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‘Reductive Individualism and the Just War Framework’

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1. Introduction

Over the past decade or so, work in just war theory has largely divided into two theoretical camps. The first camp, which I will call *exceptionalism*, adheres to the historically dominant view that there are at least some respects in which war is morally distinctive. On this account, there can be justifications for harming in war that would not obtain outside of war.

Often, this exceptionalism is coupled with a form of collectivism. This collectivism holds that groups can be the object of moral evaluation and prescription in their own right, such that the fact that an action is undertaken on behalf of a certain sort of group – typically, but not necessarily, a state – can make a difference to that action’s moral status.¹

The second theoretical camp, *reductive individualism*, rejects both of these claims. Reductive individualism comprises two strands. The reductivist strand holds that the moral principles that justify harming in war are wholly reducible to the moral principles that govern harming in ordinary life – for example, the principles of self-defence and other-defence. There are no moral principles or justifications unique to war – no exceptions of the sort described above. Of course, there are often factual differences between war and ordinary life. War is usually very complicated, making it harder to ascertain certain facts that might be relevant to the morality of harming. War also involves harming on a great scale through coordinated activities involving institutions of various sorts, which is not typically true of harming in ordinary life. But, according to the reductivist, the underlying moral principles do not change as we move from peace to war (nor as we move through the sometimes rather indeterminate phase between the two).

¹ See, for example, Lazar, Kutz and Zohar

The individualist strand of this view claims that the proper objects of moral evaluation and prescription are individuals. On this view, the fact that an action is undertaken on behalf of a certain sort of group does not affect its moral status. And, individualists believe that all morally relevant values are reducible to their value for individuals.

Together, these claims constitute a radically revisionist view of the ethics of war (which, for brevity's sake, I'll refer to as reductivism), according to which war is to be evaluated in terms of the moral rights and duties of individuals. I favour the reductivist approach, but my aim here is not to offer a general defence of this view.² Rather, I want to explore some broad theoretical implications of the reductivist view that seem to me to have been largely overlooked by reductivists themselves.

2. The traditional just war framework

The central claim of this paper is that we should wholly reject the distinction between *jus ad bellum* and *jus in bello*. These categories form part of a familiar framework for discussing the ethics of war. But for the *ad bellum* / *in bello* distinction to be useful, these categories must differ from each other in at least one of the following ways: they either evaluate different facts (they are different in *object*), or contain different moral principles (they are different in *content*). The standard view, of course, is that the two categories are distinct in both these respects. *Jus ad bellum* is usually said to govern the resort to war, or the war 'as a whole'. A standard account of *jus ad bellum* holds that in order to be *ad bellum* just, a war must have a just cause, be a last resort for securing that just cause, be proportionate to that just cause, and have a reasonable prospect of success by legitimate means.³ Some accounts (including some

² But see Frowe (2014); McMahan (2009); Fabre (2013). For criticism of reductivism, see Lazar (this volume), Shue, Rodin

³ Some writers argue that there is no success condition attached to individual self-defence (see, e.g. Uniacke 2014). But, as I have argued elsewhere, this is a mistake. The success condition applies in cases of self-defence that risk harm to innocent bystanders. However, I think that when it comes to liable attackers, defence can be permissible even if there is only a slim prospect of success. Since individual self-defence is usually aimed at

reductivist accounts) also include conditions of legitimate authority and right intention, but these are controversial so I'll set them aside here.⁴ *Jus in bello*, in contrast, is usually said to govern specific offensives within war – that is, to judge the actions of combatants. The standard account of the content of *jus in bello* is a requirement to discriminate between legitimate and illegitimate targets, and to cause only harm that is necessary for securing, and proportionate to, a military advantage.

3. Content

Let's begin with the putative difference in content of *jus ad bellum* and *jus in bello*. Reductivism is usually characterized (as I characterized it above) as the view that the moral principles governing harming in war are the same as the moral principles governing harming in ordinary life. But of course this is simply one application of reductivism's more general claim that there is a single set of principles that determines the justness of using force. These principles are invariant across all contexts – self-defence, policing, measures-short-of-war (such as drone strikes) and war – and satisfying them is necessary and sufficient for a use of force's being justified. But if this is true, and if *jus ad bellum* and *jus in bello* are both intended to judge the use of force, they cannot contain different principles by the reductivist's lights.

