

# Community, Liability, and Just Conduct in War<sup>1</sup>

(**Note:** This is an uncorrected pre-publication draft of an article published in *Philosophical Studies*. Please cite the published version:

<http://link.springer.com/article/10.1007%2Fs11098-015-0471-8>)

## 1. Introduction

Those of us who are not pacifists face an obvious challenge. Common-sense morality contains a stringent constraint on non-consensual killing, typically grounded in the idea that individuals possess basic rights against such treatment. Yet war involves killing and maiming on a grand scale. Hence, if participation in wars is to be morally justified, it needs be shown how this conflict can be reconciled.

A major fault line running throughout the contemporary just war literature divides two different approaches to attempting this reconciliation. According to an influential *reductivist* view, defended most prominently by Jeff McMahan, the conflict can be resolved by showing it to be largely illusory. Despite initial appearances, both the resort to war and its conduct can be justified by appeal to precisely the same exceptions to the prohibition on killing that we accept in ordinary, non-war contexts.<sup>2</sup> In particular, by appeal to standard justifications for killing in self- and other-defence.

In opposition, *non-reductivist* approaches hold that these considerations of are insufficient for the task. Instead, a defence of our intuitions about permissible killing in war requires us to appeal to additional, non-standard forms of justification. One prominent brand of non-reductivism grounds these additional permissions in the fact that wars involve the use of force by groups or

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<sup>1</sup> For written comments on drafts of this paper, I am extremely grateful to James Lenman, Jeff McMahan, Seth Lazar, Helen Frowe, Ian Fishback, Michael Neu, Jonathan Quong, and especially Daniel Viehoff. Versions of this paper were presented at Brave New World 2012, the Society for Applied Philosophy Annual Conference 2012, and two seminars at the University of Sheffield in 2012. My thanks to the audience members at those events for helpful discussions, and to Saba Bazargan for commenting on the paper at the SAP conference. Work on this paper was supported by the Arts and Humanities Research Council, UK and the Society for Applied Philosophy, for which I am very grateful.

<sup>2</sup> McMahan (2009). For other booklength treatments of war from a reductivist perspective, see Fabre (2012) and Frowe (2014).

associations of individuals engaged in morally significant relationships with one another. The key claim is that certain kinds of relationship can provide an independent source of permission for killing in war.

In this paper, I argue that non-reductivism should be rejected. The argument pushes a dilemma onto non-reductivists: If they are successful in showing that acting on behalf of a certain kind of group can generate additional *permissions* to kill in war, they must also jettison the most intuitive *restrictions* on conduct in war – most saliently, the constraint on intentionally killing morally innocent non-combatants. Since this conclusion is unacceptable, non-reductivism fails.

The paper proceeds as follows. Sections 2-4 provide a more detailed account of what is at stake between reductivists and non-reductivists. Section 5 sets out the ‘war crimes’ objection to non-reductivism. Section 6 considers several ways in which non-reductivists may avoid the objection by providing an alternative grounding for the constraint on targeting non-combatants, and argues that they all fail. Section 7 concludes.

## 2. The Reductivist Approach

Reductivism can be characterised in terms of a commitment to two main theses.<sup>3</sup> The *Continuity Thesis* holds that the moral principles that govern war are constituted solely by those that govern the use of violence by individuals in all other contexts. There is nothing morally special about war beyond its scale and complexity.<sup>4</sup> While important, this claim is largely formal. It holds that the morality of war is entirely reducible to principles of ordinary interpersonal morality, while leaving it open as to what these principles consist in.

This substance is provided by the *Content Thesis*, which holds that killing in war, when justified, is justified in one of two ways. Firstly, for reductivists, the intentional killing of combatants is primarily justified by appeal to principles of permissible killing in self- and other-defence. As standardly understood, defensive killing is permissible because the subject of harm has forfeited their normal right not to be killed, in virtue of being relevantly implicated in the

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<sup>3</sup> This characterisation of reductivism is indebted to the helpful discussion in Lazar (2014).

<sup>4</sup> For an early statement of the Continuity Thesis, see Glover (1977: 251-252).

existence of a threat of serious harm to others. In these cases, the normal constraint on homicide ceases to apply. In the relevant terminology, the subject of harm is *liable* to lethal defensive harm, and so suffers no wrong by having that harm imposed on them.<sup>5</sup>

Of course, liability justifications alone will not justify participation in war, since wars involve collaterally killing non-liable non-combatants. This requires a second form of justification. For reductivists, such killing, when justified, is justified on grounds of impartial *lesser-evil*, usually in conjunction with some version of the Doctrine of Double Effect. Lesser-evil justifications hold that an individual's right not to be killed, while stringent, is not absolute and may be overridden when doing so is required in order to bring about sufficiently good effects, impartially considered. In such cases, the killing wrongs its victim, in that it transgresses their rights, but doing so is justified all-things-considered. The Doctrine of Double Effect draws a distinction between bad effects that are brought about as an intended means and bad effects that are brought about foreseeably but unintentionally, and holds that the latter are subject to a lower justificatory burden than the former, other things being equal. This discounting allows reductivists to justify the collateral killing of non-liable non-combatants as the lesser-evil, while imposing a much stricter (indeed, near-absolute) constraint on the intentional targeting of non-liable individuals.

On a reductivist view, then, justified warfare is simply an aggregation of individual acts of killing and injuring, each justified on the familiar grounds of liability or lesser-evil.

### **3. Objections to Reductivism**

Despite its appeal, many think that reductivism must be rejected, or at least significantly amended. One common way of supporting this view is to argue that there is a class of intentional killing in war that it is both intuitively permissible, but cannot be justified in terms of the target's liability.

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<sup>5</sup> The key debate among theorists of self-defence concerns the correct rendering of the 'relevantly implicated' clause for grounding liability. For a representative sample, see Thomson (1991); Ferzan (2005); McMahan (2005); Quong (2012); Tadros (2012).

### 3.1 The Permissibility of Fighting in Unjust Wars

One much discussed implication of reductivism is that it does not support the common view, reinforced in the laws of war, that combatants are equally permitted to target and kill their armed opponents, independently of the justice of the wars in which they fight.<sup>6</sup>

Michael Walzer, one of the chief defenders of this “equal right to kill” influentially appeals to a liability-based argument in support of this position (Walzer 2006: 41). For Walzer, by threatening their opponents with lethal harm, combatants thereby lose their right not to be killed by their opponents in self-defence. Since all combatants are “dangerous men”, posing lethal threats independently of the moral status of the wars in which they fight, all are liable to be killed by their opponents (Walzer 2006: 145).

