *Cosmopolitan War* (Oxford: Oxford University Press, 2012); Helen Frowe, *Defensive Killing* (Oxford: Oxford University Press, 2014); Seth Lazar, *Sparing Civilians* (Oxford: Oxford University Press, 2015).

<sup>7</sup> Including: Noam J. Zohar, 'Collective War & Individualistic Ethics: Against the Conscriptio of "Self-Defense"', *Political Theory*, 21/4 (1993), 606-22; Yitzhak Benbaji, 'A Defense of the Traditional War Convention', *Ethics*, 118/3 (2008), 464-95; Henry Shue, 'Do We Need a Morality of War?', in David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008), 87-111; Michael Walzer, 'Response to McMahan's Paper', *Philosophia*, 34/1 (2006), 43-45; Adam Roberts, 'The Principle of Equal Application of the Laws of War', in David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008), 226-54; Larry May, *War Crimes and Just War* (Cambridge: Cambridge University Press, 2007); Christopher Kutz, 'Fearful Symmetry', in David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008), 69-86; David Estlund, 'On Following Orders in an Unjust War', *Journal of Political Philosophy*, 15/2 (2007), 213-34; Cheyney Ryan, 'Democratic Duty and the Moral Dilemmas of Soldiers', *Ethics*, 122/1 (2011), 10-42; Patrick Emerton and Toby Handfield, 'Order and Affray: Defensive Privileges in Warfare', *Philosophy & Public Affairs*, 37/4 (2009), 382-414; Uwe Steinhoff, 'Jeff McMahan on the Moral Inequality of Combatants', *Journal of Political Philosophy*, 16/2 (2008), 220-26. Much of my own work also falls into the reformist camp, especially Seth Lazar, 'Responsibility, Risk, and Killing in Self-Defense', *Ethics*, 119/4 (2009), 699-728; Seth Lazar, 'The Responsibility Dilemma for Killing in War: A Review Essay', *Philosophy & Public Affairs*, 38/2 (2010), 180-213; Seth Lazar, 'Morality & Law of War', in Andrei Marmor (ed.), *Companion to Philosophy of Law* (New York: Routledge, 2012), 364-79; Seth Lazar, 'Necessity in Self-Defense and War', *Philosophy & Public Affairs*, 40/1 (2012), 3-44; Seth Lazar, 'Necessity and Non-Combatant Immunity', *Review of International Studies*, 40/01 (2014), 53-76; Seth Lazar, 'Associative Duties and the Ethics of Killing in War', *Journal of Practical Ethics*, 1/1 (2013), 3-48; Seth Lazar, 'National Defence, Self-Defence, and the Problem of Political Aggression', in Seth Lazar and Cecile Fabre (eds.), *The Morality of Defensive War* (Oxford:

few believe that every aspect of Walzer's picture can or should be saved.

Reformists have often assumed that Walzer's first- and second-order positions must be defended together. To refute the revisionists' verdicts on the permissibility of killing in war, they would have to refute their reductivism, their individualism, or both. Some have adopted an *exceptionalist* stance, according to which there are properties that justify (or prohibit) killing in war that do not justify killing outside of war. These properties, they argue, deflect the arguments advanced by the revisionists against the first-order orthodoxy.<sup>8</sup> Some also reject individualism (note that this is consistent with endorsing reductivism).<sup>9</sup> They argue that some of the values that justify some killing in war are irreducibly collective or that the actions of which war is composed are irreducibly collective.<sup>10</sup>

Although the dialectic between revisionists and reformists has been fruitful, it has become too polarised. There is a significant danger that the first- and second-order disputes will hypostasise, so that reductive individualism becomes a necessary corollary to revisionism and reformism goes hand in hand with exceptionalism, collectivism, or both. This would be a mistake. Reductivism is conceptually independent from individualism, and reductive individualism does not entail revisionism. Reformists need not be exceptionalists or collectivists. And exceptionalists and collectivists can be revisionists.

My aim in this chapter is to substantiate the narrative just given (although, for reasons of space, I will say no more about the Walzerian orthodoxy). In each section, I will illustrate the claim that first-order disagreements have been underpinned by second-order disputes, but that the connection between methodological and substantive commitments is contingent. In section 3, I discuss the revisionist critique of Walzer, and its stance on how just war theory should be done. Although there is a natural connection between one kind of reductive individualism and revisionism, the reductivist individualist church is broader than one might think, also encompassing reformist arguments. In section 4, I discuss reformist responses to revisionism, which have for the most part presupposed exceptionalism. And yet, exceptionalists can be revisionists too. In section 5, I discuss collectivist approaches to the morality of war, which can support both reformist and revisionist conclusions.

I begin, however, with some generic observations about how killing can be justified, on which (with a little strategic vagueness) most should be able to agree.

## 2. What Justifies Killing?

In such a disputatious field as just war theory, it might seem hard to find common ground. And yet over the last thirty years, a basic picture has emerged of the generic kinds of justification that one can offer for killing a person. Although each philosopher will have their own species of each genus, most should accept something like this generic classification.

I think that almost all contemporary just war theorists agree that people have a presumptive right not to be killed. This, in the most abstract terms, grants additional moral

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Oxford University Press, 2014), 11-39; Lazar, *Sparing Civilians*.

<sup>8</sup> With the possible exception of May and Steinhoff, and my arguments in the two papers criticising McMahan, and *Sparing Civilians*, I think this move is present in all the work cited in the previous footnote.

<sup>9</sup> In particular, Zohar, 'Collective War'; Christopher Kutz, 'The Difference Uniforms Make: Collective Violence in Criminal Law and War', *Philosophy & Public Affairs*, 33/2 (2005), 148-80; Michael Walzer, 'Response to Jeff McMahan', *Philosophia*, 34/1 (2006), 19-21; Lazar, 'Necessity in Self-Defense and War'; Lazar, 'National Defence, Self-Defence, and the Problem of Political Aggression'; Margaret Moore, 'Collective Self-Determination, Institutions of Justice, and Wars of National Defence', in Cecile Fabre and Seth Lazar (eds.), *The Morality of Defensive War* (Oxford: Oxford University Press, 2014), 185-202.

