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Conspiring with the Enemy

THE ETHIC OF COOPERATION IN WARFARE

Yvonne Chiu

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Yvonne Chiu

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Preface

Many have questioned the decision to write about cooperation between enemies in warfare, but far from surreptitiously sanitizing the carnage of war or apologizing for its injustices, this project seeks to humanize it. In October 2017, I attended a conference at West Point fêting (and critiquing) Michael Walzer's *Just and Unjust Wars*, on the occasion of its fortieth anniversary. It is a book read not only by philosophers and military ethicists, but also by every cadet in every American military academy. Soldier after soldier got up to recount the seriousness with which they studied this work, and one retired officer who had seen many deployments and battles in his time attested, "This book has been my constant companion for thirty years." It was a humbling moment for those of us in the academy who also aspire to practical import, and in a similar vein, this project strives to both make sense of and contribute to the soldier's experience.

My interest in issues of warfare was first piqued when I read a long newspaper piece about soldiers coming home from the field and having difficulty adjusting to civilian life: they felt out of place in the free-flowing disorder, disgusted at the excesses of commercial society, adrift with purposelessness, and disheartened by the meaninglessness of people's everyday trivialities.

The disconnect between soldier and civilian is part of the inherent tensions in civil/military relations in liberal democracies. These conflicts will

never be fully resolved, as successful militaries must always be hierarchical to a certain degree, in a way that contradicts the freedom of liberal democratic life, yet liberal democracies rely on that hierarchy and submission in order to secure those liberties. This often has tragic results for individual soldiers who cannot find their place in society upon returning home. While more can be done for returning fighters, their displacement is all the more heartbreaking because it will always be necessary.

Similarly, the horrifying endeavor that is war will always be with us. No matter how much moral progress we make, the nature of humanity is such that someone will always be willing to use the final trump card of violence to settle a dispute. It is also the case that sometimes, brutality must be used in the service of justice: nonviolence can be highly effective, but only against regimes capable of feeling shame, of which there are but a few. Given that war cannot be eliminated, we must try to contain it, and this book explores some unexpected yet pervasive attempts to do so.

Warfare itself is rife with contradiction, one of the most notable of which is that its utter chaos coexists alongside orderliness and rules. In the same vein, fighters will butcher one another, yet simultaneously cooperate for various purposes with the very people they are trying to kill. These tensions are inevitable yet irreconcilable—but for those who fight and experience wars, all these phenomena exist at once seemingly without dissonance.

These valiant—and sometimes devastating—efforts between enemies to constrain warfare and impose some boundaries, order, and meaning on what is fundamentally a radical, anarchic, and lawless activity are in part analogous to the project of the Leviathan, who attempts to sublimate private justice in favor of public right. For centuries, the global moral order has been struggling to constrain international anarchy, trying to solidify that first stage of instituting a Leviathan to govern over tribal violence and adjudicate questions of justice. Moral philosophy has tackled these problems in a global distributive context, but far more needs to be done in the global retributive context.

In the course of tracing the genealogy of the ethic of cooperation between enemies in warfare, this book takes a different approach than that of the dominant strands of just war theory today. The standard modern approach rests on two major premises: the moral equality between fighters and their acquisition of a collectivized moral status that permits them to

do what would otherwise be disallowed, namely, kill people. Since then, an alternative strand has rejected the special status and powers of the state, and sought to overturn this principle of moral equality of combatants by analogizing killing in war to domestic self-defense and connecting it to the philosophical and legal literature on killing innocents (e.g., causal, culpability, or liability approaches). These have been largely or entirely philosophical enterprises.

In contrast, by looking at the genealogy of agreements and contracts in warfare and their accompanying moral demands, by practicing "*e.g.* philosophy" (in the words of Avishai Margalit) in order to integrate historical and theoretical ethical claims, I hope to shed more light on contemporary practices and normative expectations in warfare.

This genealogical exploration is an empirical project (unearthing a moral psychology, military sociology, and military and legal history) as well as a philosophical endeavor establishing what various recurring concepts (such as fairness, responsibility, legitimacy) mean both generally and with respect to war. I then seek to merge the empirical and philosophical by exploring problems with those conceptions and how they might be resolved both in theory and in practice.

Self-Imposed Constraint

While the international laws of war could be considered yet another form of hegemony imposed by stronger states upon weaker ones, they also make it harder to win, which is why even the more dominant countries and their fighters are constantly trying to break the rules and get away with it. Why would states and soldiers make it harder for themselves to win and end wars?

The rules were created and sustained at least in part by sincere beliefs that there are right and wrong ways to win, and that it matters both practically—e.g., in building good will and reciprocity with opponents, whether they end up as vanquished or conquerors—and morally.

The live-and-let-live system in World War I trenches could be the exception that proves the rule, but in fact, the very structure of modern war itself is a cooperative enterprise. Rather than being nihilistic, anarchic, or unconditional, war can be viewed (as often exemplified by Clausewitz)

as a legitimate tool of conflict resolution—a way of reaching sustainable agreement—because violence is often undertaken with broader political goals in mind. As such, decisions about going to war and even war as a whole become collaborative in nature, as wars are a way of determining who is effectively right.

Furthermore, norms of war rely on agreement on the existence and content of the laws of war, especially who they should apply to, who qualifies as a combatant, and so on. These questions have been asked throughout history, for example, which peoples deserve "civilized" warfare (e.g., fellow Greeks, fellow Chinese) and which do not, whether guerrillas or blacks fighting in the American Civil War qualify for protections under the laws of war, and similarly now whether terrorists warrant the same.

The answers to these questions affect the content of other types of cooperation. During the modern period (from the sixteenth century onward), the ethic of cooperation between enemies has become systematized in international laws and institutions, which themselves constitute a kind of cooperation. The development of international laws and its concomitant attempt to enforce them with supranational institutions have broader implications for the future of the nation-state system in international politics.

Systematic cooperation between enemies is taken so much for granted that we hardly notice it: weapons bans, POW regulations, requirements to wear uniforms into combat, and protections for clergy and medics who are national military personnel, among others. These cases are especially interesting because they developed before any widespread discussion of human rights. They are conventional, a practice that has been agreed upon. Why should medics, for example, be treated as neutral (so long as they do not pick up arms) even when they are part of a national military? Their jobs are essential to the war effort, and the very soldiers they heal may return to the battlefield and continue to fight.

These practices have many motivations, but one major goal was to minimize overall damage—although where the line is drawn can be arbitrary. The distinction between soldiers and civilians, for example, is a matter of convention. Historically, no such differentiation was made, even if women and children were spared more often than men, and when members of the civilian population contribute in varying ways to the war effort, as they inevitably do, the boundary between who is and is not a legitimate target

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(e.g., munitions factory workers can be targeted, but medics cannot) is subjective and a matter of agreement.

At this point, some context is required: (1) Cooperation in warfare is certainly not the norm: historically, and even in contemporary times, it is an anomaly in human history. Guerrilla, or "irregular," warfare—indirect raids, ambushes, sabotage, and short skirmishes—has been and continues to be the dominant mode of combat for over 150 millennia. (2) Cooperation in warfare is not a uniquely modern phenomenon. It has happened all throughout human history, on a variety of levels and in different forms, although the contemporary systematization of this cooperation through international law and institutions is distinctive. And (3) although the rules are not always obeyed—in fact, they are more often deliberately violated—and even if international law looks much less dramatic and interesting than tensely negotiated truces in muddy trenches, the systematization of cooperation at the interstate and international levels and the extent to which individuals do obey those rules in the field are enormously significant. It shows that moral considerations are possible even in the most horrifying of human activities, and between people who have much to gain from not cooperating with one another.