However, the problem with this argument is that it relies on a conception of liability that is implausible in circumstances other than war. Theories of self-defence typically treat mere threat-posing as insufficient for liability, for good reason. Potential murder victims, for example, do not render themselves liable to defensive force if they defend themselves against their attacker with proportionate and necessary harm. Yet a threat-based account of liability, which supports a neutrally distributed permission to kill in war, would seem to have precisely this implication.

A plausible account of liability then requires, at the very least, the existence of a threat of *unjustified* harm. This addition yields the correct result in the murderer/victim case. Since the victim’s lethal threat is a justified response to an unjustified attack, only the aggressor renders himself liable to defensive force. However, when applied in the context of war, this account of liability does not support a neutral permission to kill. The reasoning here parallels that in the simple murderer/victim case, the thought being that combatants who fight in justified wars against unjust aggression do nothing to render themselves liable to defensive killing. The upshot is that, on a reductivist view, combatants who

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<sup>6</sup> For a very useful collection of essays on this topic, see Rodin and Shue (2008).

fight and kill in unjust wars act seriously morally wrongly – they intentionally kill the innocent – *even if* they scrupulously follow the rules of war.<sup>7</sup>

Despite this unorthodox conclusion, it is important to point out that reductivists do not claim that the current legal regime governing war lacks justification. What they do argue is that if the equal treatment of combatants under the laws of war is morally justified, this is primarily due to the desirable consequences of having such a rule, and not because the law reflects morally permissible conduct on the part of combatants.<sup>8</sup>

While reductivists generally accept these revisionary implications, many find the conclusion that mainstream just war theory is deeply mistaken and that the laws of war lack deep moral foundations too counter-intuitive to be accepted.<sup>9</sup> Instead, defenders of a more traditional conception of permissible conduct in war may draw a different conclusion from the difficulty of reconciling a permission to fight in unjust wars with theories of permissible self-defence: That the permissibility of intentional killing in war cannot be determined primarily by considerations of liability. Instead, the moral status of acts of killing in war depends on other moral factors, which reductivism mistakenly fails to accommodate.

### *3.2 Avoiding Pacifism*

A structurally similar, but more general, objection to reductivism holds that it cannot justify the intentional killing of combatants *even in wars that are intuitively just*, and thus entails a form of pacifism. The most powerful version of this objection has recently been put forward by Seth Lazar, who argues that the majority of combatants on both the just *and unjust* sides of war are not liable to defensive killing (Lazar 2010). He supports this conclusion by arguing that reductivism faces a dilemma: It cannot consistently be claimed that the intentional killing of combatants in war is justified in virtue of their liability to

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<sup>7</sup> For the most sustained argument for this conclusion, see McMahan (2009: Chs. 1&2)

<sup>8</sup> On this point, see McMahan (2008).

<sup>9</sup> Though for a minority position which endorses both reductivism and the equality of combatants, see Steinhoff (2008).

defensive killing, while also maintaining a general prohibition on the targeting of non-combatants. One of these commitments has to go.

In order to argue that a sufficiently large proportion of enemy combatants are liable to be killed, reductivists must set the threshold for liability to defensive killing fairly low. This is required in order to render liable combatants who make fairly small or indirect contributions to unjust wars, as well as those who are relatively non-culpable for their contributions. Lazar claims that this will include a significant proportion of the members of militaries. However, the consequence of this low bar for liability, Lazar argues, is that it will also imply that an unacceptably large proportion of non-combatants on the unjust side liable to defensive killing. There are insufficient differences between combatants and non-combatants in terms of their contributions to the war, and their moral responsibility for doing so, that could ground a general difference in liability. If combatants on the unjust side are liable to defensive killing, then so too are many non-combatants. In order to avoid this conclusion, reductivists must instead endorse a higher threshold of contributory and moral responsibility for liability. The problem is that this leads to a highly pacifistic conclusion. If non-combatants on the unjust side are generally not liable to defensive killing, then neither are many combatants.

Lazar concludes that that since both the options are unacceptable, reductivism must be rejected. What the dilemma reveals is that practically *all* wars, whether just or unjust, will involve the widespread intentional killing of non-liable individuals. Hence, if any wars are to be justified, it cannot be because combatants have rendered themselves liable to defensive killing, as reductivists claim. The correct theory of the morality of war must appeal to other considerations than those contained within reductivism.<sup>10</sup>

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<sup>10</sup> It should be noted that the dust is yet to settle on this objection. One line of resistance attempts to deny the dilemma directly, by arguing there are in fact morally relevant asymmetries between combatants and non-combatants in terms of the factors that ground liability (McMahan 2009: Ch.5; McMahan 2011; Fabre 2009). For criticism, see Frowe (2014: Ch.6). A different response aims to show that revising the relevant conception of liability can enable reductivists to draw the desired distinction between combatants and non-combatants (Bazargan 2013). A more radical view accepts the existence of the dilemma, but denies that the correct resolution requires rejecting reductivism. On this view, the correct conclusion is simply that many non-combatants on the unjust side of a war are liable to defensive killing. The dilemma does not reveal that reductivism is false, but that the principle of non-combatant immunity is (Frowe, 2014: Chs. 6-8).

## 4. Non-Reductivist Alternatives

The two objections surveyed above, though motivated by different concerns, are united in denying that liability is a necessary condition for permissible intentional killing in war. Instead, the criticisms suggest an alternative, ‘non-reductivist’ view of the morality of war. Non-reductivism encompasses a spectrum of possible positions, but the unifying idea is that warfare differs from standard cases of interpersonal violence in some morally relevant respect, so that our conclusions about the permissibility of killing in the latter cases cannot be straightforwardly imported into the former. Michael Walzer captures the spirit of this view nicely in his pithy objection to McMahan’s reductivism: “What Jeff McMahan provides is a detailed account of how killing in war would be permissible if war were a peacetime activity.” (Walzer 2006b: 43)

While many are attracted to a non-reductivist view – indeed, it is fair to say that this has been the dominant position in the just war tradition<sup>11</sup> – the crucial task for non-reductivists is to identify a relevant differentiating feature of warfare that is both morally significant and supportive of a more permissive account of killing in war.

One prominent version of non-reductivism locates the relevant moral difference in war’s collective and political character. They point out that war does not simply involve otherwise-unconnected private individuals using force against one another, as in the simplified self-defence cases that reductivists often draw upon. Rather, war involves the use of force by groups or associations of individuals engaged in morally significant relationships with one another. War, on this view, is essentially an activity that people do together.<sup>12</sup> Reductivists, it is charged, are blinded to this important feature of war by focussing on individual self-defence. In this section I outline the two most developed versions of non-reductivism, defended by Christopher Kutz and Seth Lazar, respectively.