If reductivism holds that there is a single set of moral principles for judging the use of force, it follows that a politician's ordering of force at t must satisfy the same criteria as a combatant's use of force at $t1$. I suggest that the relevant criteria are those standardly included in accounts of *jus ad bellum*: one has a just cause, force is proportionate to that

liable attackers and does not endanger bystanders, this is probably why it often seems as if there is no success condition. In war, however, collateral damage is very often a feature of defensive force, and thus even harms that are aimed at liable combatants must satisfy the success condition in order to justify the risk to innocent people.

⁴ But see Jonathan Parry for a defence of the role of legitimate authority in reductivist accounts

cause, is necessary (that is, the least harmful means of achieving that cause) and has a reasonable prospect of success by legitimate means.

Since these principles are usually found in accounts of *jus ad bellum*, we need to see why they are also the principles that apply to the specific offensives within war that are traditionally the remit of *jus in bello*. The conditions of proportionality and necessity clearly have counterparts in standard accounts of *jus in bello*, so I perhaps don't need to say too much about those. But I think it is also now fairly widely accepted that having a just cause for fighting is relevant to the justness of an individual combatant's actions.⁵ As Jeff McMahan and Thomas Hurka have argued, having a just cause is relevant to the justness of a combatant's actions because it is a prerequisite of satisfying proportionality. Proportionality weighs morally relevant harms against morally relevant goods. If one lacks a relevant moral good to secure – if one's aim is simply to contribute to the unjust expansion of territory, for example – there's nothing to outweigh the harms that one causes.⁶ A similar argument applies with respect to necessity. The fact that force is the least harmful means of achieving an end can form part of a justification for using force only when the end is morally good. The fact that I need to kill you to steal your wallet does not provide some partial justification for killing you. When the end is morally wrong, there's no role for necessity to play.

Given this, there must be a just cause for each individual harmful action if it is to satisfy necessity and proportionality. Notice that this doesn't mean that the only admissible just cause for using force is the just cause that initially gave rise to war. As Saba Bazargan has pointed out, there could be other just causes for using force, such as defending innocent non-combatants against unjust attacks.⁷ A combatant might have a just cause for some of her actions, and lack a just cause for others. Even those writers who have recently defended the

⁵ See, for example, Estlund 'On Following Orders in an Unjust War', *Journal of Political Philosophy*; Lazar, this volume.

⁶ McMahan, Hurka

⁷ Bazargan, 'Aiding and Abetting Unjust Wars', *Journal of Moral Philosophy*

idea that state combatants enjoy special permissions to do violence do not claim that this puts combatants with an unjust cause on a moral par with combatants with a just cause. Their concern is rather to show that unjust combatants are not on a moral par with unjust attackers in ordinary life.

What of the requirement of discrimination? Again, this putative *in bello* condition is found in the *ad bellum* condition that war must have a reasonable prospect of success *by legitimate means*. Impermissible means of fighting – which includes means that fail to discriminate between legitimate and illegitimate targets, or that inflict unnecessary suffering – do not count for the purposes of having a reasonable prospect of success. The fact that one could, for example, use biological weapons to secure one's just cause would not count as satisfying the success condition because it would be impermissible to use such weapons even if using them were necessary. But once we spell out the success condition in this way, we can see that the requirement to discriminate is found in both the *ad bellum* and *in bello* categories.

Whilst the success condition is usually included only as a condition of *jus ad bellum*, specific offensives within war must also have a reasonable prospect of success. I have argued elsewhere that this condition is motivated by concerns about collateral harm.⁸ It is wrong to use force against even a liable attacker if doing so has little prospect of achieving a just cause and risks serious harm to innocent people. Given this, combatants must consider how likely their individual actions are to achieve their goal, and whether the prospect of success of each action warrants any predicted collateral harm.