Secularization of Just War Theory

One challenge for contemporary just war theory is that it uses religiously derived principles—proper authority, just cause, and right intention, which are then constrained by last resort, proportionality, and probability of success—but without their religious foundations. For example, the principle of right intention is meant to reconcile pacifist readings of Christianity with the act of killing, and allows killing only for the purpose of attaining the just cause. It cannot be done with malice, out of revenge or self-interest, or similar motives, which then gets us the Doctrine of Double Effect. But contemporary and secular concerns with justice beg pressing questions about the principle of right intention. For example, if justice is the primary principle, how important is the spirit with which a just action is committed? Does an improper motive make it any less just? It does in classical just war theory, because the conception of justice incorporates motive. In most modern and contemporary interpretations, however, it is

the institutional processes or outcomes that matter, and proper personal motivations—while helpful—are not strictly necessary for justice to be done.

Do the classical just war principles that ground contemporary just war theory need to be reestablished with some nonreligious foundations and, if so, what might those be? Such reconceptualization is particularly important as the emergence of a language of rights—especially human rights since World War II—can cause problems for a crudely secularized version of just war theory. For example, one may have a right to not be killed, or a right to not be harmed in certain ways under human rights–based ethics of warfare, but that right may be contravened by accepted traditional/contemporary just war principles. There are several influences at work, feeding into contemporary just war theory, and in order to better understand the ethics of warfare, we have to unravel these influences and the relationships between them. We should recognize and explore where they intersect and where they are inconsistent with one another, because they push military ethics and just war theory in different directions and toward different—and sometimes contradictory—conclusions about acceptable ways and reasons to wage war.

One major operator in military ethics is the ethic of cooperation, which is at once pervasive, overlooked, and taken for granted. Understanding it can both better explain many of the contradictions in military practice and philosophy and offer some alternatives to help resolve those tensions.

The sum of the exceptions to the brutality of war is more than its constituent parts, and they add up to an ethic of cooperation between enemies in warfare. This ethic is all the more surprising given its persistent coexistence with the brutality of war. Sometimes, the ethic of cooperation overlaps with other moral principles invoked in war, sometimes not. Repeated cooperation between enemies in no way diminishes the horrifying barbarism of 99 percent of warfare. Rather, these meaningful exceptions are an attempt to contain and make sense of war's atrocities, even if frequently in vain. For a soldier, there are two ways to wage war. One can turn nihilistic and cold. Said Green Beret commander Colonel Robert Rheault, whose murder and conspiracy scandal during the Vietnam War was a partial inspiration for the character of Kurtz in *Apocalypse Now*: "I was at the top of my game when I was in combat. You don't have the luxury to indulge your fear, because other people's lives depend upon you keeping your head cold. . . . When something goes wrong, they call it emotional numbing.

It's not very good in civilian life, but it's pretty useful in combat—to be able to get absolutely very cold about what needs to be done, and just stick with it."[1]

Or one can try to salvage something from war. There are many different stories that can be told about the history of war, the history of man, the history of rules in warfare. This is but a single story—but one that I think is true, insightful, and helpful.

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CHAPTER 1

The Horrors of War and the Nature of Cooperation

. . . you men of Harfleur,
Take pity of your town and of your people,
Whiles yet my soldiers are in my command;
Whiles yet the cool and temperate wind of grace
O'erblows the filthy and contagious clouds
Of heady murder, spoil and villany.
If not, why, in a moment look to see
The blind and bloody soldier with foul hand
Defile the locks of your shrill-shrieking daughters;
Your fathers taken by the silver beards,
And their most reverend heads dash'd to the walls,
Your naked infants spitted upon pikes,
Whiles the mad mothers with their howls confused
Do break the clouds, as did the wives of Jewry
At Herod's bloody-hunting slaughtermen.
What say you? will you yield, and this avoid,
Or, guilty in defence, be thus destroy'd?

—SHAKESPEARE, *HENRY V*, 3.3

Across the ages, war is most often characterized in history and literature as the epitome of conflict, fought over an intractable disagreement that can only be settled by force, a last resort so primal and desperate that people inevitably lose their moral compass as it goes on. Despite the influence of just war theory and constraints of international military law, once fighting begins, it descends into an arena of anger, malice, deceit, subterfuge, and ruthlessness, as endless examples of massacre, rape, torture, and enslavement tell us: victors seize their prizes, and there is little room for rules or civility, much less morality.

Yet, throughout the story of human cruelty also run threads of mercy, kindness, and virtue, as well as, surprisingly, cooperation. Even at its most

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horrific, there are not only ad hoc and coordinated attempts at moral action in warfare, but also repeated cooperation between enemies. By this, I do not mean alliances of convenience between antagonists against a mutual foe, à la "the enemy of my enemy is my friend" for the moment. Rather, adversaries often cooperate even as they are trying to kill one another.

Cooperation between enemy fighters takes different forms: it manifests in an exchange of prisoners, for example, or by wearing a uniform in order to make oneself a better target and help protect civilians in the process. It can be planned or institutionalized, or it can be a brief emotion, a fleeting moment, as when a sniper does not shoot an unsuspecting target because it seems unfair. The practice of cooperation ebbs and flows, but it can be traced throughout the breadth of warfare. Although many instances of cooperation are random, isolated incidents, they are not merely that.

These are meaningful exceptions to the brutality of war, and their sum total is more than that of its parts: they add up to what constitutes an ethic of cooperation between enemies in warfare, which is the idea that cooperating with the enemy in certain ways within war is the right thing to do and has moral purchase. This belief can rest on different grounds, including a sense of warrior honor, human rights, or efficiency. Not only have instances of cooperation between enemies arisen time and time again, but some of its practices have been institutionalized into the international laws of war and the current Westphalian nation-state system.

There are two commonly held yet contradictory perceptions of war: first, cooperation is so commonplace in some areas that it goes unnoticed and its structures and corresponding behavior are taken for granted, notably in the institutional structure of international law. At the same time, it is also understood that war is so terrible that it cannot sustain morality; this makes it difficult to accept that there can be and is cooperation between enemies in warfare, because that requires some amount of honesty, trust, sincerity, and predictability that would be impossible if moral behavior at all were untenable.

It certainly appears as if mercy, much less ethical consideration, has no place in battle. Siege warfare, for example, hardly makes allowances for the well-being of the women, children, and elderly trapped inside cities. Everyone starved and suffered, and whoever survived after defeat would be hauled off to slavery, as Hector fears for his wife Andromache, in the Trojan War (*The Iliad*, 6.533–55). Despite powerful and clever female gods who shape the course of human events, women on Earth are, then as now,

little more than property, spoils of war, loved only by their families. Mortal women can drive martial aspirations, but usually inadvertently, through their seizure and trade—the most famous of all being Helen. Other women suffer the same fate: at first, Agamemnon refuses to ransom Chryses's daughter back to him, declaring, "The girl—I won't give up the girl. Long before that, / old age will overtake her in *my* house, in Argos, / far from her fatherland, slaving back and forth / at the loom, forced to share my bed!" Later, when he is coerced into relinquishing Chryseis, he demands that they "fetch me another prize, and straight off too, / else I alone of the Argives go without my honor," which then sets in motion a series of crucial developments in the rest of the war (1.33–36, 138–39).