### 4.1 *The Collectivist View*

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<sup>11</sup> For support for this claim, see the references contained in Jonathan Parry, ‘Just War Theory, Legitimate Authority, and Irregular Belligerency’, *Philosophia* (forthcoming).

<sup>12</sup> For examples, see Fletcher (2002); Kutz (2005); Lazar (2012); Lazar (2013); Meisels (2012), Sparrow (2005); Zohar (1993).

The emphasis on collectives rather than individuals continues a tradition of thinking about war with origins in Rousseau's conception of political community and war. On Rousseau's view, a legitimate polity is constituted by an internal relation of its citizens' wills. When the polity acts, through the coordinated action of its citizens in accordance with the general will, this collective action has a normative personality over and above the sum of its component actions. War is a paradigmatic example of this form of action. It is this internal relation of wills which distinguishes war from merely private violence such as duels, riots, feuds and brigandry. War, properly understood, is an activity that individuals simply cannot perform, "War...is not a relationship between one man and another, but between one State and another." (Rousseau 2012: 169)

Christopher Kutz has developed a version of non-reductivism based on this collectivist understanding of war, which aims to defend a more orthodox conception of permissible conduct *in bello*, which grants a permission to kill to combatants who participate in both just and unjust wars (Kutz 2005). For Kutz, the norms governing conduct in war must reflect the fact that when soldiers confront each other on the battlefield they do so not merely as private individuals, but as citizen-representatives of their communities engaging in collective political action. On this view, the permission to kill in war is grounded in the collective and political character of the activity and not, as reductivists argue, in the liability of combatants *qua* individuals. Combatants in war possess what Kutz terms an "essentially political permission" to harm their opponents (Kutz 2005: 153).

This collectivist strategy allows Kutz to reassert the idea that the permission to kill in war can apply independently of the overall just of the war itself. Since combatants on both sides of a conflict fight on behalf of their political collective and this fact obtains independently of the justice of their cause, each possesses a permission to fight and kill in an unjust war, even though such actions would be "infamous crimes" if committed privately (Kutz 2005: 153). On this view, the conflict that reductivists identify between an orthodox view of just conduct in war and considerations of individual liability can be explained away as resting on an under-appreciation of the normative significance of collective political action.

It is worth pointing out that although Kutz's collectivism is primarily intended to provide a justification for one specific class of intentional killing in war not justified on the basis of liability – the killing of just combatants by unjust combatants – it also provides the resources for a defence of killing in war more generally. If, as Lazar claims, participation in both unjust *and* just wars involves the widespread intentional killing of non-liable combatants, the collectivist permission to kill can also be invoked to cover the latter class of cases as well.

Reductivists are, naturally, rather suspicious of this line of argument. For McMahan, it trades on “a form of moral alchemy” (McMahan 2007a: 53) For how can it be, he argues, that simply by forming a particular type of bond among themselves and together pursuing certain kinds of political goals, that members of a community can exempt themselves from the duties which would otherwise be imposed by the basic rights of non-members?

However, non-reductivists need not be committed to view as strong as this. The most plausible versions of non-reductivism will accept the reductivist insight that fighting in an unjust war involves violating the rights of one's opponents. Instead, they will seek to show that the collective character of warfare is sufficiently morally important to support a norm permitting the intentional killing of non-liable combatants *in spite* of the breach of duty that this involves. In fact, Kutz quite clearly indicates that his collectivist view is restricted in this manner, acknowledging that “the unjust combatant morally wrongs those who he kills.”(Kutz 2005: 173)

There are at least two ways in which a non-reductivist approach may be formulated so as to meet this adequacy condition. The first is by limiting it to offering a principled (rather than pragmatic or broadly consequentialist) defence of the legal norms governing conduct in war. In particular, the immunity from sanction that the law grants to combatants who kill in unjust wars. If the collectivist notion of a ‘political permission’ to kill is interpreted as justifying a special type of legal defence, grounded in the normative significance of collective political action, then the legal permission to kill in unjust wars can be shown to have deeper foundations than reductivists’ claim, without having to claim that the existence of special relationships among group members can render permissible otherwise wrongful conduct.

One way of making this argument, which Kutz suggests in several passages, is to understand the normative significance of collective political action as taking place at the level of how acts committed as part of a collective political activity are attributable to specific individual agents for the purposes of determining their liability to blame and sanction. The thought is that agents who inflict wrongs as participants in a collective political project, as opposed to private wrongdoers, bear a different normative relationship to those acts, in such a way that renders the usual attribution of responsibility for specific wrongs to particular agents inappropriate (Kutz 2005: 179). In these cases, the wrongs may be attributable to the collective as a whole, and perhaps derivatively to its members *qua* members, but not to individual combatants *qua* private individuals.<sup>13</sup> On this view, the fact that agents do wrong as part of a collective political activity provides an important exculpatory consideration, justifying the legal practice of not criminalising the killing of non-labile combatants in war.

#### *4.2 The Associative Duty View*

A non-reductive view may also be refined in a second direction, which aims to preserve the stronger claim that the collective nature of warfare is able to render it morally permissible for combatants to intentionally kill their non-labile opponents. This view accepts that such killing involves a serious injustice, but denies that this is sufficient to render it impermissible. On one way of arguing for this position, the duty not to intentionally kill the non-labile, while certainly stringent, may be overridden by weightier moral considerations, rendering the rights transgression all-things-considered justified.

In a recent article, Lazar argues that certain features of collectives can generate these weighty reasons (Lazar 2013). More specifically, such reasons arise from the value of a range of significant relationships that combatants share with many of their fellow group members, such as those that obtain between family members, loved ones, friends, colleagues, comrades-in-arms and co-citizens. Lazar emphasises that participants in these relationships incur extremely stringent moral duties to protect their associates from harm.

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<sup>13</sup> On this point, see Lichtenberg (2008).