That there is a single set of conditions for the just use of force is the deeper and more general truth underlying various reductivist arguments. For example, Michael Walzer and Jeff McMahan's famous debate about the moral equality of combatants is framed as a disagreement about the relationship between *jus ad bellum* and *jus in bello*. Walzer believes

⁸ Frowe, *Defensive Killing*, p.

that the two are morally independent, such that a combatant can satisfy the *in bello* conditions even if her war is *ad bellum* unjust. McMahan, in contrast, argues that satisfying *jus ad bellum* is a necessary condition of satisfying *jus in bello*. But if, as I suggest, the reductivist account of war cannot sustain a difference between these two categories, this way of framing the debate is confused. McMahan is clearly right that combatants cannot satisfy *jus in bello* whilst violating *jus ad bellum*. But this is because they are the same conditions, not because there is some kind of moral dependence between *jus in bello* and *jus ad bellum*.

4. Object

Some just war theorists agree that *jus ad bellum* and *jus in bello* consist in the same principles, but argue that the categories are nonetheless useful because there is some difference between their evaluative objects. Cécile Fabre, for example, suggests that the terms are merely “a convenient way to demarcate various phases in the initiation, conduct and termination of a war”.⁹

But it seems to me that this is a mistake. Making *ad bellum* judgements is typically thought to involve judging the war ‘as a whole’ in some way. But if we claim to be judging the war as whole – by which we usually mean one ‘side’ of a conflict – we need to know precisely what constitutes ‘the war as a whole’: what it is that we are evaluating. I’m going to set aside here historical analyses of past wars, and focus on *ad bellum* judgments with respect to prospective wars and wars that are currently being fought. I suggest that the most plausible interpretation of this idea is that we are making a prediction about how the war will be fought – that is, about the individual actions that will make up the war or, in the case of ongoing wars, remainder of the war. If so, the distinction between the objects of *jus ad*

⁹ Fabre, ‘War Exit’, p. xxx. Somewhat oddly, though, Fabre says that the categories lack “deep *conceptual* or *normative significance*” (my italics). A category’s conceptual significance presumably consists in what it picks out – what I’m calling the evaluative object. If there’s no conceptual distinction between *jus ad bellum* and *jus in bello*, it’s hard to see why Fabre nonetheless regards them as useful labels.

bellum and *jus in bello* seemingly collapses. Both judge individual actions. (And, of course, this seems to be the right kind of result for a reductive individualist, given the claim that individuals are the proper object of moral evaluation and prescription.)

Defenders of the distinction will likely respond that *jus ad bellum* offers a kind of summative verdict of *all* the combatants' individual actions: it judges the 'war as a whole' by somehow combining all those individual actions into a single assessment that tells us whether fighting the war as a whole is just or unjust. In contrast, *jus in bello* judges only an individual combatant's actions, or a very small subset of individual actions tied to a particular offensive.

But what does it mean to combine individual actions in this way? Given that any plausible assessment of a war will include a prediction that it will contain some wrongdoing, we need to think carefully about the normative conclusions that we draw from the claim that a war is overall justified. It wouldn't follow, for example, that the combatants on this overall justified side fight justly, since some of them will fight unjustly, violating the principles that govern the use of force. Nor could we conclude that combatants fighting for an overall unjustified side will fight unjustly, since they could have just causes for specific actions. It seems to me that the best guidance we can get from such a judgment is that some of the individual actions of the war may be performed despite recognising that, if the war is fought, some wrongdoing will take place.

Of course, this is still a judgement about individual actions: we're comparing the number of predicted just actions to the number of predicted unjust actions. But it might seem that this is nonetheless enough to support the *ad bellum* / *in bello* distinction, because making this judgement involves considering all the individual actions of the war within a given period, telling us whether the war may (continue to) be fought. But this will support the distinction only if this is not also what determines whether an individual combatant is

justified in using force. And it seems to me that, in fact, this is precisely what determines whether an individual combatant is justified in using force.

At this point, it might be helpful to distinguish between fact-relative justifications for acting and evidence-relative justifications for acting.¹⁰ An agent is fact-relative justified in acting if the moral facts give her sufficient reason to act. In contrast, an agent is evidence-relative justified in acting if, were her evidence concerning the facts accurate, she would have sufficient reason to act. We can illustrate this distinction with *Trolley* and *Loop*.