Neither are there niceties on the battlefield, whether out of pity or greed. When Adrestus is captured, he begs for his life in exchange for a "priceless ransom." Tempted, Menelaus is about to agree, when Agamemnon intervenes:

> . . . "So soft, dear brother, why?
> Why such concern for enemies? I suppose you got
> such tender loving care at home from the Trojans.
> Ah would to god not one of them could escape
> his sudden plunging death beneath our hands!
> No baby boy still in his mother's belly,
> not even he escape—all Ilium blotted out,
> no tears for their lives, no markers for their graves!"
> And the iron warrior brought his brother round—
> rough justice, fitting too.
> Menelaus shoved Adrestus back with a fist,
> powerful Agamemnon stabbed him in the flank
> and back on his side the fighter went, faceup.
> The son of Atreus dug a heel in his heaving chest
> and wrenched the ash spear out.
> (6.63–77)

Although ancient Greece is often taken as the birthplace of Western civilization, at times it can be hard to see how its predecessor—archaic Greece—also held the seeds of the modern warrior and modern warfare, even albeit through a long, circuitous, and inconsistent path. When one remembers, however, that the past century alone has seen the Nanjing

Massacre, the Holocaust, the firebombing of Tokyo, and torture in Abu Ghraib, among other countless horrors, the continuity is a little clearer, and the bloody rage and cruelty of the archaics and ancients now transition seamlessly to more recent atrocities.

Despite the litany of contemporary domestic regulations and international laws, when war begins, it seems that any sense of morality goes too. Soldiers and civilians alike usually have little desire to make room for courtesies when their lives are at stake, and understandably so. The essence of war is captured by images of frenzied, merciless, mutual slaughter between the Aegeans and the Trojans as told in *The Iliad*, rapes depicted in Goya's *The Disasters of War*, torture portrayed in *The Battle of Algiers*, or indiscriminate napalm bombing in Vietnam dramatized in *Apocalypse Now*.

War is a desperate, primal activity, and simultaneously seductive and addictive in the power one can wield to kill or to spare men's lives. Says war correspondent Chris Hedges:

> War breaks down long-established prohibitions against violence, destruction, and murder. And with this often comes the crumbling of sexual, social, and political norms as the domination and brutality of the battlefield is carried into personal life. Rape, mutilation, abuse, and theft are the natural outcome of a world in which force rules, in which human beings are objects. The infection is pervasive. Society in wartime becomes atomized. It rewards personal survival skills and very often leaves those with decency and compassion trampled under the rush.[1]

It seems war is so wretched that, however dressed up in uniforms, protocols, and strategies, the trappings of civilization and adherence to ethical principles are impossible to sustain under such circumstances. It often begins with the simple desire to survive. Says Erich Maria Remarque, through his narrator Paul Bäumer in the fictional but exemplary *All Quiet on the Western Front*:

> We have become wild beasts. We do not fight, we defend ourselves against annihilation. It is not against men that we fling our bombs, what do we know of men in this moment when Death is hunting us down. . . . No longer do we lie helpless, waiting on the scaffold,

> we can destroy and kill, to save ourselves, to save ourselves and to be revenged . . . we run on, overwhelmed by this wave that bears us along, that fills us with ferocity, turns us into thugs, into murderers, into God only knows what devils; this wave that multiplies our strength with fear and madness and greed of life, seeking and fighting for nothing but our deliverance. If your own father came over with them you would not hesitate to fling a bomb at him. . . . We have lost all feeling for one another. . . . We are insensible, dead men, who through some trick, some dreadful magic, are still able to run and to kill.[2]

It seems that blood thirst may naturally overtake man in combat, but it is not necessarily a pleasurable excitement. Most who have seen modern combat abhor it. While many a soldier acclimates to existence in the theater and, after some time there, may find it difficult to live a regular civilian life,[3] it is the rare soldier who has seen modern war's horrific scale of destruction and still genuinely and singularly thrills at the fight.[4] Said US general and later president Dwight D. Eisenhower, "I hate war as only a soldier who has lived it can, only as one who has seen its brutality, its stupidity."[5]

A Very Brief History of Warfare

For the bulk of human history, warfare has been a savage, scrappy, self-interested, no-holds-barred affair.[6] Despite the implications of the name "conventional warfare," it is in fact guerrilla, or "irregular," warfare—an indirect approach utilizing raids, ambushes, sabotage, and short skirmishes—that has been the norm over 150,000 years of *Homo sapiens* history and the millions of years of hominids before that.[7]

Conventional war became possible only once agricultural societies developed, the first appearing after 10,000 BCE in the Middle East (and several thousand years later elsewhere), when there was finally enough surplus wealth and human population to sustain specialty weapons and fortifications and their skilled operators. Not until nearly seven millennia later, after 3100 BCE, however, do the "first genuine armies—commanded by a strict hierarchy, composed of trained soldiers, disciplined with threats

of punishment, divided into different specialties (spearmen, bowmen, charioteers, engineers), deployed in formations, supported by a logistics service"—arise in Egypt and Mesopotamia.[8] Pitched battle is the exception throughout history, even during its heyday in the eighteenth and nineteenth centuries, as "most warfare involved hunting down unarmed enemies, slaughtering the men and raping the women, or perhaps enslaving both men and women. Ambush, pillage, and wanton destruction were the norm,"[9] because they minimize risk and maximize advantage.

Narrative Biases

Despite the historical rarity of conventional conflicts, however, almost all military histories tell the story of conventional war: its direct confrontation is relatively new and of larger scale, so there is more of a historical record, and conventional warfare also supplies more readily identifiable characters and plot elements. Usually, the history is narrated chronologically, recounting major battles and the decisions of kings and generals, while describing geopolitical intrigues, significant technological breakthroughs and organizational developments, and moments of tactical genius.

Conventional fighting dominates our conception of war also because we desire definitive resolution and because it is seen as the most successful way to wage war, so most countries in the world try to emulate it to some degree.

Mixed Methods and Probable Paths to Victory

Over time, political entities have varied across warring tribes, kingdoms, empires, city-states, caliphates, and states, among others. Furthermore, each scientific improvement has altered the face of war, e.g., use of metal, domestication of horses, evolution of the longbow, introduction of gunpowder, invention of ammunition belts for semiautomatic and automatic guns, and creation of unmanned aerial vehicles.