Crucially, for Lazar, these associative duties to protect may be weightier than the negative duty not to harm the non-liable, such that when these duties come into conflict, harming the non-liable may be justified as the lesser breach of duty. Lazar's argument for this conclusion is sophisticated and lengthy, but the underlying thought appeals to our intuitions about cases in which the duty to protect appears to trump the duty not to kill the non-liable.<sup>14</sup> For example, in a scenario in which a parent is able to divert a falling boulder that will otherwise crush her child onto a non-liable bystander, many find it intuitive that the parent would be justified in doing so, in virtue of their special relationship with their child. Extrapolating from such cases, Lazar argues that killing non-liable combatants in war can be justified on the same basis, since such killing may be necessary to protect one's associates from serious harm. As he puts it,

sometimes we can protect our associates only if we fight and kill. We have duties to protect our associates, grounded in the value of these special relationships. Our armed forces are the executors of those duties. When they fight, those duties may clash with the rights that they must violate to win the war. In some cases, the associative duty to protect can override those rights, thus rendering some acts of killing all things considered justified. (Lazar 2013: 9)

The associative-duty view is primarily intended to provide an account of how intentional killing in just wars can be morally permissible, since, for Lazar, it cannot be justified in terms of liability. However, as Lazar recognises, it also makes possible a qualified defence of the permissibility of participating in unjust wars, since fighting and killing may be necessary to protect one's associates independently of whether one's war is overall justified (Lazar 2013: 45-46).

The two versions of non-reductivism outlined above can be contrasted in terms of the precise challenge that each poses to reductivism. The collectivist view can be understood as denying the Continuity Thesis. On this view, war, as a manifestation of collective political agency, is morally *sui generis*. It is simply a mistake to treat warfare as an aggregation of interactions between individuals. The associative-duty view, on the other hand, is compatible with the Continuity Thesis, since duties to one's associates are a regular feature of ordinary interpersonal morality. Instead, it denies the reductivist Content Thesis, and

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<sup>14</sup> Lazar supports his view with an argument from transitivity (Lazar 2013: 19-30)

holds that interpersonal morality includes an additional and underappreciated class of justification for intentional killing, grounded in the stringency of these duties.

#### **4. The War Crimes Objection**

In what follows, I argue that non-reductivism should be rejected. By its own lights and granting its major assumptions about the moral significance of collectives or associative relationships, a non-reductive approach fails to provide an acceptable account of permissible conduct in war. In particular, it cannot provide a convincing account of the fundamental idea that certain classes of person are morally immune from attack in war. The objection is intended to apply, *mutatis mutandis*, to each of the variants of non-reductivism canvassed above.

As we have seen, the debate between reductivists and their opponents centres on the justification of intentionally killing combatants in war. However, of course, the norms of conduct in war are far from exhausted by permissions to kill. The majority of these rules are prohibitive in character, most notably the requirement of discrimination, which prohibits attacks on certain classes of person in war. To paraphrase Michael Walzer, the hard part in thinking ethically about war is not to explain why certain people cannot be deliberately killed. Rather, it is to explain how anyone can be (Walzer 2006: 41).

Despite the consensus that attacks on certain persons are prohibited in war, there is considerable debate among just war theorists as to precisely which persons qualify. While virtually all accounts of discrimination start from the truism that clearly innocent people ought not to be deliberately targeted, there is dispute as to how the notion of innocence is to be understood and, most importantly, how it can be lost. Disagreements about these two issues yield significant differences in terms of how the distinction between legitimate and illegitimate targets is drawn. But in cases where innocence is clear and uncontroversial, such as young children, there is broad agreement that targeting these individuals is prohibited (or at least subject to an extremely weighty constraint), and that the reason for this is that these individuals have done

nothing to lose their normal right against being attacked. Disputes arise from competing conceptions of innocence and liability, not from disagreement about the significance of these concepts for determining prohibitions on targeting.

We may term this straightforward approach to discrimination a *target-centred* account: It explains why attacks on certain persons are prohibited or permitted by reference to certain facts about those persons. This account also underpins a commonsense understanding of why certain acts in war, such as the deliberate killing of non-combatants, are appropriately criminalised as war crimes. The offence of the war crime is grounded in the grave rights violation suffered by the victim.

However, this straightforward and highly intuitive explanation of the restrictions on intentional killing in war is not available to non-reductivists. On the non-reductivist views considered earlier, the permissibility (or non-criminality) of a certain kind of killing in war – the killing of combatants by other combatants – is grounded not in the non-innocence or liability of the combatants who are harmed, but in certain facts about the combatants who inflict the harms. On Kutz's view, it is the fact that combatants act as agents of their collectives which explains their permission to kill opposing combatants. For Lazar, it is combatants' associative duties which do the normative heavy-lifting.

Since it is this fact about those who *inflict* harm in war, rather than facts about those who *suffer* harm, which determine whether such harming is permissible, we may characterise non-reductivists as offering an *agent-centred* account of permissible killing in war. On this view, the question of the liability of the target of harm does not play the same decisive role in determining whether inflicting that harm is permissible that it does on the standard, target-centred account.<sup>15</sup>

As explained above, the attractiveness of an agent-centred view is clear. It makes possible a defence of the permissibility of killing in war without having to argue that such action can be permitted on the basis of target-centred, liability-based justifications. However, the major difficulty facing an agent-centred view is that if it succeeds in supporting the permission kill non-liaible combatants, it

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<sup>15</sup> I borrow the terms 'target-centred' and 'agent-centred' from McMahan (1994: 268), who employs them to distinguish different conceptions of the justification of self-defence.

seems unable to account for the idea that there are restrictions on who may be targeted in war.<sup>16</sup> For if the permission enjoyed by combatants to kill their opponents, who (by hypothesis) have done nothing to lose their normal right not to be killed, rests on certain facts about the combatants carrying out the killing, then there seems no reason why targeting and killing other non-labile persons in war, such as non-combatants, is not also rendered permissible in virtue of the very same facts. To demonstrate, consider the following pair of examples:

***Siege 1:*** Nation A, a fully-functioning political community, wages an unjust war against Nation B with the aim of annexing an area of Nation B's territory. Nation B militarily opposes the invasion and a conventional war ensues, endangering the lives of combatants and non-combatants on both sides. At a pivotal stage in the war Nation A has one of Nation B's strategically vital cities surrounded. In order to win the war it is vital that the city be taken. Nation A's combatants can only do so by bombarding the city's armed defenders, killing 10,000 of Nation B's combatants.

***Siege 2:*** The circumstances are exactly the same as *Siege 1*, except that Nation A does not have the option of attacking the city's armed defenders. Instead, Nation A's combatants can only take the city by bombarding its residential areas, intentionally killing 3,000 of Nation B's non-combatants.

According to both the law of war and orthodox just war theory, combatants who engage in *Siege 1* would not act impermissibly nor be legitimately punished for doing so, since their actions respect the principle of discrimination as standardly interpreted. Combatants who engage in *Siege 2*, by contrast, would be judged to act impermissibly. They clearly violate any plausible requirement of discrimination and may appropriately be held liable to prosecution for war crimes. I take it as uncontroversial that any adequate theory of the ethics of war must judge participation in *Siege 2* to be straightforwardly impermissible.