<sup>10</sup> See, for example, Lazar, 'Necessity in Self-Defense and War'; Saba Bazargan, 'Complicitous Liability in War', *Philosophical Studies*, 165/1 (2013), 177-95.

protection to their interest in survival.<sup>11</sup> Killing someone who retains that right cannot be justified by the mere fact that doing so would realise a marginally greater good for someone else. Once we agree that people start out with this right, the path to justifying killing becomes quite simple: killing is permissible if and only if either the target has somehow lost the protection of his right to life or he has not lost that protection, but the good achieved by killing him is sufficiently great to render killing him permissible, overriding his right.<sup>12</sup> Call these the ‘loss of rights’ and ‘lesser evil’ justifications for killing.

Satisfying the loss of rights condition is not sufficient for an act of killing to be permissible. Three further conditions must be met.<sup>13</sup> Killing a person must be *proportionate*: that is, the good achieved by killing him (for example, averting an unjustified threat) must be great enough to justify imposing that much harm on him. It must be *necessary*, in the sense that there must be no other less harmful means available to that end or, if there are such means, the reduction in harm is more than offset by a reduction in prospects of success.<sup>14</sup> And killing must not have *other adverse consequences*, which might render it impermissible even if the other conditions are satisfied. For example, suppose that one’s target is the only person who knows the cure to cancer. Satisfying the lesser evil condition is sufficient for killing to be permissible—but it also entails that each of these three other conditions is met.

These two genera of justification are extremely capacious. Loss of rights justifications typically include those grounded in consent, desert or liability to be harmed in self- or other-defence. But they can also include views for which one’s rights depend on the persistence of favourable background conditions, so that when those conditions are absent, the right no longer obtains. Or they could be underpinned by a rule consequentialist or a contractarian argument: the right fails to obtain when the rule, obedience to which realises the best consequences overall, does not support the right or when the underlying hypothetical contract on which the right is grounded does not obtain.

Some act-consequentialists will deny that there are any rights. They think that killing (like everything else), is permissible if and only if all alternatives realise worse outcomes. Those who believe in rights think that killing is a permissible lesser evil if and only if all alternatives realise worse outcomes. So, for act-consequentialists, lesser evil justification is all there is (though of course they will evaluate outcomes quite differently from non-consequentialists). The same can be said, *mutatis mutandis*, for some forms of rule-consequentialism.

### 3. Reductive Individualism

Reductivism claims that we can reduce the morality of war to the morality of ordinary life: reductivists think that people lose the protection of their right to life on just the same grounds in war as they do outside of war; and they think that the lesser evil justifications that apply in war are no different from those that apply outside it. This amounts to a clear stance on how to think about the morality of war: start by working out the principles that govern liability and lesser evil justifications in ordinary life; then apply those principles to war.

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<sup>11</sup> Those who disagree can be represented within this schema as construing all justified killing as falling under the lesser evil heading.

<sup>12</sup> Some philosophers think that there can be hybrid justifications—the protection afforded by the target’s right to life has been somewhat reduced plus the good achieved is somewhat less than would be needed to override an unreduced right.

<sup>13</sup> Some would think that these conditions *determine whether* the target has lost the protection of his right to life. Some think they are additional conditions that must be satisfied. Some think that some fall in one category, some in the other. They can reinterpret what I say in accordance with their conceptual framework.

<sup>14</sup> I discuss the necessity constraint in much greater depth in Lazar, ‘Necessity in Self-Defense and War’.

Presented in this schematic form, reductivism is a capacious doctrine. It is consistent, for example, with a thoroughgoing act consequentialism. In practice, however, it has been interpreted much more narrowly. With some minor disputes, many just war theorists affirm something like the following picture of the ethics of killing in ordinary life and war. I will call this ‘paradigmatic reductivism’. It has two key tenets.

The first concerns loss of rights justifications for killing. Paradigmatic reductivists think that although there are several ways one can lose the protection of the right to life in ordinary life, only one of them is relevant to the ethics of killing in war: liability to be killed in self- or other-defence. A person loses the protection of her right to life in this way when she is sufficiently responsible for an unjustified threat to another person or persons, and killing her is a necessary and proportionate means to avert that threat. Those who are liable to be killed in self- or other-defence may permissibly be killed either intentionally or unintentionally, provided doing so does not have excessively adverse consequences.

The second tenet concerns lesser evil justification. *Intentionally* killing those who retain their right to life can be a permissible lesser evil only if it is necessary to realise some extremely valuable goal.<sup>15</sup> Most think that lesser evil justifications like this are extremely rare, appropriate only in what Michael Walzer calls ‘supreme emergencies’, if even then.<sup>16</sup> *Unintentional* killing, by contrast, can be a lesser evil provided it is necessary to achieve a substantial, but nonetheless more pedestrian good.

We can extract from this the following criteria for permissible intentional and unintentional killing in war: killing in war is permissible if and only if

- (a) Those whom one intentionally kills are either unavoidably killed in pursuit of an extremely valuable goal or they are liable to be killed in self- or other-defence where killing them is necessary and proportionate to that end.
- (b) Those whom one unintentionally kills are either unavoidably killed in the pursuit of a sufficiently valuable goal or they are liable to be killed in self- or other-defence where killing them is necessary and proportionate to that end.<sup>17</sup>

Notice that satisfying (a) and (b) does not ensure that this account of the morality of war is reductivist. We need to add a further condition:

- (c) None of the properties that render killing the liable necessary and proportionate, and killing the nonliable a permissible lesser evil, justifies killing only in war.