What is consistent across all these disparate eras is that people naturally seek military advantage in warfare, whether it is under the cover of night or through the element of surprise. One's life is at stake, after all, and it

would be foolish to take unnecessary risks with something so crucial. It is therefore unsurprising that guerrilla warfare has continued long after the advent of conventional warfare, and is still used alongside it. Although Thucydides tells the history of the Peloponnesian War as largely a series of conventional encounters centered between Athens and Sparta, irregular fighting was used throughout—there were only fifty-five major battles in a nearly thirty-year war, while within "the first few years the Athenians alone staged hundreds of low-level attacks on various locations"[10]—and contrary to conventional understanding, combat consisted more of "raiding and killing, not formal war as previously defined by the Greeks."[11] This was not unusual: ancient Greek warfare in general used mixed tactics.[12]

Similar conjunctions occur at other times: Against the better-armed and -trained British (and Hessian) soldiers, the rebellious Americans preferred to seize what advantages they could in the Revolutionary War. General George Washington's army ambushed Hessian mercenaries while they slept (and not because they were inebriated) in the Battle of Trenton, which was a standard approach for Washington. In fact, he did not employ classical massed infantry maneuvers for the bulk of the war—between August 27, 1776 (Battle of Brooklyn, which he lost), and October 19, 1781 (Siege of Yorktown, which he won, outnumbering the enemy two to one)—instead preferring ambushes and strategic retreats.[13] Says historian David McCullough, the Revolutionary War

> wasn't beautiful gentlemen of the 18th century in beautiful 18th-century costume. . . . Soldiers very often in rags, very often with no shoes. . . . Legendary stories about leaving bloody footprints in the snow in Trenton and other places were all true. They were hungry, they were starving, and they were down by the end of the year to 3,000."[14]

The French-Indian War (1756–63) that Washington had fought in earlier was mostly "wilderness warfare," far different from the Eastern part of the country where there was little wilderness left:

> He had no experience whatever in fighting . . . pitched, formalized battles of the 18th century. . . . It took him a while to catch on that if he came out and faced these English regulars, professional

> troops, who by the way were extremely courageous themselves—and they weren't commanded by aristocratic pinheads . . . another misconception— . . . that you can't fight them that way, and to figure out that the point isn't to protect cities or hold New York or hold New Jersey. The point is to keep the army alive and fighting. And it also took the British a while to figure that out: the way to defeat these rebels was to get the army—forget about taking Philadelphia or New York . . . just go get that army and kill it.[15]

The most compelling reason for the persistent use and staying power of guerrilla warfare is that it is highly effective. It leveled the Mesopotamian and Roman empires, and overwhelmed considerable portions of the Chinese and British empires, among others.[16]

Guerrilla warfare is also always available as a weapon of the weak, as the militarily disadvantaged still have a chance to win if they do not meet their foe head-on. It can inflict enormous damage without having to maintain and manage a large bureaucracy, it has low start-up and shutdown costs, and guerrillas can carry on low-intensity insurgencies for long periods of time. Even today, although conventional fighting looms large in our imagination, guerrilla action is still the dominant mode of warfare in the world.

Considerations of Morality and Justice

Although it is usually in the context of guerrilla or irregular warfare that the modern citizen thinks of martial chaos, anarchy, and lawlessness, the same moral atrocities abound in conventional warfare as well, perhaps even more so: rape, torture, summary execution of prisoners, enslavement of captives, indiscrimination that does not spare or perhaps even targets civilians, and tortuous killing (e.g., chemical weapons), among others.

The rules and structures of conventional warfare do not immunize one to bloodlust or intoxication by war. People are driven to kill one another for any number of reasons—especially competition, diffidence, and glory, says Thomas Hobbes[17]—and the impulse may quite literally be in our nature. Violence has been prevalent since perhaps the beginning of society, and some evolutionary studies suggest that aggressiveness is an adaptive trait that allows people to successfully compete for limited resources.[18]

Interestingly, an inclination for cooperation may have evolved alongside that for warfare.[19] There are evolutionary advantages to trust and altruism between close relatives or those in long-term relationships,[20] and it may also pay off evolutionarily to have faith in and be generous with strangers with whom one is in society, as there is always uncertainty about whether a particular interaction is a one-off.[21] Beyond that, there may even be a tendency toward "strong reciprocity": the willingness to sacrifice resources to reward those who are kind and to punish those who are not, even without prospects of future material rewards for oneself.[22] Ironically, some of this genetic drive to altruism may have been made possible by warfare. In fact, self-sacrifice in favor of group (rather than individual) selection may quickly make population rates plummet, but when there is war, higher levels of altruism and thus the self-sacrifice gene may become more sustainable.[23]

All of this altruism and self-sacrifice is happening within groups, however. Even between nonkin or strangers in these groups, there are still shared traits (e.g., culture, nationality, etc.) that delineate some kind of meaningful boundary for group members, and the benefits are doled out among them. As evidenced by countless wars, it seems that such altruism shown to insiders only intensifies the viciousness that is meted to outsiders.

At the same time, although mortal enemies kill one another much more often than not, there are individual instances of pity and kindness shown to enemy soldiers in the midst of barbarism. I mention just two of many examples here. Decorated World War II Luftwaffe pilot Franz Stigler decided to not shoot down an American B-17 because he saw that the tail gunner had already been killed and the survivors were busy aiding their injured, whereupon he not only spared the crew but also escorted the plane to safer airspace, at great risk to himself.[24] During the Iran-Iraq War in the 1980s, young Iranian soldier Zahed Haftlang encountered injured Iraqi soldier Najah Aboud in a bunker during a battle and reached into the Iraqi's pocket to loot from him, but found a Qur'an and a picture of Aboud's girlfriend and her son. "Because of his family and by that photo, he changed my mind," says Haftlang, "I made a decision to save him." Aboud remembers, "Right away he changed into a human, not an enemy, not a killer."

Haftlang gave the Iraqi painkillers, hid him underneath corpses for three days until the battle ended, and then took him to a military hospital. Recounts Aboud, "I never hear about Iranian soldiers saving Iraqi soldiers during the fighting. I never see him again."[25]

Furthermore, there are strong informal regulations for cooperation between enemies in other violent contexts, for example, mafia codes of conduct such as *omertà*, a kind of "honor among thieves" that frowns upon assisting legal authorities to interfere with even one's rivals and enemies. In the midst of intense conflict and horrendous violence, there are not only pockets of cooperation but moreover whole systems.

Iterated Games and Empathy

> It was not, then, for fear
> that I didn't kill you: it was—not to die myself!
> Not to die in you: you were my twin
> or seemed so in the twinned trench.
> —FAUSTO MARIA MARTINI, "WHY I DIDN'T KILL YOU"

Some of the more amazing stories of cooperation in warfare come from the trenches of World War I. How did its brutal, nonsensical slaughter—which ultimately killed over nine million soldiers across all theaters—yield the Christmas truces in 1914 (and to a lesser extent in 1915), during which not only did one hundred thousand British and German soldiers unofficially stop fighting but also, in some places in Belgium, German soldiers who decorated their trenches with candles and trees and sang carols were met with British soldiers singing in kind? Eventually, the two sides mingled in No Man's Land, exchanging gifts, food, and souvenirs, and even engaging in short, casual football games.[26]

It was not just ad hoc cooperation on a shared holy day: opposing trenches also spontaneously developed systematic cooperation over time with a "live and let live" arrangement. Trench warfare was a significant but not particularly interesting aspect of World War II military tactics—rather, it is noteworthy for what fighting did not happen. The famous timed shellings between some trenches in World War I was part of a system of reciprocal exchange of services that allowed each side to anticipate and avoid attacks and minimize casualties. It took different forms during the war: truces

lasted anywhere from a few minutes to several months, and some were explicit agreements between fraternizing soldiers in close quarters, while others were indirect, over long distances, and involved large numbers of people.[27] The existence of these truces is surprising, but, notes J. Glenn Gray, a World War II army officer and later philosophy professor, "It is a great boon of front-line positions that . . . disobedience is frequently possible, since supervision is not very exact where danger of death is present."[28]