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<sup>16</sup> McMahan briefly raises the possibility of an objection of this sort, but does not pursue it at any length (McMahan 2007b: 313). He also suggests an analogous line of objection to agent-centred accounts of self-defence (McMahan 1994: 270-271).

The problem non-reductivists face is that by explaining why participation in cases like *Siege 1* can be permissible in terms of facts about the combatants who participate, they seem unable to account for the impermissibility of participation in cases like *Siege 2*. All the relevant agent-centred facts that non-reductivists may cite as grounding the permission to intentionally kill non-liable individuals in *Siege 1* also obtain in *Siege 2*. In each case, Nation A's combatants will be acting as participants in a collective political project, and in each case participation is a necessary means for Nation A's combatants to discharge their associative duties to protect. Nothing in these agent-centred considerations provides a means for morally distinguishing between targeting non-liable combatants and non-liable non-combatants. If these considerations are capable of making participation in *Siege 1* permissible, they should do the same in the case of *Siege 2*. In fact, participating in *Siege 2* should be morally *preferable*, since it involves significantly less killing of non-liable persons than *Siege 1*.

So, while often invoked in defence of certain central intuitions about just conduct in war, a non-reductivist approach in fact seems to have deeply revisionary implications of its own that warrant rejecting the view. If successful in providing a defence of the permission to kill combatants in war, the view lacks the resources to explain the most intuitive restrictions on killing. Term this the 'war-crimes objection' to non-reductivism. The problem flows from the fact that prohibitions on targeting are most easily and naturally explained in terms of the non-liability of the target of harm. Yet non-reductivists are committed to denying this idea. The objection is particularly troublesome for non-reductivists such as Lazar, who reject reductivism on the ground that it cannot justify warfare without also jettisoning the idea of non-combatant immunity.

## **5. Alternative Groundings for Constraints on Targeting**

What the war-crimes objection highlights is that the acceptability of a non-reductivist approach rests not only on whether it can provide an account of the permission to kill in war, but also, more importantly, on whether it can provide a similarly non-reductive account of the most intuitive *in bello* restrictions. To avoid the objection, a plausible distinction between legitimate and illegitimate

targeting in war needs to be drawn on the basis of facts that non-reductivists can accept as decisive for determining the permissibility of intentional killing. This requires a revisionary account of the basis of the prohibition on targeting non-combatants, which appeals to considerations other than non-liability.

To be successful, such an account must meet two requirements. Firstly, it must identify some additional consideration – either target-centred or agent-centred – that grounds a genuine moral constraint on harming. Secondly, it must then be able to draw the desired distinction between legitimate and illegitimate targets on the basis of this consideration. This section considers several possible responses of this type and argues they fail to provide a successful account of the prohibition on targeting non-liable non-combatants.

### *5.1 Appealing to additional agent-centred facts I: Role-based obligations*

One plausible agent-centred candidate for grounding the prohibition appeals to a professional role-based obligation on the part of combatants to refrain from targeting non-combatants.<sup>17</sup> Members of many professions are considered subject to stringent constraints on their behaviour as a result of taking up their role. The military profession may be considered a paradigmatic source of such obligations. Coupled with the assumption that a prohibition on targeting non-combatants is a central role-based obligation for military professionals, a response to the war crimes objection becomes available. The non-reductivist permission to target non-liable combatants does not also extend to targeting non-liable non-combatants, because it is constrained by soldiers' stringent professional obligations to refrain from the latter but not the former.

However, this response is susceptible to a pair of related objections. The first is that it makes the prohibition on targeting non-combatants contingent on whether the military organisation in question actually endorses a professional code that prohibits such action. For example, imagine a society that endorses an alternative (but not wildly implausible) professional military ethic that does not include a strict prohibition on targeting non-combatants. Instead, it endorses a professional code which requires that targeting decisions be made so as to

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<sup>17</sup> Thanks to Jeff McMahan for suggesting this line of response.

minimise the overall number of non-liaible people who are harmed. The role-based response to the war crimes objection seems committed to accepting that members of such a military organisation would not possess an additional obligation to refrain from targeting non-liaible non-combatants. More strongly, in a choice between participating in *Siege 1* or *Siege 2*, they would be required to choose the latter. But this is deeply unpalatable. Few, I take it, would want to defend the view that it is impermissible for soldiers to target non-liaible non-combatants because they just happen to be members of an organisation whose conventions forbid it.<sup>18</sup>

If this implication is to be avoided, the role-based obligation to refrain from attacks on non-combatants needs to be grounded in some relevant moral constraint that is not itself conventional. However, while this move may help alleviate the charge of contingency, it does so at the cost of a second objection, which is that the appeal to role obligations becomes redundant. For now, on this revised view, the actual source of the obligation not to target non-combatants lies in a moral constraint that is external to the professional role. The role itself no longer does any independent moral work.<sup>19</sup> The deeper problem highlighted by this redundancy arises when we consider what external considerations could be capable of explaining the prohibition on participation in cases like *Siege 2*. One candidate seems obvious: The target-centred fact that the non-combatants are not liaible to attack. But, as explained above, non-reductivists are excluded from this intuitive explanation. The role-based response to the war crimes objection is then, at best, unsatisfactorily contingent, or, at worst, no response at all.

## 5.2 *Appealing to additional agent-centred facts II: The avoidance of cowardice*

Lazar suggests an alternative agent-centred constraint on targeting non-combatants, which is not susceptible to the charge of contingency. On this view, the prohibition on targeting non-liaible non-combatants lies in the fact that such action manifests the vice of cowardice, whereas the targeting of non-liaible

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<sup>18</sup> A related contingency problem for proposal is that it does not seem to apply to belligerent parties who are not a professional military, such as a disorganised militia or *levee en masse*.

<sup>19</sup> On this point more generally, see Simmons (1996).

combatants does not. It is the avoidance of this vice which imposes the additional moral constraint required to avoid the war-crimes objection (Lazar 2013: 39).

There are, however, three problems with this response. The first is that it seems to get the order of explanation backwards. It seems much more natural to say that actions are cowardly because they are wrong, rather than wrong because cowardly. To accuse someone of cowardice is to claim that they failed to respond appropriately to morally relevant features of their situation. It is not to claim that they had an *additional* moral reason – avoiding cowardice – that they failed to act on. So, rather than simply claiming that targeting non-combatants is cowardly, the response needs to give us an account of the features of targeting non-combatants that make them both cowardly *and* wrong. I consider an obvious candidate in Section 5.5 below.