Trolley: A runaway trolley is heading towards a hundred people, and will kill them unless it is diverted down a sidetrack. Bystander can divert the trolley down the sidetrack, where it will kill a single person.

Loop: A runaway trolley is heading towards a hundred people. Workman sees that he can divert the trolley down a sidetrack, where it will kill a single person. However, unbeknown to Workman, the track then loops round, such that after killing the single person the trolley will still hit and kill the hundred.

In *Trolley*, Bystander is fact-relative justified in diverting the trolley. Given that she can save a hundred lives and will kill only one person as a side-effect, the facts give her sufficient reason to divert. In *Loop*, Workman is fact-relative unjustified in diverting the trolley. If he diverts the trolley, he will needlessly kill one person, and the hundred will still die. However, Workman is evidence-relative justified in diverting the trolley in *Loop*, since his evidence is

¹⁰ See e.g. Parfit, *Reasons and Persons* (1984)

that diverting will save a hundred lives at the cost of killing one as a side-effect. If his evidence accurately reflected the facts, he would be fact-relative justified in diverting.

Much of the reductivist literature adopts the fact-relative perspective when assessing the justness of an agent's actions. McMahan, in particular, holds that an agent is justified in causing harm only if she is fact-relative justified.¹¹ Those who act on the basis of evidence that does not reflect the facts may be excused for so acting, but they are not on a moral par with those who are fact-relative justified. But on the fact-relative perspective, the range of facts relevant to a combatant's actions is not limited to those facts of which she is aware. On the contrary, the fact-relative justification of her action will depend on all the facts that could be morally relevant to her action – facts that, if she knew them, she ought to factor into her deliberations about what to do. So, on this view, even if a combatant does not know what other members of her country's armed forces are doing, the fact that she might either be facilitating their wrongdoing, or that her own actions might depend upon or incentivize their wrongdoing, will partly determine whether she is justified in using force. From the fact-relative perspective, then, there is no difference in the objects of *jus ad bellum* compared to *jus in bello*.

We might reply: all the worse for the fact-relative perspective. This move is open to reductive individualists as well as their critics. There's nothing about reductive individualism that commits its proponents to a fact-relative account of justification. But it's not clear that the evidence-relative perspective does any better at sustaining a distinction between the objects of *jus ad bellum* and *jus in bello*. Say that we adopt an evidence-based account of when an action is justified. This might mean that in some cases, a combatant is justified in acting even though her action is unjust from a fact-relative perspective. But this would support the *ad bellum* / *in bello* distinction only if there were some forms of evidence that

¹¹ KIW, 'The Conditions of Liability to Preventive Attack', Deen K. Chatterjee (ed.), *The Ethics of Preventive War*, (Cambridge: CUP, 2013) p. 135

might be relevant to an *ad bellum* judgement, but irrelevant to a combatant's *in bello* assessment. But I doubt that this is correct. Of course, as a purely contingent matter, those people making decision about 'the war as a whole' – higher-ranking combatants or politicians – will likely have more evidence available to them (or, more specifically, evidence about more people's actions available to them) than the average combatant. But that doesn't mean that they have in principle different objects of assessment in a way supports a distinction between *jus ad bellum* and *jus in bello*. There is no evidence that might be relevant to a commander's deliberation about whether to use force that should be discarded or ignored by a lower-ranking combatant. Thus, neither a fact-relative nor an evidence-relative account of justification vindicates the claim that *jus ad bellum* and *jus in bello* have different objects of assessment.

5. Wars, and overall assessment of wars

If I am right that reductive individualism cannot sustain the *ad bellum* / *in bello* distinction, some people will think that this is a reason to reject the reductive individualist view. Lazar has argued that the individualist view seemingly precludes identifying the 'sides' of a war, since there's no obvious way in which individualists can unify the actions of one set of combatants or citizens into a coherent whole.¹² If this is right, he says, reductivism cannot play the important role of enabling us making to make judgements about the war, and yet, he argues, such evaluation is both widespread and necessary. Moreover, if we adopt the sort of individualism that I am proposing, Lazar argues that it no longer makes any sense to ask whether a war was justified. Rather, we can ask only about the justification of individual actions that make up the war, and then offer the thought that a war is justified only if each of

¹² See Lazar, this volume

those individual actions is justified. He argues that this sets the bar for justification too high, making “justified wars practically impossible”.