Historical evidence for the truces is strong. There were numerous reports and even the occasional photo of people walking openly above trenches and of unrestricted movement in and out of the trenches; of Germans frying sausages and Brits frying bacon in the trenches, despite the fact that smoke from the fires would have attracted gunfire on active fronts; and of "quiet" fronts when there was no shortage of ammunition. In some trenches, soldiers hunted and retrieved small game, harvested vegetables, kept dairy cows for fresh milk, and had pianos and books. The British 33rd Division reportedly sent someone to the village each afternoon to purchase eggs, oats, fresh milk, and fruit,[29] and the British 1st Royal Berkshire Regiment and its opposing German unit delivered newspapers to each other.[30] All this would have been impossible without cease-fires of some kind. Some field reports explicitly referenced truces,[31] as well as other direct declarations, such as a sign on a notice board appealing, "Today is BANK HOLIDAY Tommies. Do not fire—give us a rest,"[32] or soldiers' letters describing the front:

> Without at all "fraternizing"—we refrain from interfering with Brother Bosch seventy yards away, as long as he is kind to us. . . . All patrols—English and German—are much averse to the death and glory principle; so, on running up against one another in the long wet rustling clover, both pretend that they are Levites and the other is a Good Samaritan—and pass by on the other side, no word spoken. For either side to bomb the other would be a useless violation of the unwritten laws that govern the relations of combatants permanently within a hundred yards of each other.[33]

> We suddenly confronted, round some mound or excavation, a German patrol. . . . We were perhaps twenty yards from each other, fully visible. I waved a weary hand, as if to say: what is the use of

killing each other? The German officer seemed to understand, and both parties turned and made their way back to their own trenches. Reprehensible conduct, no doubt.[34]

The man Mike gave some useful hints on trench work. "It's the Saxons that's across the road," he said, pointing to the enemy lines which were very silent. I had not heard a bullet whistle over since I entered the trench. On the left was an interesting rifle and machine gun fire all the time. "They're quiet fellows, the Saxons, they don't want to fight any more than we do, so there's a kind of understanding between us. Don't fire at us and we'll not fire at you."[35]

Truces arose where there was general reluctance to fight, usually out of a combination of self-interest and empathy. If fired upon, parties would return fire, but both sides preferred to "let sleeping dogs lie." Eventually, the threat of legal sanctions for explicit truces led to tacit ones.

Internal Sanctions

High command did not look favorably on this inactivity, for obvious reasons, so in the latter half of the war, they exerted more direct control over the trenches, for example by ordering specific raids. Soldiers adapted by ritualizing their aggression and conforming with the letter, but not the spirit, of the commands. They would deliberately aim their rounds high, enemy patrols would pretend to not see or follow routes such that they would not encounter one another, and shooters would fire into No Man's Land instead of into trenches or shell the same place or at the same time every day so that the enemy could avoid that area or schedule to suit. Such ritualized aggression still looked like battle from the outside, and reassuring reports could be sent to high command about the times and duration of the battles and how much ammunition was spent.

The internal struggle between command and the front escalated throughout the war, with high command wanting soldiers to put themselves at risk and soldiers trying to find ways to avoid fighting and dying. The truces were hardly easy to maintain. Penalties for treachery were severe, of course. In addition, high command kept trying to break up the tacit collusion by rotating people off the front more frequently. Within the

troops, the artillerymen, who were further back and bore less risk, wanted real battle, so it was difficult for the trenchmen in front to hold on to the truce.[36] In an almost perfect example of an iterated game for survival between predator and prey—although here high command and soldiers were ostensibly on the same team despite their conflicting aims—each side continually sought and found new ways to adapt to and outwit the other's response.

Anywhere from 13 to 40 percent of all trench tours—and overall about 33 percent—practiced some form of "live and let live" at some point.[37] That is a significant percentage of the fronts and an extraordinary number of truces, many of which involved no direct communication between the enemies.

Deterrence

This is not to say that serving in the trenches was not a brutal experience and that life there was comfortable or safe—far from it. Even when a truce was in place, it was not all fun and games or cuddly cooperation. Underlying the truce, and holding it together, was always the threat of destruction should someone secede from the agreement. For example, ritualized exchange of fire sometimes took the form of repeatedly "just missing" the target. This did not harm the enemy and maintained the truce, but simultaneously showed him that you had the range and accuracy to kill him should peace break down.[38]

Where "live and let live" arose, its motivations evolved along with its forms. At first, everyone had the same but not shared goal of winning the battle and leaving the trenches alive, but eventually, some started sharing the implicit goal of subverting the system, which was the only way they might survive. The ability to sustain at length such complex and uncoordinated cooperation between warring parties—usually without direct communication, while individuals constantly rotated in and out, and sanctions were imposed both between enemies and within each side—is impressive, to say the least.

"Live and let live" is admittedly fairly unique, and made possible partly because of the structure of trench warfare—this kind of cooperation did not develop in other wars that employed different tactics. Trench warfare just happens to have a structure that makes for relatively clean iterative, cooperative games of this sort. Trench warfare's rigid and transparent

structure allowed for easier conspiracy, and the "live and let live" arrangement that evolved shows cooperation in its distilled form. Robert Axelrod's *The Evolution of Cooperation* (1984), which drew from his and evolutionary biologist W. D. Hamilton's 1981 paper, reveals how tit-for-tat games and structures apply to many different scenarios and can shape the development and behavior of the actors within, including soldiers trying—or rather, not trying—to kill one another in the trenches.

It does not mean that fellow feeling or the desire to cooperate does not exist in other circumstances; it is simply more diffuse or on a smaller scale (e.g., not sniping a man when he is taking a cigarette break, or trying to not kill women and children), and more difficult to organize.

Shared Humanity

Although the warring states stoked their populations' nationalistic passions by dehumanizing the enemy, most trench fighters were conscripts with little at stake in the conflict. Initially moved by rousing propaganda, these "ignorant armies clash by night,"[39] but once they experienced war in its full misery, many found that they preferred to save themselves. And once they recognized the humanity of their enemies across the way, the structure of trench warfare allowed them to collaborate with one another in this Prisoner's Dilemma scenario, and they were willing to spare their opponents for the sake of their own survival.

Fictional German conscript Paul Bäumer understands the necessity of killing the enemy, but at various points feels a certain pity and even empathy for them. He acknowledges the suffering of some Russian POWs and recognizes their cruel twists of fate:

> A word of command has made these silent figures our enemies; a word of command might transform them into our friends. At some table a document is signed by some persons whom none of us knows, and then for years together that very crime on which formerly the world's condemnation and severest penalty fall, becomes our highest aim. But who can draw such a distinction when he looks at these quiet men with their childlike faces and apostles' beards. Any non-commissioned officer is more of an enemy to a recruit, any

schoolmaster to a pupil, than they are to us. And yet we would shoot at them again and they at us if they were free.[40]

Later, trapped in a foxhole with the body of a man he killed, Bäumer regrets his actions:

> Comrade, I did not want to kill you. If you jumped in here again, I would not do it, if you would be sensible too. But you were only an idea to me before, an abstraction that lived in my mind and called forth its appropriate response. It was that abstraction I stabbed. But now, for the first time, I see you are a man like me. I thought of your hand-grenades, of your bayonet, of your rifle; now I see your wife and your face and our fellowship. Forgive me, comrade. We always see it too late. Why do they never tell us that you are poor devils like us, that your mothers are just as anxious as ours, and that we have the same fear of death, and the same dying and the same agony—Forgive me, comrade; how could you be my enemy? If we threw away these rifles and this uniform you could be my brother.[41]

Bäumer never made good on his promise to his dead enemy-turned-comrade in the foxhole, but others did in real life.