A second problem for the argument-from-cowardice lies in the *inwardness* of the moral constraint to which it appeals. On this view, combatants ought not to target non-combatants because of the effect that this would have on the combatants themselves. They would be cowards if they did so. But the fact that acting in a certain way would be bad *for the agent* does not usually impose an obligation on that agent to refrain from acting. Common-sense morality permits agents to make self-sacrifices in pursuing their aims, provided those aims are not morally prohibited on independent grounds. So, even if targeting non-combatants is cowardly and combatants incur a moral cost by doing so, this should not morally prohibit the agent from acting.

Thirdly, if we grant that the avoidance of cowardice provides a weighty reason for action (weighty enough to justify the killing of an additional 7,000 non-labile persons!), then we get some very counter-intuitive results in other cases. For example, the argument implies if a group of combatants have a choice between attacking a small number of enemy combatants who they greatly outnumber, or attacking a much greater number of combatants in order to achieve the same military goal, they have a very strong cowardice-based reason to attack the larger number, despite the fact that many more combatants will be killed as a result of doing so. This seems highly implausible.<sup>20</sup>

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<sup>20</sup> Thanks to Daniel Viehoff for this example.

### 5.3 Appealing to additional target-centred facts I: Modes of agency

Appeals to additional agent-centred considerations have proved insufficient to ground the required prohibition on targeting non-combatants. A more promising approach aims to ground the prohibition in the effect that such harming has on its *targets*, over and above the basic rights transgression suffered.

One response of this type appeals to the moral distinction between acts of intentional harming that are *manipulative* (that involve using their victim as a means) and those that are *eliminative* (that merely remove a threat that their victim poses or contributes to). Many believe that acts of manipulative harming are subject to a higher justificatory burden than acts of eliminative harming, since they involve a more objectionable *mode of agency*. Other things being equal, one suffers a graver wrong if one is unjustly harmed manipulatively rather than eliminatively.<sup>21</sup>

If we grant that the distinction between eliminative and manipulative harm has moral significance, a response to the war crimes objection becomes available. One may argue that the agent-centred facts that ground the non-reductive permission are sufficiently important to permit eliminatively killing non-labile persons, but not manipulatively.<sup>22</sup> Combined with the descriptive claim that targeting non-combatants in war functions manipulatively, whereas killing combatants is merely eliminative, one can non-arbitrarily restrict the scope of the non-reductive permission to the killing of combatants (Lazar 2013: 39).

However, there are two problems with this response, which have been recognised by non-reductivists (Lazar 2013: 39). The first is that targeting civilians will often function eliminatively. For example, imagine that the civilian areas to be targeted in *Siege 2* are populated by industrial workers, or even just tax-payers. Killing these non-combatants would contribute to Nation A's victory by eliminating the contributions that they make to the threat posed by the enemy state, in broadly the same way that killing enemy combatants would do so. Such cases show that the putative constraint imposed by the

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<sup>21</sup> For detailed discussion, see Tadros (2011: Ch.6).

<sup>22</sup> Jonathan Quong employs an analogous argument in order to constrain his agent-centred account of permissible self-defensive killing (Quong 2009).

eliminative/manipulative distinction would not rule out targeting non-combatants.<sup>23</sup>

Secondly, and conversely, targeting combatants may often function manipulatively. The deaths of combatants may be intended to shock and coerce their side's political leaders or civilian population into ending the war, or to persuade military commanders to surrender or adopt an alternative strategy more amenable to the opposing party. Hence, the proposed constraint will often prohibit the targeting of combatants.

#### *5.4 Appealing to additional target-centred facts II: Risk*

A different target-centred approach aims to locate a response to the war-crimes objection in the moral significance of the uncertainty and moral risk that accompanies killing in war (Lazar 2013: 39).

On this view, intentionally killing a non-liable person is certainly a grave moral wrong, but the wrong is greater the higher the *ex ante* probability that that individual targeted is non-liable. Other things being equal, killing an individual when one is certain that they are not liable constitutes a more serious disrespect for their moral status than killing an individual when one is unsure of their non-liability.

Conjoining this idea with the descriptive claim that non-combatants are much more likely to be non-liable than combatants generates a possible means of generating the prohibition on targeting non-combatants in war. It may be argued that the agent-centred facts that give rise to the non-reductive permission are sufficiently morally weighty to permit the killing of non-liable combatants (because the probability that such targets are non-liable falls below some threshold), but not weighty enough to render the targeting of non-liable non-combatants permissible (because the probability of these targets being non-liable exceeds that threshold).

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<sup>23</sup> This is a particular problem for non-reductivists such as Lazar, who argue that reductivism renders too many non-combatants liable because non-combatants contribute to threats to the same degree as many combatants. If this is true, the intentional killing of many non-liable non-combatants will function eliminatively, by preventing them from contributing to threats. If this is false, then reductivists may not face the dilemma that Lazar claims that they do.

However, even granting the normative claim, this response does not seem to provide the desired result in the *Siege* cases, in two respects. Firstly, the descriptive claim that combatants “are undoubtedly more likely to be liable than non-combatants” (Lazar 2013: 39) is not true when the combatants in question are participating in a war that is justified. In the *Siege* cases neither Nation B’s combatants nor non-combatants have done anything to render themselves liable to harm. Hence, considerations of moral risk will not favour the targeting of one of these sub-populations over the other.

Secondly, when numbers are taken in consideration, the argument-from-risk may not in fact weigh against the targeting of non-combatants. To demonstrate, consider a variation on the *Siege* cases, in which we grant that Nation B’s combatants are more likely to be liable than Nation B’s non-combatants (assume Nation B is also now the aggressor). Let’s also assume, generously, that if Nation A’s combatants participate in *Siege 1*, every act of intentional killing runs a 0.3 chance of killing a non-liable person, whereas if they participate in *Siege 2* every act of killing runs a 0.95 chance of killing a non-liable person.<sup>24</sup> The argument-from-risk aims to show that these facts can explain why the non-reductive permission does not permit participation in *Siege 2* while permitting participation in *Siege 1*, on the grounds that each act of killing in *Siege 2* is more morally objectionable than each act of killing in *Siege 1*. However, this ignores the important fact that *Siege 1* involves more acts of killing than *Siege 2*. Taking this into consideration, it is true of each of Nation A’s combatants that they will be taking part in the killing of 3,000 people who are near-certainly non-liable if they participate in Option 1 ( $10,000 \times 0.3$ ), whereas they will be taking part in the killing of 2,850 people who are near-certainly non-liable if they participate in Option 2 ( $3000 \times 0.95$ ). Once we take numbers into consideration, the moral risk proposal does not seem to provide much protection for non-combatants.