This view has been most explicitly articulated by David Rodin, in his *War and Self-Defence*, where he coined the term ‘reductive individualism’.<sup>18</sup> In a response to Rodin, McMahan gave a simple and powerful statement of the view. It is worth quoting at length, to be clear that reductive individualism is no caricature, but the doctrine at the heart of contemporary revisionist just war theory:

First imagine a case in which a person uses violence in self-defense; then im-

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<sup>15</sup> In recent years, revisionist and reformist just war theorists have revised this position, recognising that not all intentional killings of those who retain their rights to life are equally seriously wrongful. See, for example, Helen Frowe, ‘Threats, Bystanders and Obstructors’, *Proceedings of the Aristotelian Society*, 108/1 (2008), 365-72; Jeff McMahan, ‘Who Is Morally Liable to Be Killed in War?’, *Analysis*, 71/3 (2011), 544-59; Lazar, *Sparing Civilians*.

<sup>16</sup> Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 2006). Jeff McMahan describes the kind of unusual case in which he thinks lesser evil justifications would apply in Jeff McMahan, ‘Just Cause for War’, *Ethics & International Affairs*, 19/3 (2005), 1-21: 16. Cécile Fabre takes a similarly restrictive view of lesser evil justification, see Fabre, *Cosmopolitan War*: REF.

<sup>17</sup> If they are killed unintentionally, then can we say that killing them was necessary? Some people think that killing Ant was necessary to save Bee entails that killing Ant is a means to saving Bee. I disagree. A harm is necessary to achieving some end if there is no way to achieve that end that does not involve at least that much harm. This is consistent with the harm being an intended means, but also consistent with it being an unintended side-effect.

<sup>18</sup> Rodin, *War and Self-Defense*: REF.

agine a case in which two people engage in self-defense against a threat they jointly face. Continue to imagine further cases in which increasing numbers of people act with increasing coordination to defend both themselves and each other against a common threat, or a range of threats they face together. What you are imagining is a spectrum of cases that begins with acts of individual self-defense and, as the threats become more complex and extensive, the threatened individuals more numerous, and their defensive action more integrated, eventually reaches cases involving a scale of violence that is constitutive of war.<sup>19</sup>

In his *Killing in War*, the most influential book in the revisionist critique of Walzer, McMahan adds:

The difference between war and other forms of conflict is a difference only of degree and thus the moral principles that govern killing in lesser forms of conflict govern killing in war as well. A state of war makes no difference other than to make the application of the relevant principles more complicated and difficult.<sup>20</sup>

This view has recently received robust defence by Helen Frowe and Cécile Fabre, and has underpinned discussions of war by Robert Holmes, Richard Norman, David Rodin, Lionel McPherson and Richard Arneson.<sup>21</sup> And all of these philosophers have used reductive individualism as the key element in their critiques of the Walzerian orthodoxy.

Walzer argued that combatants in war face the same liabilities, permissions and constraints, irrespective of whether their cause is just or unjust. Reductivists show that people using force in ordinary cases of self- and other-defence outside of war do not stand in the same symmetrical relationship. And they conclude that if combatant moral equality has no analogue in conflicts outside of war, then it must be a mistake.<sup>22</sup> Indeed, many revisionists go further than this: not only do they argue that just combatants retain their rights to life; they also argue that many combatants on the unjust side are not liable to be killed.<sup>23</sup> This is because they are not responsible for contributing to unjustified threats—either they are ineffective, so barely contribute to any threats at all, or they contribute but are not responsible for doing so, because they are acting under duress or in the belief that fighting is permissible. Hence it is impossible to fight a just war without intentionally killing many innocent people. Some think this means we should endorse pacifism.<sup>24</sup>

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<sup>19</sup> Jeff McMahan, 'War as Self-Defense', *Ethics & International Affairs*, 18/1 (2004), 75-80: 75. McMahan continues:

But if war, at least in some instances, lies on a continuum with individual self- and other-defense, and if acts of individual self- and other-defense can sometimes be morally justified, then war can in principle be morally justified as well. It follows that the only coherent forms of pacifism are those that reject the permissibility of individual self- or other-defense—for example, those based on an absolute prohibition of violence or killing.

Cheyney Ryan's contribution to this volume, in particular his discussion of political pacifism, refutes McMahan's last sentence.

<sup>20</sup> Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2009): 156.

<sup>21</sup> Norman, *Ethics, Killing and War*; Holmes, *On War and Morality*; McMahan, 'Innocence'; Rodin, *War and Self-Defense*; Lionel McPherson, 'Innocence and Responsibility in War', *Canadian Journal of Philosophy*, 34/4 (2004), 485-506; Cecile Fabre, 'Guns, Food, and Liability to Attack in War', *Ethics*, 120/1 (2009), 36-63; Frowe, *Defensive Killing*; Richard J. Arneson, 'Just Warfare Theory and Noncombatant Immunity', *Cornell International Law Journal*, 39 (2006), 663-88. I think that Fabre conceives of her project as being reductive individualist, but that in fact in her book she (quite rightly, in my view) strays from reductivism. See Seth Lazar, 'Review of Cécile Fabre, *Cosmopolitan War*', *Ethics*, 124/2 (2014), 406-12; Fabre, *Cosmopolitan War*.

<sup>22</sup> McMahan, 'Innocence'; Norman, *Ethics, Killing and War*; Rodin, *War and Self-Defense*; McPherson, 'Innocence and Responsibility in War'; David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008).

<sup>23</sup> Lazar, 'Responsibility Dilemma'.

<sup>24</sup> Holmes, *On War and Morality*; Norman, *Ethics, Killing and War*; Rodin, *War and Self-Defense*; May,

Walzer argued that all noncombatants retain their rights to life. Reductivist revisionists show that the principles grounding liability to be killed outside of war, when applied to war, would allow some—perhaps many—noncombatants to be liable to be killed.<sup>25</sup> This is because liability does not require that one *pose* an unjustified threat, only responsibility for *contributing* to it. Noncombatants contribute to the unjustified threats of their state by paying their taxes, voting, providing services to the military, boosting public support for the war, and so on. If these contributions are enough to render them liable to be killed, then the principle of noncombatant immunity must be false. If we insist that loss of one's right to life requires a greater degree of responsibility or a more significant causal contribution, then we are returned to the problem that many unjust combatants will not be liable to be killed either.