Lazar is right that we are used to talk of just and unjust wars: we do indeed engage in evaluations of the sort that he describes. But such talk is very often met with skepticism, commonly expressed by the retort that there is ‘no such thing as a just war’. Even if we adopt the more measured description of ‘justified’ war, which better captures the sense that many of the harms of war befall people who are not liable to be harmed, offering a single evaluation of such myriad actions strikes many people as inappropriate. And such reactions are unsurprising. Wars that we typically describe as just – such as the Allies’ war against Nazi Germany – contain many instances of wrongdoing, ranging from mildly disproportionate or overly risky offensives to appalling atrocities. No wonder, then, that people balk at sweeping evaluations that purport to give us an overall assessment of a war. Moreover, the natural response to this skepticism is to disaggregate the actions of the war: to grant that of course, some of the offensives were wrong, and some atrocities were committed, and that these actions were unjust, but that others were justified in light of the importance of securing the just cause. If we are looking to reflect how people actually judge war, there’s no reason to think that a collectivist evaluation of a war as a whole better serves this purpose than a more nuanced individualist account.

6. Justification and wrongdoing

Despite his emphasis on the importance of distinguishing “the war as a whole” from its “constituent actions and operations”, Lazar doesn’t elaborate on what it means to evaluate the war as whole distinct from those constituent actions and operations. The proposed distinction seems to be grounded in thoughts about what people can control: political and military leaders can control whether the war is fought, whereas individual combatants can control

only their own actions and the actions of some of their subordinates. But the sphere of what I can control does not exhaust the sphere of what is morally relevant to my actions. On the contrary: war is a particularly complex example of how the justness of what we do can depend on the actions of others. I think that understanding this interaction helps resolve Lazar's worry that individualism sets the bar for justified war too high. My claim is not that war is justified only if every individual action of the war is justified. My claim is that one can sometimes be justified in acting even if one foresees that others will then engage in wrongdoing as a consequence. Consider *Prediction*:

Prediction: A runaway trolley is heading to where it will kill one hundred people. Bystander can divert the trolley down a sidetrack to where it will break Workman's legs. But Bystander knows that if she diverts the trolley, Workman will then divert it again down a second side-track, killing an innocent person, Jogger, in order to spare himself the cost of broken legs.

I think that Bystander is justified in diverting the trolley despite knowing that if she does so, Workman will then engage in the wrongful killing of an innocent person. Two points arise from this case. The first is that one may be justified in acting even foreseeing that others will then engage in wrongdoing.¹³ The second is that there seems to be little point in asking whether Bystander and Workman's actions taken together were justified or unjustified: whether the actions of the case were justified 'as a whole'. We can ask whether Bystander's was justified in acting despite knowing what Workman would do. And we can ask whether

¹³ Of course, one is not *always* so justified: if Bystander foresees that if she diverts the trolley, Workman will re-divert it towards a hundred people, it would be impermissible for her to divert. See David Rodin, 'The Myth of National Self-Defence', in Fabre and Lazar, *The Morality of Defensive War*, (Oxford: OUP, 2014) p. 83 and Frowe, *Defensive Killing*, pp. 129 - 138

Workman was justified in acting despite knowing that that he would kill an innocent person. But there's nothing useful about trying to come up with some overall assessment of their two actions considered as a whole. My suggestion is that there's similarly nothing useful about trying to come up with some overall assessment of the actions of a war.

Of course, Bystander and Workman are not acting together, whereas combatants in war are part of a joint project, in the sense that (for the most part) they are trying to achieve the same goal, and are collaborating to that end. So, consider *Cure*:

Cure: Alice is dying of a terrible illness. Bryan and Carl know they need a hundred leaves from a rare plant to cure her. They agree to find fifty leaves each. Bryan plans to obtain fifty leaves by stealing some plants from people who use them only to treat minor ailments. Christian, Alice's husband, intends to obtain the other fifty leaves by killing the owners of some other plants. Once dug up, the plants lose their powers in a short period of time. If they are not used to cure Alice, they will be useless.