### *5.5 Appealing to additional target-centred facts III: Vulnerability*

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<sup>24</sup> The assumptions are generous in two respects: (i) There is a large difference in liability probabilities between the groups, while (ii) keeping the proportion of combatants who are non-liable sufficiently high to support Lazar’s objections to reductivism.

One further proposal, endorsed by several authors, appeals to the fact that non-combatants in war are especially defenceless or vulnerable to harm as grounding the prohibition on targeting them.<sup>25</sup> The basic idea is that there is something significantly and independently morally objectionable about harming a person who is vulnerable, which gives rise to a general humanitarian duty to refrain from doing so.

If defensible, this may provide a means of avoiding the war crimes objection. Non-reductivists may argue that while the relevant agent-centred considerations can override the duty not to intentionally kill the non-labile, they are insufficient to override this duty *and* the duty not to harm the vulnerable *in combination*. This limits the range of actions that a non-reductive view permits in war. Since, by hypothesis, non-combatants typically exhibit the duty-generating property of vulnerability in wartime whereas combatants generally do not, only attacks on non-labile combatants are rendered permissible on the basis of non-reductivist considerations, whereas attacks on non-labile non-combatants are not.<sup>26</sup>

This response can be challenged on two fronts. Firstly, we can question whether the property of vulnerability really does generate an additional and significant constraint on harming. Consider the following example:

**Bandits:** A gang of bandits plan to steal the possessions of a group of innocent villagers, thereby reducing the villagers to poverty. The bandits can achieve their aim in one of two ways. The first involves lethally targeting 10 villagers at random. This option gives the victims a 10% chance of survival, since the villagers may be able to hide from their attackers. The second involves providing the villagers with 10 slingshots and then lethally targeting the 10 villagers who opt to arm themselves. Again, this option gives the victims a 10% chance of

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<sup>25</sup> For versions of this view, see Lazar (2013: 40-41); May (2007: 67-117); Meisels (2012); Shue (1978).

<sup>26</sup> As mentioned above, the appeal to vulnerability may help substantiate the argument-from-cowardice discussed above. The thought being that the constraint on acts of killing that manifest cowardice is explained in terms of the constraint on attacking the vulnerable. Vulnerability may also provide a way of rehabilitating the Walzerian thought that the permission to target combatants is grounded in the fact that combatants pose threats, since presumably the ability to pose a threat negates an individual's vulnerability, even if does not vitiate their right not be killed.

survival, since the villagers may be lucky enough to avoid being killed by slinging gravel into their assailants' eyes.

If it were true that attacks on individuals who are both vulnerable and non-labile are significantly morally worse than attacks on individuals who exhibit only the property of non-liability, we would expect to judge that the bandits act much more objectionably if they kill 10 villagers via the first option rather than the second. But this isn't the case. Both options are intuitively morally on a par. This result gives reason to doubt that the property of vulnerability has the moral significance required to constrain the non-reductive permission to kill in war and thereby provide a response to the war crimes objection.

Of course, perhaps one does not share this intuition. However, even if we grant that vulnerability has independent moral significance, it remains unlikely that it is sufficiently weighty to enable a defence of non-reductivism. To demonstrate this, consider the following variations on the *Bandits* example:

***Bandits 2:*** Exactly the same as *Bandits*, except that the first option (where the villagers hide) gives the villagers a 20% chance of survival.

***Bandits 3:*** Exactly the same as *Bandits*, except that the second option (where the villagers defend themselves with slingshots) involves killing one additional villager.

In these variations it seems uncontroversial that the bandits would act more wrongfully, all-things-considered, if they opt for the second option rather than the first. If they are going to do one of the two, they ought to choose the first. Similarly, if a third-party could affect which option the bandits take, they would have strong moral reason to cause them to take the first option over the second.

This result suggests that whatever moral significance vulnerability may have, it can be overridden by relatively small variations in other morally relevant factors. Given this, it is hard to see how appealing to an independent constraint on harming the vulnerable can provide an alternative basis for the standard

prohibition on targeting non-combatants in war, since this prohibition is meant to be extremely stringent.

A second type of challenge may be raised over whether the properties of vulnerability and non-vulnerability, even if sufficiently morally significant, successfully track the desired distinction between non-combatants and combatants. The concept of vulnerability obviously requires much greater elaboration, but it seems natural to understand the core idea as grounded in an individual's inability or powerlessness to avoid threats of harm. There are at least two ways in which an individual may suffer from this inability. Most obviously, an individual may lack means of defence against a threat. Alternatively, an individual may lack an ability to remove themselves from a threat of harm, by fleeing for example. The intuition driving the distinction between combatants and non-combatants in terms of vulnerability rests on the seemingly plausible assumption that non-combatants are relevantly vulnerable to a far greater extent than combatants. This assumption explains why the humanitarian duty not to harm the vulnerable prohibits only attacks on the former and not the latter, thus providing a response to the war crimes objection.

However, it is not obvious that this is the case. Attacks on many combatants seem to constitute breaches of a humanitarian duty not to harm the vulnerable (if such a duty exists). Understanding vulnerability in terms of an inability to offer defence against harm, it seems clearly true that combatants are often completely unable to defend themselves from attack in war. In particular, consider the means by which modern wars are fought, at long range and with overwhelming force. The typical combatant harmed in war does not 'go down fighting'. Rather they are struck down by an unseen enemy whom they had no real chance of defending themselves against. Consider, once more, the *Siege* cases. Imagine, plausibly, that each strategy involves shelling the enemy from distance. Does it really seem plausible to maintain that those targeted in *Siege 1* are not relevantly vulnerable, whereas those who would be targeted by the same methods in *Siege 2* are? Whether an individual is rendered vulnerable due to an inability to resist being harmed seems to depend less on whether they fulfil the role of combatant or non-combatant and more on the manner in which force is used against them. The necessary assumption that attacks on combatants rarely

constitute a breach of a duty not to harm the vulnerable seems to trade on an implausibly romanticised view of in war in which opponents give their enemies 'a fighting chance'.

Drawing the desired distinction is also problematic if we understand vulnerability in terms of an individual's inability to remove themselves from a threat of harm. This is because in many cases non-combatants will be better able to remove themselves from threats than combatants are. Whereas non-combatants may have the opportunity to flee the fighting, this option is less available to combatants who will often face serious, perhaps lethal, sanction for fleeing the threats they face in battle. The point here is not that non-combatants and refugees are not vulnerable, but that if they are (and surely they are) then many combatants will also be vulnerable to an equivalent or greater extent, since non-combatants often possess a degree of control over their fates which combatants lack.