The mutual subversion between enemies of "live and let live"—clean and highly structured, in many ways—is unusual and surprising, but not infrequent when comparable circumstances present themselves.

There is similar but less-developed behavior in trenches elsewhere in World War I,[42] as well as precursors some fifty years earlier in the American Civil War—fittingly, as tactics there presaged European trench warfare in many ways—where fraternization between the two sides was not unusual.[43] One example comes, surprisingly, from the ferocious Korean War (1950–53). American military doctor Otto F. Apel recounts the rare sounding of an air raid alarm one day that panicked everyone, because the United States had already gained air superiority early in the war. At first, nothing happened, and then a plane appeared, but it was not a Soviet MIG-17. Instead, it was an open-cockpit biplane with a solo North Korean aviator who twice passed over the tents so closely "we could see his face clearly. He looked back at us just as we looked at him. He tossed something from his cockpit, presumably a hand grenade, and it fell harmlessly to the ground

and exploded a safe distance from us." This spawned much discussion that night, of course, and

> an epidemic of Monday morning quarterbacking swept the MASH. If we had just been ready with the quad-50s [antiaircraft weapons] . . . one burst would have chewed that biplane to bits. Whose fault was it that we did not give him a proper welcome? How did we let that commie get away? Next time, just wait till next time!

The incident repeated itself twenty-four hours later, at 4:00 PM the next day, but

> this time he wore a pair of sunglasses and a nice white scarf around his neck. In the breeze, the scarf trailed back from the leather helmet like the tail of a comet, giving him a World War I ace look. . . . Instead of greeting him with quad-50s, we waved our hands and shouted greetings as he went by on his first pass. On his second buzz, he dipped his wings to return our wave. On he went, climbing skyward and tossing his payload from the aircraft. We shook our heads and laughed as we strolled back to the tents. In a moment we heard the explosion way out in the field. We did not even look back.

"Bedcheck Charley,"[44] as 8076th MASH dubbed him, came regularly at 4:00 PM every day until

> as suddenly as he had appeared, his visits ceased. We felt a bit like a friend was gone. It occurred to us that someone had ordered him to bomb the MASH and continue bombing it until it was no longer operational. In a touch of compassion, this lone North Korean refused to carry out the insane orders to bomb a hospital. Perhaps he reported that his mission was accomplished. Perhaps they knew what he was doing and relieved him of the mission. Perhaps even his military superiors recognized that what he was ordered to do was inhumane and they were touched by a sense of humanity. We will never know. He never reappeared.[45]

This ad hoc, mutual self-restraint was far less systematic than "live and let live" in World War I trenches, but its appearance even in the midst of the

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particularly brutal Korean War is testament to the possibility of the ethic of cooperation in warfare.

Similar phenomena occur at other phases in conflict. "One of the commonest features" of siege warfare negotiations between city-states in Renaissance Italy during the fourteenth and fifteenth centuries was "the idea of a delayed surrender," in which a town under siege would agree to capitulate if help had not arrived within a set period. In the meantime, "the siege would not be pressed [and the attackers] could look forward to avoiding the most dangerous exercise of all—storming a well fortified city," while the besieged hid their belongings in the event that relief never came.[46]

The warring parties were small principalities constrained by a rough parity between them, so realistically, they could not expect to "annihilate their rivals," but rather hope only to "achieve security and predominance within clearly defined spheres of influence." As a result, "battles were calculated risks, fought to gain advantage not overwhelming victory."[47] While the settled terms of delayed surrender were not always later honored, the frequency of these negotiations indicates some dynamics similar to those in the World War I trenches: mutual advantage to be gained from not fighting and some expectation of repeated future interaction.

Why Cooperate?

一將功成萬骨枯。
Yi jiang gong cheng wan gu ku.
One general's honor is 10,000 soldiers' white bones.
—CAO SONG, "JI HAI TWO POEMS" (TANG DYNASTY)
《己亥歲二首僖宗廣明元年》年代:唐。作者:曹松

One major motivation for "live and let live" is, unsurprisingly, ordinary soldiers realizing that they are being condemned to die for no greater purpose than someone else's vainglory or petty feuds. Their memoirs are filled with lengthy treatments of the abuse they suffer at the hands of senior officers. On only the third page of his collected letters, Pvt. William Wheeler, who fought with the Duke of Wellington's armies in the early nineteenth century, describes a superior officer who "delighted in torturing the men, every man in the Corps hated him, when once a soldier came under his lash it was no use for any officer to plead for him"; only a few months later,

he recounts unfair punishments meted out by commanders and, separately, reports that "I have at length escaped from the Militia without being flead alive."[48]

A significant portion of World War I Italian officer Emilio Lussu's memoir, *A Soldier on the Southern Front*, is devoted to relating how senior officers frequently sent soldiers on obviously foolhardy and suicidal missions, such as crossing No Man's Land to cut the enemy's barbed wires in broad daylight, because the officers had recently arrived on the front and did not understand the war, or did not care and simply wanted to see something being done under their watch. Says his trench-mate Ottolenghi:

> Our real enemies are not beyond our own trenches. So first, about-face, then onward . . . all the way to Rome. That's where the enemy's general headquarters is. . . . It seems to me that our generals were sent to us by the enemy to destroy us. . . . Where is our enemy? That is the question. The Austrians? Obviously not. No, our natural enemies are our generals. . . . His Excellency General Cadorna . . . is not anywhere near here. And neither is the commander of our army. Even the commander of our army corps is far away, hiding out at the foot of the high plateau.[49]

There are many such moments, in this war and every war, in which ordinary soldiers recognize that they pay the price for the machinations of kings and generals in which they have no stake.[50] In the course of that realization, they may appreciate that they have more in common with their enemy than with their own officers who are fellow countrymen—and so in order to save themselves, they become willing to cooperate with an unknown enemy by "living and letting live." Naked self-interest, once it is realized, can operate at different levels and lead in different directions.

Is cooperation between enemies possible even when it is not clear that self-interest is being served? In the World War I trenches, the anonymity of fighting between large, modern nation-state armies cut both ways: it allowed soldiers to hold pernicious perceptions of strangers and to kill them with hardly a thought for their opponents' humanity, but it also let them acknowledge their shared attributes and interests, in opposition to their own officers. Ironically, limited personal contact with the enemy can compare favorably to the extensive but contentious and often abusive personal

interaction with one's officers or troop mates, and that opens some space for such mutual recognition.

In a strange way, modern warfare is not really about killing. Violence, says Carl von Clausewitz, is simply a way of imposing one's will on another person. Like wrestlers:

> Each tries by physical force to compel the other to do his will: his immediate object is to overthrow his adversary and thereby make him incapable of any further resistance. *War is thus an act of force to compel our adversary to do our will*. . . . Force, that is to say, physical force (for no moral force exists apart from the conception of a state and law), is thus the *means*; to impose our will upon the enemy is the *object*. To achieve this object with certainty we must disarm the enemy, and this disarming is by definition the proper aim of military action. It takes the place of the object, and in a certain sense pushes it aside as something not belonging to war itself.[51]

This builds to his famous statement that war is merely the continuation of policy with other tools,[52] just one instrument among many. As violent action is a means to an end, not a good in itself, if the outcome could be achieved without killing a single person, so much the better.