Bryan and Christian have a joint project of saving Alice. Assume that Bryan's stealing the plants from people who would use them only to treat minor ailments is justified if this is necessary for saving Alice's life, but that Christian's killing people to obtain their plants is unjustified even if it is necessary for saving Alice's life.

We can imagine several variations of this case. For example, suppose that Christian will engage in his unjustified actions only if Bryan also acts. If Bryan refuses to steal the other fifty leaves, Christian will conclude that there's no point in killing the other owners to obtain their plants, since the fifty leaves that he will thereby gather will be insufficient to save

Alice. In this version of the case, Bryan clearly ought not to act, since he will thereby prevent the unjustified killings. Since partial completion of the plan won't achieve sufficient good to warrant the infringements – Alice needs all one hundred leaves to survive, and the plants can't be used for any other good end – stealing the plants is unjustified. This would be true even if there were other, justified ways in which Christian could get the plants, but Bryan predicts that he won't use these legitimate means.

One way to understand this argument is as a claim that Bryan lacks a reasonable prospect of securing his just cause by legitimate means. Even though it seems as if Bryan can carry out *his* mission – his part of the joint project – without violating anyone's rights, the success of his mission is determined not by whether he steals the plants, but by whether he saves Alice's life. And there is no prospect that Alice's life will be saved by legitimate means if her being saved depends upon Christian's engaging in unjustified killings. The success of Bryan's plan thus depends upon illegitimate means.

But things seem different when the wrongful actions are not under Bryan's control, or have already occurred. It's not that the actions are then irrelevant to Bryan's reasoning: on the contrary, Bryan's actions might be justified only because Christian will inevitably act, or has already acted, albeit wrongly. Imagine that Bryan has no way of communicating to Christian that he will not steal his share of the plants. If Bryan knows that Christian is going to engage in the wrongful killings, it seems as if Bryan ought to act precisely because he knows that Christian will act. This isn't an argument that Bryan can partially redeem the harms that Christian inflicts by making sure that at least some good results from those killings. It's rather that it seems that Bryan ought to regard those harms a kind of sunk cost. Since the owners will be killed no matter what Bryan does, he has an opportunity to save Alice's life that does not involve inflicting any additional unjustified harms.

But again, it strikes me as confused and unhelpful to ask whether Bryan and Christian's actions taken together are justified or unjustified, and that question doesn't get more sensible if we start increasing the number of actors involved. When Bryan can prevent Christian's wrongdoing by refraining from acting, his acting would be unjustified, and Christian's acting would also be unjustified. When Bryan has no control over the fact that Christian acts, we can describe Christian's action as unjustified, and Bryan's action as justified. It seems to me that this is how a reductive individualist should think about war: not by trying to combine actions together to offer a single evaluation of war as a whole, but in terms of the justification of individual actions. If so, there's no role for the *ad bellum* / *in bello* distinction to play in our accounts of the ethics of war.

7. Conclusion

Reductive individualists have challenged various specific aspects of traditional accounts of the ethics of war. But insufficient attention has been paid to the broad conceptual commitments of this view. In this paper, I have argued that reductivism, being a claim that there is a single set of principles that governs the use of force, commits its proponents to denying any difference in content between the categories of *jus ad bellum* and the principles of *jus in bello*. Furthermore, individualism, understood as the claim that individuals are the objects of moral evaluation and prescription, commits its proponents to the claim that there is no difference in object between the *ad bellum* and *in bello* categories. I have argued that it is false that *jus ad bellum* can be sensibly understood as evaluating 'the war as a whole'. There is no meaningful evaluation to be made about whether the set of individual actions that compose the side of a conflict are 'overall' justified. Rather, we can only meaningfully evaluate individual actions. However, the justness of these actions will often depend, in

intricate ways, on the actions of others. Developing a robust reductive individualist account of the ethics of war will thus require investigating this interdependence in considerable depth.