The preceding observations are designed to show that even if we grant the existence of an independent duty not to harm the vulnerable, it is unlikely that appealing to this duty will assist non-reductivists in arguing, *contra* the war-crimes objection, that their view can support both the permissive and restrictive components of the traditional *in bello* principle of discrimination. If this duty is able to constrain a non-reductive view from permitting attacks on non-combatants, it will also often prevent the view from permitting the targeting of combatants.

To conclude, it is worth emphasising a general point that is present in some of the specific objections I have put forward in this section. This is that even if, *contra* my arguments, one accepts that the considerations canvassed above provide genuine moral reasons in favour of targeting non-labile combatants over non-labile non-combatants, this is not sufficient to show that non-reductivism can be made safe from the war crimes objection. In order to do so, it must not only be shown that these considerations generate reasons, but also that these reasons are sufficiently weighty to prohibit the targeting of non-labile non-combatants even when other considerations – the numbers of innocent lives at stake most obviously – weigh in favour of doing so. Satisfying this second requirement is no less a challenge that satisfying the first.

## 6. Conclusion

I have argued that non-reductivism should be rejected on the ground that it cannot support the most intuitive and uncontroversial restrictions on intentional killing in war. These are most naturally explained in terms of the target-centred fact of non-liability, yet non-reductivists are committed to the view that this is not generally sufficient to render targeting impermissible.

Of course, the argument offered here provides only negative support for a reductivist approach, by eliminating its main rival. Nothing said here shows that reductivism provides an independently acceptable account of just conduct in war. But if I am correct that non-reductivism is not a viable alternative, the failure of reductivism would be an important point in favour of pacifism.

### References

- Bazargan, S. (2013). Complicitous Liability in War. *Philosophical Studies*, 165, 177-195.
- Fabre, C. (2009) Guns, Food and Liability to Attack in War. *Ethics*, 120(1), 36-63.
- Fabre, C. (2012) *Cosmopolitan War*. Oxford: Oxford University Press.
- Ferzan, K. (2005). Justifying Self-Defense. *Law and Philosophy*, 24(6), 711-749.
- Fletcher, G.P. (2002). *Romantics at War: Glory and Guilt in the Age of Terrorism*. Princeton: Princeton University Press.
- Frowe, H. (2014). *Defensive Killing: An Essay on War and Self-Defence*. Oxford: Oxford University Press.
- Glover, J. (1977). *Causing Death and Saving Lives*. London: Penguin.
- Kutz, C. (2005). The Difference Uniforms Make: Collective Violence in Criminal Law and War. *Philosophy and Public Affairs*, 33(2), 148-180.
- Lazar, S. (2010). The Responsibility Dilemma for Killing in War: A Review Essay. *Philosophy and Public Affairs*, 38(2), 180-213.
- Lazar, S. (2012). Necessity in Self-Defense and War. *Philosophy and Public Affairs*, 40(1), 3-44.

Lazar, S. (2013). Associative Duties and the Ethics of Killing in War. *Journal of Practical Ethics*, 1(1), 6-51.

Lazar, S. (2014). National Defence, Self-Defence, and the Problem of Political Aggression. In C. Fabre and S. Lazar (Eds.), *The Morality of Defensive War* (pp. 11-37). Oxford: Oxford University Press.

Lichtenberg, J. (2008). How to Judge Soldiers Whose Cause is Unjust. In D. Rodin and H. Shue (Eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (pp. 112-129). Oxford: Oxford University Press.

May, L. (2007). *War Crimes and Just War*. Cambridge: Cambridge University Press.

McMahan, J. (1994). Self-Defense and the Problem of the Innocent Attacker'. *Ethics*, 104(2), 252-290.

McMahan, J. (2005). The Basis of Moral Liability to Defensive Killing. *Philosophical Issues*, 15, 386-405.

McMahan, J. (2007a). Collectivist Defences of the Moral Equality of Combatants. *Journal of Military Ethics*, 6(1), 50-59.

McMahan, J. (2007b). Précis of *The Morality and Law of War*. *Israel Law Review*, 40(3), 310-323.

McMahan, J. *The Morality of War and the Law of War*. In D. Rodin and H. Shue (Eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (pp. 19-43). Oxford: Oxford University Press.

McMahan, J. (2009) *Killing in War*. Oxford: Oxford University Press.

McMahan, J. (2011). Who is Morally Liable to be Killed in War? *Analysis*, 71(3) 544-579.

Meisels, T. (2012). In Defence of the Defenceless: The Morality of the Laws of War. *Political Studies*, 60(4), 919-935.

Quong, J. (2009). Killing in Self-Defense. *Ethics*, 119(2), 334-351.

Quong, J. Liability to Defensive Harm. *Philosophy and Public Affairs*, 40(1), 45-77.

Rodin, D. and Shue, H. (Eds.). (2008). *Just and Unjust Warriors: The Moral and Legal Status of Soldiers*. Oxford: Oxford University Press.

Rousseau, J.J. (2012). *The Social Contract*. In J.T. Scott (Trans.), *The Major Political Writings of Jean-Jacques Rousseau: The Two Discourses & The Social Contract*. Chicago: Chicago University Press.

Shue, H. (1978). Torture. *Philosophy and Public Affairs*, 7(2), 124-143.

Simmons, A.J. (1996). External Justifications and Institutional Roles. *Journal of Philosophy*, 93(1), 28-36.

Sparrow, R. (2005). Hands Up Who Wants to Die: Primoratz on Responsibility and Civilian Immunity in War. *Ethical Theory and Moral Practice* 8(3), 299-319.

Steinhoff, U. (2008). Jeff McMahan on the Moral Equality of Combatants. *Journal of Political Philosophy* 16(2), 220-226.

Tadros, V. (2011). *The Ends of Harm: The Moral Foundations of Criminal Law*. Oxford: Oxford University Press.

Tadros, V. (2012). Duty and Liability. *Utilitas*, 24(2), 259-277.

Thomson, J.J. (1991). Self-Defense. *Philosophy and Public Affairs*, 20(4), 287-312.

Walzer, M. (2006a). *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. 4<sup>th</sup> Edition. New York: Basic Books.

Walzer, M. (2006b). Response to McMahan's Paper. *Philosophia*, 34(1), 43-45.

Zohar, N. (1993). Collective War and Individualist Ethics: Against the Constriction of Self-Defense. *Political Theory*, 21(4), 606-622.