Walzer contended that states could (indeed, sometimes must) defend themselves against attacks on their political sovereignty and territorial integrity. Some reductivist revisionists have argued that we cannot make sense of this permission in terms of individual rights of self- and other-defence.<sup>26</sup> And in some of the first responses to Walzer, reductivists argued that the constraint on humanitarian interventions is unsustainable. Individual self- and other-defence are justified to protect individual rights to life and security, so when those rights are threatened there is a *prima facie* case for intervention, irrespective of whether the threat is a rare calamity of the kind Walzer envisages as being a prerequisite for justified intervention.<sup>27</sup>

For these philosophers, the path from methodology to substantive commitments is clear. They start by thinking about liability and lesser evil justification outside of war; they then endorse something close to paradigmatic reductivism; and they derive from it their revisionist critique of Walzer's just war theory. This leaves open the possibility of a methodologically equivalent stance that has different substantive conclusions: if we can show paradigmatic reductivism to be false, or at least underinclusive, then we might be able to vindicate broadly Walzerian conclusions on reductive individualist grounds.

In my own work, I have argued for a more expansive role for lesser evil justification in the morality of killing, by showing that there are many ways in which some rights-violating killings are morally worse than others, along similar lines to the distinction already drawn between intended and merely foreseen killing.<sup>28</sup> Most importantly, noncombatants—but not combatants—are defenceless against attack; and in killing noncombatants one takes a greater risk of killing an innocent person than when killing combatants, which aggravates the former right-violation and mitigates the latter.

Attending to these factors helps to mitigate one of the most controversial implications of revisionism: the 'responsibility dilemma', according to which, whatever degree of responsibility for contributing to an unjustified threat one thinks is necessary for liability to be killed, one faces problems. If only a very slight degree of responsibility is sufficient for liability, then too many noncombatants on the unjust side will be liable; if a higher degree of responsibility is necessary, then too many unjust combatants will *not* be liable. On my view, liability to be killed presupposes a high degree of responsibility for contributing to an unjustified threat, so many unjust combatants as well as almost all unjust noncombatants are not liable to be killed in war. However, killing nonliable soldiers is, in various respects,

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'Contingent Pacifism and the Moral Risks of Participating in War'.

<sup>25</sup> McMahan, 'Innocence'; Norman, *Ethics, Killing and War*; McMahan, 'Killing in War'; Fabre, 'Guns, Food'; Frowe, *Defensive Killing*.

<sup>26</sup> Beitz, 'Nonintervention and Communal Integrity'; Norman, *Ethics, Killing and War*; Rodin, *War and Self-Defence*; Lazar, 'National Defence, Self-Defence, and the Problem of Political Aggression'; Rodin, 'The Myth of National Self-Defence'.

<sup>27</sup> Luban, 'Just War and Human Rights'.

<sup>28</sup> Lazar, *Sparing Civilians*.

less *pro tanto* wrongful than killing nonliable civilians. So it can be permissible to kill nonliable unjust combatants, and avoid a counterintuitive endorsement of pacifism, while it remains impermissible to kill nonliable noncombatants on the unjust side.

This does not get us all the way to Walzer's doctrine of noncombatant immunity and his account of the permissibility of going to war in national defence. But it is an essential first step, which is wholly consistent with reductive individualism, if not with its paradigmatic form. Crucially, it presupposes the same methodology: it identifies principles relevant to the ethics of killing outside of war, then shows how they apply in war. In a similar vein, David Rodin has argued that principles of self-defence, properly understood, would not license the wholesale onslaught on noncombatant immunity threatened by paradigmatic reductivism, because the causal remoteness of noncombatants' contribution protects their immunity.<sup>29</sup>

Using the same methodology, Uwe Steinhoff has argued that the ethics of force in ordinary life *does* license something close to Walzer's moral equality of combatants, permitting combatants fighting on the unjust side in war to use lethal force against just combatants.<sup>30</sup> This is because even unjust combatants are entitled to use lethal force to defend those of their compatriot noncombatants who are at risk of being killed unintentionally by the enemy. With a similar aim in mind, I have also argued that citizens' associative duties to protect one another, grounded in the value of their relationship *qua* co-citizens, as well as in their deeper relationships, can render some killing in war a justified lesser evil, even if carried out in the service of the unjust side.<sup>31</sup>

In a more radical departure from the mainstream reductive individualist positions, but also with a view to vindicating the moral equality of combatants, Thomas Hurka has argued that soldiers on either side of most conflicts consent to be exposed to the risks of war. In doing so, they waive their rights to life, thus vindicating something like the moral equality of combatants.<sup>32</sup> This is a loss of rights justification for killing, which has nothing to do with self- or other-defence.

Emerton and Handfield argue that there are distinct principles governing self-defence in circumstances of 'affray'.<sup>33</sup> When conflict erupts around one, and it is not clear who is in the right, we plausibly have moral privileges to use lethal force that cannot be justified under the standard principles of self- or other-defence. They develop this argument in an institutionalist way, but we could venture a simpler version: suppose you find yourself in a chaotic brawl, where nobody really knows what is going on, but everyone knows that if they don't defend themselves, they'll be seriously harmed. It's plausible that, provided you know you're no more at fault for the riot than is anyone else (which is consistent with everyone being at fault), you're licensed to use lethal force to defend yourself. After all, why should it be morally preferable to let someone else unjustly kill you, rather than unjustly kill him first? This argument might give further limited support for something close to moral equality between some combatants in war, and would also help underpin noncombatant immunity, since noncombatants are not parties to the affray that might plausibly extend combatants' permissions.