This then leaves room for other dynamics and motivations to operate, even if not always efficiently, in the service of warfare, such as upholding a sense of honor or protecting the weak and innocent. The self-interest of "live and let live" can also emerge in that space, and is just one rationale for conspiring with the enemy. Other collusions include sparing women, children, and other innocents or treating POWs according to some international standard, each of which grows out of its own complex of motives, as we will see.

What Is Cooperation?

Cooperation is a fraught concept, with different definitions and uses growing out of rich traditions such as evolutionary biology or game theory that can inform one another.[53] In fact, Axelrod begins *The Evolution of Cooperation* with an exploration of World War I trenches' "live and let live." The

broader field of conflict theory, started by Thomas Schelling's *The Strategy of Conflict* (1960), looks at war as a form of negotiation involving signaling, communication, coordination, and bargaining, with asymmetric behavior and knowledge.

The Limits of Game-Theoretic Analysis

Analysis with game theory can be so compelling that in some fields, cooperation in warfare is thought of only in game-theoretic terms. Formalizing cooperation through game theory both gains and loses some insights, however. Its rationalistic approach captures some aspects of cooperation between enemies and certainly enhances our understanding of institutionalized international laws of war agreed upon between states, for example. But it does not necessarily enlighten us on other aspects of collaboration, including cooperating even to one's own detriment and its underlying complex of motivations such as virtue, honor, ideology, morality, and altruism. Game theory can help show that some form of ethic of cooperation exists in warfare, but it cannot encompass or explain the entirety of that moral impulse at the individual or institutional levels.

It behooves us to remember that no matter how rational one's approach,[54] war itself is always grounded in some kind of emotion. Says Clausewitz, who is often mistaken for holding and advocating a purely rational approach to warfare:

> *Conflict between men really consists of two different elements: hostile feeling and hostile intention.* . . . We cannot conceive the most savage, almost instinctive, passion of hatred as existing without hostile intention . . . . *Among savages intentions inspired by emotion prevail; among civilized peoples those prescribed by intelligence. But this difference lies not in the intrinsic nature of savagery and civilization, but in their accompanying circumstances, institutions, and so forth.* . . . Even the most civilized nations can be passionately inflamed against one another. . . . *How far from the truth we should be if we ascribed war among civilized men to a purely rational act of the governments and conceived it as continually freeing itself more and more from all passion, so that at last there was no longer need of the physical existence of armies, but only of the theoretical relations between them—a sort of algebra of action.* Theory was already beginning to move in this

> direction when the events of the last war taught us better. *If war is an act of force, the emotions are also necessarily involved in it.* If war does not originate from them, it still more or less reacts upon them, and the degree of this depends not upon the stage of civilization, but upon the importance and duration of the hostile interests. If, therefore, we find that civilized peoples do not put prisoners to death or sack cities and lay countries waste, this is because intelligence plays a greater part in their conduct of war and has taught them more effective ways of applying force than these crude manifestations of instinct.[55]

This complex of emotion, rationality, and interests cuts across different types of societies in various ways to determine how they will pursue their war efforts, but no society or war effort is free of hostile intent.

Cooperation as It Is Used

My purpose is not to propose a final definition of cooperation, but rather to look at counterintuitive forms of cooperation that are noteworthy in the context of warfare, explore their aims and dynamics, and tease out their relationships with one another. To that end, the types of cooperation discussed here cover a range that may not initially appear to constitute cooperation at all or may seem unrelated.

In "cooperation," I include a weak form of intentional cooperation, meaning that if a person thinks of himself as cooperating—however he may understand that, provided he is not insane or otherwise delusional—with the enemy when he engages in certain wartime acts, then I generally take it to be cooperation. In these cases, it is the actor's self-conception that matters.

There is a stronger form of intentional cooperation: working jointly with the intent to achieve an end that is beneficial for somebody (either the actors themselves or a third party) relative to some baseline. This jointness, "with other people," entails some form of communication between the actors, which can be very weak: they do not actually have to talk, write, or otherwise correspond directly with one another, as long as there is interaction that allows a person to infer information. When two men get into a boat, both will row their oars in sync, says David Hume, even without having explicitly discussed an agreement to do so. If a producer of the same product

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that I make raises his prices at the same time every year, I might be able to infer that he wants me to join in an oligopolistic alliance. If the enemy shells my trench at the same time every day, I might be able to infer that he will do the same tomorrow, and would like me to reciprocate. Conventions and agreements can arise tacitly, "without the interposition of a promise," as Hume describes, simply by "referenc[ing]" the actions of the other and performing on the basis of a "supposition" of the other's performance.[56] Such indirect communication is encompassed within the next requirement, of strategic action.

Jointness also requires strategic, rather than parametric, action. Strategic action involves responsiveness to others' moves and is game-theoretic; in contrast, parametric action is choice-theoretic, more like responding to nature.[57]

Jointness can entail but does not require collective agency or collective planning, however.[58] For example, when a large group of people is trying to get into a tennis stadium in time for the opening serve, the individuals are all cooperating with one another under the constraints presented by others wanting the same thing. In this case, they are working jointly and responding strategically to others' actions, but cannot be said to constitute a collective agent. As Schelling has shown, this kind of coordination can occur even when the parties are in different places and unable to communicate with one another, and when there are any number of equilibrium solutions with similar payoffs for all parties (and therefore no obviously "right" or "better" answer). Under these circumstances, they will tend to choose the most prominent or conspicuous solution, which is "some focal point for each person's expectation of what the other expects him to expect to be expected to do."[59]

Tacit human convention can give rise to explicit rules and institutions, as Hume argues about the origins of justice and property—"it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it."[60] Even more surprisingly, rules and institutions can be derived from tacit and unspoken coordination even under the high-stakes life-or-death situations of active war, as we shall see with the development of some strong (but never explicitly negotiated) norms of war as well as the legal institutionalization of certain previously tacit rules of war.

In both weaker and stronger senses, cooperation between enemies in warfare does not require direct communication, collective agency or planning, positive sentiment (e.g., altruism, fellow feeling), shared goals (each person could have the same goal), or even mutually beneficial outcomes to

the actors themselves. Nor does it preclude selfish motivation—in fact, it is often driven by self-interest.

The Ethic of Cooperation in Warfare

Despite the antagonistic nature of warfare—in which participants try to kill one another—soldiers, states, and other entities will still *intentionally* cooperate with one another, often in ways that make it harder for them to win.[61] This intent matters even if the actual behavior or outcome is non-cooperative, e.g., if the actors are wrong about their actions and effects.

How to Cooperate

Cooperative intent does not have to exist at the level of each individual. Actors such as states or international organizations can behave cooperatively even if the particular individuals that compose them do not always intend that. Cooperation can also be built into institutional structures, such as international law. Enemies can work together by establishing formal and informal practices within war or the rules restricting war. General agreement on the norms of warfare does not necessarily include concurrence on how to justify them, however. Actors can cooperate in a variety of ways and for different reasons, including:

1. *Cooperation for shared goals* (e.g., team-building activities):

This is the cooperation that people most readily think of, when all parties have the same goal and its content applies to each party in the same or compatible way(s). Cooperation itself may be the goal, such as in a company team-building activity to transport a bucket of water using only designated methods. Or people might also cooperate for an external shared goal with either noncompetitive (e.g., playing a Brahms symphony) or competitive ends (e.g., a Tour de France cycling team trying to drive its leader to victory). These take place within definitive structures and constraining rules of action, but there can also be less-defined contexts, such as neighbors building a community garden, random passersby pulling a car out of a ditch, or different military branches (army, navy, air force) engaging in joint-force operations.