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<sup>29</sup> David Rodin, 'The Moral Inequality of Soldiers: Why Jus in Bello Asymmetry Is Half Right', in David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008), 44-68. For a (decisive, in my view) response to Rodin, see Frowe, *Defensive Killing*.

<sup>30</sup> Steinhoff, 'Jeff McMahan on the Moral Inequality of Combatants'.

<sup>31</sup> Lazar, 'Associative Duties and the Ethics of Killing in War'.

<sup>32</sup> Thomas Hurka, 'Proportionality in the Morality of War', *Philosophy & Public Affairs*, 33/1 (2005), 34-66.

<sup>33</sup> Emerton and Handfield, 'Order and Affray'.

#### 4. Exceptionalism

Reductivists start with the principles governing interpersonal violence, and aggregate up into an account of the morality of war. Exceptionalists start by thinking about war itself. In particular, they identify properties of warfare that are not present in conflicts short of war, which might play some normative role, and in particular help vindicate some of the pretheoretical intuitions about the morality of war that are so hard to ground in reductivist reasons alone. Given this ambition, it is unsurprising that exceptionalists tend to be reformists, defending aspects of the Walzerian orthodoxy against the revisionist critique. But we can quickly see that an exceptionalist revisionism is also possible, as I will show at the end of this section.

First, though: if we start not with self-defence, but with war itself, then what do we find? What, in particular, do exceptionalists mean by war? It is important not to caricature their view. There is nothing magical about the fact that we call a certain conflict a war, as though crossing some bright line between war and other conflicts transforms the array of salient principles. Exceptionalists need endorse only two relatively conservative theses. First, there are some properties of war that do not widely obtain in conflicts outside of war, especially not in the cases of individual self- and other-defence that reductivists use as their model. Second, these properties can determine whether a loss of rights or a lesser evil justification for killing obtains. I will not attempt an exhaustive list of these properties, but these are the ones that are most commonly invoked:

- (i) Wars are *large-scale* conflicts. The interests of many people are at stake. And wars have an inherent tendency to increase in scale.
- (ii) There is widespread and egregious *non-compliance* with any principles that could plausibly govern killing outside of war.
- (iii) Among the interests at stake, some are *political*. For example, they have to do with preserving political sovereignty and territorial integrity.
- (iv) At least one party to the conflict is a *state*.
- (v) The conflict is governed by *institutions*, in particular the laws of war.
- (vi) The conflict takes place against the backdrop of, and usually disrupts, the *international state system*.

This second-order stance—when thinking about the morality of war, think first *about war*—has underpinned much of the reaction to the revisionist critique of Walzer. Walzer himself dismisses McMahan's views as a 'precise account of what individual responsibility in war would be like if war were a peacetime activity'.<sup>34</sup> A number of other philosophers have argued that the properties listed above undermine the revisionist position. Because these properties are heterogeneous, the exceptionalist camp is less unified than their revisionist counterparts, but the following seem to be the most promising approaches.

Henry Shue and Jeremy Waldron focus most on (i) and (ii)—scale and widespread noncompliance.<sup>35</sup> They argue that war is hell, in two senses: the scale of suffering that it involves; and the moral depravity that it inevitably entails. Shue in particular argues that it is absurd to direct moral prescriptions at those who are inevitably set on disregarding those prescriptions. This basic point could be developed in many different ways—one could argue that the presence and preservation of our rights to life depends on there being a minimal degree of willingness to comply with the dictates of morality (this would be a loss of rights justification for killing). That is, rights are *practice-dependent*, just as many think that

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<sup>34</sup> Walzer, 'Response to McMahan's Paper': 43.

<sup>35</sup> Shue, 'Morality of War'; Janina Dill and Henry Shue, 'Limiting the Killing in War: Military Necessity and the St. Petersburg Assumption', *Ethics & International Affairs*, 26/03 (2012), 311-33; Jeremy Waldron, *Torture, Terror, and Trade-Offs: Philosophy for the White House* (Oxford: Oxford University Press, 2010). See also Roberts, 'Equal Application'.

principles of distributive justice are dependent on favourable conditions such as only moderate scarcity obtaining. When conditions are less favourable, it is every man for himself.

Or one could argue that morality in general is rule consequentialist: the right principles are those which will in fact have the best consequences in the long run (with respect to whatever makes consequences best). Outside of war, the principles governing the use of force that have the best long-run consequences are the very restrictive ones with which we are all familiar. If we carry those over to war, we get disastrous results, because of the scale of the violence and the widespread predictable non-compliance. So the best principles for war are something close to Walzer's orthodoxy (this would fit with a lesser evil justification).

Appealing to the political nature of the interests at stake in war (iii), I have argued that to vindicate a plausible account of national defence, the goods that render killing in such wars proportionate and necessary must include political goods, such as the preservation of political sovereignty and territorial integrity, for the sake of which it is permissible to kill only in war (revolutions and civil wars are governed by the same principles as wars of national defence).<sup>36</sup> Reductivists sometimes concede this point: they argue that defensive wars are rendered proportionate in part by the aggregated political interests of large populations of people.<sup>37</sup> They think this remains consistent with reductivism, but although it is certainly consistent with *evaluative individualism* (which we will come to in the next section), those political interests do not justify killing outside of war, so this is an exceptionalist justification for killing. It is only in virtue of the scale of the conflict—which scale obtains only in wars—that killing for these ends is permissible.

Perhaps reductivists and exceptionalists can reasonably disagree on this point. Still, to invoke these political interests in the proportionality calculation, a belligerent needs to be appropriately authorised to do so by the polity at large, because the value of these political goods reflects the degree to which people actually care about them, and their nature is such that they must be subject to the direction of the polity whose political interests are at stake.<sup>38</sup> The good in question is, broadly, *political independence*: the capacity of a group of people to decide their own collective fate. If we go to war to defend the political independence of a people who do not want us to go to war, then we are contravening the very interest that we claim to be defending. So, the good for which we are fighting, and the process by which we are licensed to fight for it, are both unique to conflicts over political sovereignty and territorial integrity: that is, to wars.

The fact, (iv), that wars often involve states on at least one side is crucial to another key reformist argument, grounded in the authority of in particular democratic states.<sup>39</sup> David Estlund has argued that citizens of democratic states can be under an obligation to defer to their state's judgement on matters such as the justice of war, except in cases when the injustice is obvious. This lends a qualified support to the moral equality of combatants: unjust combatants have some reason to obey the orders of their state to fight even unjust wars.<sup>40</sup> In a similar vein, Cheyney Ryan has argued that a democratic state's military must

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<sup>36</sup> Lazar, 'National Defence, Self-Defence, and the Problem of Political Aggression'. See also Jonathan Parry's contribution to this volume.

<sup>37</sup> See especially Frowe, *Defensive Killing*.

<sup>38</sup> For more on this point, see Seth Lazar, 'Authorisation and the Morality of War', *Australasian Journal of Philosophy*, (Forthcoming).

<sup>39</sup> Estlund, 'On Following Orders in an Unjust War'. For a critique of Estlund, though with a similar overall approach, see Massimo Renzo, 'Democratic Authority and the Duty to Fight Unjust Wars', *Analysis*, 73/4 (2013), 668-76.

<sup>40</sup> Advocates of this kind of view might reject my dichotomy of loss of rights vs. lesser evil justification, arguing that some reasons exclude others from consideration. I don't think much turns on this difference: if the authority-based reason is going to exclude, for example, a just combatant's right to life from constraining an unjust combatant, then it is going to have to be extremely weighty. The structure of justification is much the same as for lesser evil justification.

be subordinate to its government, which gives its combatants reasons to fight unjust wars as well as just ones.<sup>41</sup> One might respond that these authority-based reasons help justify some acts of killing outside of war.<sup>42</sup> No obvious examples spring to mind, however, and while we might be able to conjure up hypotheticals, I suspect that these would depend for their intuitive support on how closely they approximate the conditions under which killing is permissible in war.

Properties (v) and (vi)—the institutions that structure warfare, and the international state system—are at the heart of Yitzhak Benbaji's accounts of just conduct and resort to war respectively. Benbaji argues that the institutions governing war constitute the basis of a hypothetical contract among states and their armies, according to which soldiers know, when they choose to fight, that they are participating in a system in which they are legitimate targets for the enemy regardless of which side is in the right.<sup>43</sup> In signing up to fight on these terms, they reciprocally waive the obligation on the part of enemy combatants to verify whether their cause is just, thus allowing them to obey orders to fight without having to examine them on every occasion. This in turn is necessary for them to be able to provide both actual security and deterrence against future threats.

Adil Haque argues for the authority of international law in a different way, by contending that it enables just combatants to do better by their moral reasons than they would if they attended to them directly, as well as allowing unjust combatants to do less wrong than they otherwise would.<sup>44</sup>

Benbaji separately defends the restrictive, Walzerian account of resort to war, arguing that a more permissive stance on interventionist wars would be abused to the detriment of all, while a relaxed stance on defensive wars provides a deterrent to unwarranted aggression.<sup>45</sup> Benbaji's paper brings to the table a recognition of the strategic realities of warfare that is almost wholly absent from the rest of the philosophical debate (barring loose allusions to the importance of deterrence).

Now, it is possible to argue for each of the properties on which these exceptionalists draw that they could justify killing in some conflicts that we would not typically call wars, in which case the label 'exceptionalist' might be undeserved. I confess that my imagination rather fails here: I cannot think of cases outside of war in which, for example, the arguments from democratic authority, or the vindication of political interests, can justify killing (bear in mind that I assume revolutions and other insurgencies count as wars). But rather than try to dream up suitable scenarios, it is better to take a more detached approach to the methodological positions at stake. Ultimately what matters is not whether one is a reductionist or an exceptionalist. What matters is when one thinks war, and acts of war, are permissible.

The reductionist and exceptionalist labels are useful because they identify two different methodologies. One understands the morality of war by thinking first about the use of force outside of war. The other starts by thinking about war. Perhaps the latter approach would ultimately entail that there are some situations outside of war when killing is justified, on the same grounds as one might otherwise imagine would apply only in war (maybe some assassinations? Some revolutions too small in scale to plausibly be called wars?). Perhaps ultimately there is really no such thing as 'war', just a number of overlapping proper-

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<sup>41</sup> Ryan, 'Democratic Duty and the Moral Dilemmas of Soldiers'.

<sup>42</sup> Jonathan Parry thinks this. See Jonathan Parry, 'Authority and Harm', *Unpublished MS.*, (2014).

<sup>43</sup> Benbaji, 'A Defense of the Traditional War Convention'; Yitzhak Benbaji, 'The Moral Power of Soldiers to Undertake the Duty of Obedience', *Ethics*, 122/1 (2011), 43-73.

<sup>44</sup> Adil Ahmad Haque, *Law and Morality at War* (Oxford: Oxford University Press, Forthcoming).

<sup>45</sup> Yitzhak Benbaji, 'Distributive Justice, Human Rights, and Territorial Integrity: A Contractarian Account of the Crime of Aggression', in Cecile Fabre and Seth Lazar (eds.), *The Morality of Defensive War* (Oxford: Oxford University Press, 2014), 159-84.

ties, none of which are unique to war. So be it.

Still, this would simply mean that these so-called exceptionalist just war theorists have merely identified a plethora of properties relevant to the justification of killing in ordinary life that have been overlooked by the paradigmatic reductivists. And the central methodological difference between them would still stand: reductivists start with self-defence and work up to war; exceptionalists start with war directly.

McMahan has discussed many of the exceptionalist positions that I have canvassed above. But he presupposes that the task is to vindicate or refute Walzer's doctrine of the moral equality of combatants.<sup>46</sup> I think the debate should move on. That doctrine is false. It is not true that all combatants, regardless of what they are fighting for, face the same liabilities, constraints and permissions.

What *might* be true, and what we can just as easily understand the exceptionalists as arguing for, is that combatants who fight for the unjust side in a war enjoy more extensive permissions, and face weaker constraints, than do individuals fighting for unjustified aims outside of war; while combatants fighting for the just side might enjoy less extensive permissions, and face stricter constraints, than individuals fighting for justified aims outside of war. In plain terms, the revisionist critique of the moral equality of combatants aimed to show that there is no morally relevant difference between an unjust combatant and an unjustified attacker in ordinary life, and between a just combatant and a justified defender in ordinary life. The exceptionalists have, to my mind, refuted *this* claim, but they have not vindicated the moral equality of combatants.

And it is worth recognising that although exceptionalists have, for the most part, developed their views to vindicate some element in Walzer's orthodoxy, we can equally develop exceptionalist arguments that challenge the orthodoxy from all possible angles. For example, one could motivate a revisionist rejection of the moral equality of combatants by combining a Walzerian view about the distinctive collective liability of members of armed forces with a McMahan-style view that 'justification defeats liability', so all members of the armed forces of the unjust side are liable, and all those of the just side (if there is one) are not.<sup>47</sup>

Or one could challenge the orthodox principle of noncombatant immunity by arguing that, since wars are hell (in virtue of their scale and the widespread non-compliance with morality) we ought simply to minimise the number killed, without regard to combatant or noncombatant status. This is the 'realist' doctrine that Michael Walzer saw as his primary competitor, but is today largely discredited. Or one could argue for what Cheyney Ryan calls *political pacifism*, on the same grounds, as well as because of the distinctively political character of war and the institutions that fight and sustain wars.<sup>48</sup> On this approach, even if fighting wars could sometimes be in principle permissible, sustaining the institutions that we use to make war has too many adverse consequences to be defensible all things considered.

These are just some possibilities; it seems likely that as more *political* philosophers start thinking about just war theory, many more versions of exceptionalism will be developed. It is important that, as those new theories are developed, we keep an open mind as to what their first-order implications will be. The fact that exceptionalists have thus far mostly been reformists should not lead us to prejudice where these new theories will lead us.

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<sup>46</sup> McMahan, *Killing in War*: Chapter 2.

<sup>47</sup> McMahan discusses such a view in *ibid.*. Saba Bazargan defends something similar in Bazargan, 'Complicitous Liability in War'. Bazargan's view is probably best described as reductivist collectivist.

<sup>48</sup> See his contribution to this volume.

## 5. Collectivism

Since David Rodin first introduced the term ‘reductivism’ to the just war debate, it has always been paired with *individualism*. But, for the most part, what that individualism entails has been left open. Revisionists mining this seam emphasise that they are showing how justified wars must be composed of justified acts of individual self- and other-defence. But there is no serious discussion of just which kinds of individualism philosophers mean to invoke.

I think we can distinguish between three relevant kinds: *evaluative*, *descriptive* and *metaphysical*. Evaluative individualism is the doctrine that only the well-being of individuals matters morally; groups and collectives either lack well-being entirely or their well-being is morally unimportant. Descriptive individualism is the doctrine that wars, and other complex human interactions, are wholly reducible to the individual actions of which they are composed. This means that to justify war, we would have to break it down into these composite actions by individuals, and ask whether they are justified (I return to this point below). The third kind of individualism entails the first two, but is not entailed by them. Metaphysical individualism is the doctrine that only individuals are agents. Groups, collectives, states, are not agents. They do not exist, therefore it is unsurprising that they cannot act and that they do not have morally significant interests.

While I think war is a useful test case for theories of metaphysical and evaluative individualism, I do not think just war theory as such has any special insight into these fraught questions. What’s more, I think they *are* extraordinarily fraught—that merely pumping pretheoretical intuitions about cases is an inadequate substitute for serious study of the rich philosophical debates that they involve. In other words, if a just war theorist professes commitment to evaluative or metaphysical individualism, or to their collectivist counterparts, without engaging with or drawing on these debates, then their profession is little more than a statement of allegiance.

Descriptive individualism is another story, however. I think that just war theorists do have something distinctive to offer discussion of this position. Indeed, I think that a sensible understanding of just war theory gives us reason to reject descriptive individualism. The central problem is that it prevents us from sensibly asking whether a war as a whole is justified (it also prevents us asking whether it is proportionate or necessary). And yet we both do and need to be able to evaluate wars as a whole.

If wars are to be understood just as composites of individual actions, then there is no meaningful question of the form: ‘was the war justified?’<sup>49</sup> We can ask only whether the individual actions that compose the war were justified. We could then say that a war was justified just in case all the actions of which it was composed were justified, but this raises two problems. First, it is far too demanding. Surely a war can be justified even if it includes some unjustified actions. To deny this is to make justified wars practically impossible. Second, it is quite unclear how to identify the actions of which a war was composed! For instance, we obviously would not want deaths inflicted by the enemy to count in the evaluation of whether our side’s war was justified in the same way as deaths that we ourselves inflict. But to make that distinction we need to distinguish between the two sides. It is not clear how to do this without some account of how those on our side are acting together. One could say that only those actions that contribute to the goal of our side winning the war count. But then this would disqualify lots of both justified and unjustified individual actions from the tally, which should not be excluded.<sup>50</sup> Justified individual actions that saved the life of combatants whose survival in no way contribute to the victory of their side would be excluded, as would unjustified actions aimed at wrongful goals.

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<sup>49</sup> McMahan acknowledges this at McMahan, ‘Just Cause’: 20.

<sup>50</sup> Thanks to Jonathan Parry for discussion here.

McMahan suggests that we might ask: 'whether the war is such that it is better that it be fought than not'.<sup>51</sup> But obviously for almost all wars it's better that they not be fought! We need to know which individual actions count as part of a *side's* war—who counts as acting together such that, for those people, it's better that *their* war be fought. This is such a basic part of just war theory that it is usually built into the very language we use—we individuate wars according to the sides that fight them (World War II, for example, consists of a war fought by the British, a war fought by the Germans, and so on).<sup>52</sup> Of course, we could simply abandon these usages, and deny that talking about a 'side's war' being just makes any sense, concentrating instead only on evaluating actions by individuals.<sup>53</sup> But this seems to omit an important and familiar aspect of the morality of war. At the very least, it stands in need of justification.

One could consider the decision of the military leaders who declare the war, and ask whether *that decision* was justified. But that doesn't seem like it will track the right kind of judgement. Suppose that the president knows that if he does not launch an aggressive war, there will be a coup and the generals will launch a much more destructive war. Then he might do the right thing by declaring war, and yet clearly we should not judge the war as justified for that reason.

Partly in virtue of the fact that there is a morally significant sense in which the members of a community act together to fight a war—and a question of whether *their* war was just—descriptive collectivism has further important normative implications. In particular, I think those who stand in the kinds of institutional relationships to one another that can facilitate joint action of this kind have special obligations to coordinate to ensure that the overall impact of what they do together satisfies what I call a *collective necessity constraint*.<sup>54</sup> Consider this example:

*Multiple Threats:* Alf, Barney and Charlotte each face unjustified threats from, respectively, Dave, Edison and Ferdy. Acting alone, Alf, Barney and Charlotte can each avert the threat to his life only by killing Dave, Edison and Ferdy respectively. Acting together, however, they could avert all threats by subduing their attackers, inflicting serious, but non-fatal harms.

Most accounts of the morality of self- and other-defence contend that the infliction of harm that is unnecessary to achieve one's objective is impermissible. For each of Alf, Barney and Charlotte, if they act on their own, killing their attacker is necessary. Only if they act together can they non-lethally avert the threats they face. But acting together is not an option that is available to any one of them, considered individually. So, the individual necessity constraint suggests that it is permissible for each to kill his assailant, and yet this is intuitively deeply implausible. If they are able to coordinate they ought to do so. The necessity standard that applies to their actions is set by what they can do together, not what they can do on their own.

But what if Alf wants to coordinate with Barney and Charlotte, but does not believe that they will work together with him? In circumstances like this the character of the collective of which they are part is especially relevant to their obligations to coordinate with one another. If the three are a random aggregate of people thrown together by circumstance, then the costs that they are required to bear in order to coordinate will be relatively low. After all, if Barney and Charlotte refused, Alf might miss his opportunity to save himself from the threat posed by Dave. But if the three of them have roles in an institutional structure, the purpose of which is precisely to enable them to coordinate their actions, then

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<sup>51</sup> McMahan, 'Just Cause': 20.

<sup>52</sup> McMahan is always very clear about this.

<sup>53</sup> James Pattison, 'When Is It Right to Fight? Just War Theory and the Individual-Centric Approach', *Ethical Theory and Moral Practice*, 16/1 (2013), 35-54.

<sup>54</sup> I draw here on Lazar, 'Necessity in Self-Defense and War'.

their obligations to do so are correspondingly more exacting. They must be prepared to bear a greater risk of being killed by their respective assailants in the course of securing the cooperation of their fellow victims.

And again, it is important to remember that rejecting descriptive individualism neither necessitates rejecting reductivism, nor endorsing reformism. For example, Saba Bazargan has argued against the moral equality of combatants by arguing that unjust combatants who are not sufficiently responsible, as individuals, to be liable to be killed, are liable in virtue of their complicitous participation in the wrongful wars fought by their comrades-in-arms. Bazargan's view is reductivist—he thinks complicitous liability to be killed obtains outside of war too. It is collectivist—he grounds liability to be killed in collective action. And it is revisionist—he argues against the moral equality of combatants.

## 6. Conclusion

There are two main ways to think about the ethics of war. The first is to start by thinking about war. The second is to think about the ethics of killing in ordinary life, then apply those principles to the case of war. In recent just war theory, the first approach has most commonly been associated with Michael Walzer and his contemporary defenders; the second with Jeff McMahan and Walzer's other revisionist critics. This conflation, however, is mere accident. Perhaps the richest terrain to be ploughed is in the combinations that have been relatively neglected—reductivist vindications of international law; exceptionalist critiques. Although reductivism has most commonly been paired with individualism, the understanding of descriptive, evaluative and metaphysical individualism and collectivism in just war theory is still in its infancy. There is fertile ground there, too.

It is worth noting, in conclusion, an *a priori* argument in favour of exceptionalism. The reductivist says: to understand the ethics of killing in war, we need to think about permissible killing in ordinary life. The exceptionalist says: that might be useful, but we need also to think about what is distinctive about war. If one were considering the debate *de novo*, the exceptionalist starting-point would be more compelling, simply because, in ordinary life, cases of permissible killing are extraordinarily rare, whereas most agree that they are quite common in war.

The reductivist, by contrast, asks us to place more stock in our intuitions about hypothetical cases outside of war, which track the experiences of thankfully few people, than in our intuitions about realistic cases within war, of which plenty of people—including some philosophers—have direct experience. The approach is similar to defending principles of distributive justice by asking how to distribute cowrie shells if we were to land on a desert island.<sup>55</sup> We are much more familiar with the concrete, situated problems of a modern political society than we are with how castaways should share shells; and even that outlandish hypothetical is closer to most people's lived experience than is the permissible use of lethal force outside of war.

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<sup>55</sup> R Dworkin, 'What Is Equality? Part 2: Equality of Resources', *Philosophy and Public Affairs*, 10/4 (1981), 283-45.