2. *Cooperation for the same, but not shared, goals* (e.g., chess game opponents, dueling fencers):

In competitive games with a limited number of winners, each player holds the same, but not shared, goal of winning the match, as that could only be achieved at others' expense. Participants cooperate nonetheless, first, by entering into the competition, as there would be no activity without the requisite number of players; then they play according to rules that restrict how the pieces/players move, specify how and when players may interact (e.g., taking turns), and define how to win. Without players' mutual cooperation in abiding by the rules, there could be no competition as conceived. Any defined competition, mental or athletic, requires such cooperation *in order for* one to beat the others and the competition to yield an outcome. Cooperation in warfare is most frequently of this kind: each side has the same goal of winning, but can only do so at the others' expense (by killing the other), under the constraints of whatever rules or norms have been established.

3. *Cooperation for a variety of goals—some shared, some same, some different—within a shared process/infrastructure* (e.g., a social contract perspective of society):

Here, cooperation *is* the shared process or infrastructure within which people operate. With so many varying and ever-changing goals in a diverse society, the only way people can live together is to mutually abide by specific rules of engagement, from the most fundamental (e.g., whether or not freedom of speech is a principled right) to the most mundane yet practical (e.g., which side of the road to drive on). In warfare, the institution of international law has a similar structure—everyone enters the activity with different, same, conflicting, concurrent, changing goals, but is equally bound by the superstructure of the law.

The peculiar thing about cooperation in warfare is not only that there is cooperation at all—already significant in itself—but that there is beyond that an *ethic* of cooperation in warfare, a belief that it is right to cooperate in war. This ethic is more than mere pursuit of self-interest, for it often cuts against that. Even when cooperation clearly promotes everyone's self-interest,[62] other motivations creep in as well. For example, a veteran of the World War I trenches cajoled his more eager companion: "Come on, let sleeping dogs lie. If we was to throw a bomb you can bet your boots the old Bosche would

chuck one back, and Mr. Digby and Mr 'Arris (the soldiers occupying the sap) . . . are both married men. Wouldn't be cricket would it?"[63]

Disturbing the peace would only prove disastrous for soldiers and their families. Still, it is not the only impetus. The appeal to "cricket" entreats the other soldier to also consider the importance of fairness and reciprocity, above and beyond and perhaps against one's own interests—that because the opponent restrains himself, perhaps one should too.

The Legitimating Effect of Cooperation

Whether or not it is used as such, war is commonly thought of as a last resort after further negotiation and compromise appear impossible. When something seems so important, unjust, or intractable that there is no recourse save violence, it is also natural to deem the enemy so repulsive as to be worth killing. So when there is cooperation, not only are military leaders incensed at the damage to military interests, but the population is also often outraged at the seeming treachery. Soldiers can be court-martialed or executed for simply declining to kill the enemy when given the opportunity, much less colluding with them on or off the battlefield.

For example, the prisoner exchange in May 2014 between the United States and the Taliban—Army PFC Bowe Bergdahl for five Taliban fighters detained at Guantánamo—was controversial amongst both Americans and Taliban across the political spectrum.[64] There were practical fears about whether the exchange served American interests, as the Taliban fighters would be released to Qatar, where they would be allowed to move freely, and no US officials would be involved in their oversight.[65]

Of the other concerns,[66] perhaps the most significant was that although discussions leading to the exchange were limited and unlikely to presage any broader peace talks,[67] many Americans were troubled by the possibility that negotiations and agreements might confer international legitimacy upon the Taliban—something the latter seeks but which the international community has resisted granting.[68] Then US secretary of state Hillary Clinton recounted:

> I was asked if "it would be a surprise and maybe even disturbing" for Americans to hear that we were trying to reconcile with some insurgents even as the President was sending more U.S. troops to

> fight the very same Taliban. . . . Could sworn enemies actually come to some kind of understanding that would end a war and rebuild a shattered country? After so many years of fighting, it was hard enough to sit together and talk face-to-face, let alone trust one another. . . . I acknowledged . . . that opening the door to negotiations with the Taliban would be hard to swallow for many Americans after so many years of war. Reintegrating low-level fighters was odious enough; negotiating directly with top commanders was something else entirely.[69]

American officials stated that they could not cite another time in which the United States exchanged prisoners in an unconventional, insurgent conflict.[70] In fact, the United States has negotiated with terrorist groups in the past—including the "arms for hostages" Iran-Contra scandal, which resulted in the release, and then replacement kidnappings, of three hostages[71]—but that was an anomaly, as it usually takes a heavy hand with terrorists and rarely pays ransoms for hostages.[72]

More than a lack of precedent on this matter, however, it was the very idea of doing business—even a self-interested trade—with the enemy that was anathema for many. It is difficult to accept cooperation with someone who has been and is trying to destroy you, and whom you have been and are trying to destroy in turn. Animosity and mistrust, not to mention inevitable villainization of the other, compound over time, making it hard to imagine cooperating even with former enemies to pursue one's self-interest,[73] much less with a current one.

The principle of nonnegotiation with terrorists is meant to not only deter future terroristic acts, but also withhold conferring legitimacy to terrorist groups.[74] It reflects a belief that terrorists, by dint of their unconventional tactics, are untrustworthy—further reason to deny their political legitimacy.

Cooperation unwittingly accords a modicum of respect, trust, and recognition of humanity, which is exactly why cooperating with one's opponent (terrorist or otherwise) *does* lend him a veneer of legitimacy, and why negotiating with terrorist groups is controversial—it appears to confer not just political legitimacy to the organizations, but also moral legitimacy to their military tactics.

Can cooperation occur in isolation without any implications for legitimacy? Several editorials expressed hope that the 2014 US/Taliban prisoner

exchange would lead to further dialogue, resulting in a broader reconciliation or larger peace agreement. For example:

> On balance, the exchange made sense. . . . The release is part of a broader effort . . . to engage with the Taliban as the U.S. war effort winds down, and rightly so. . . . If the U.S.'s exit from Afghanistan is not to end in disaster for the people of that country, there must be some kind of accommodation between their government and the Taliban. By releasing the five Taliban commanders, the administration hoped not just to get Bergdahl back, but also to move that larger process along.[75]

> The Bergdahl deal may serve as a prelude to a wider set of talks with the Taliban. . . . Spokesmen for both sides stressed that the deal just made was a prisoner-exchange deal and nothing more—that no further inferences should be made. But American officials from President Obama on down have stressed that a good end to this war can only be a negotiated end, that it must involve an accord with all the factions, and the Taliban are a homegrown faction. Maybe the Bergdahl deal will serve as a prelude to a wider set of talks—in which case this will be looked back upon as a very good day.[76]

But what if this prisoner exchange is just a one-off and does not lead to future negotiation: Would there be something wrong with it? One should always work toward the beginning of the end to the war—as the Obama administration did—but if, ultimately, it was nothing more than a prisoner exchange for the limited purpose of recovering one's soldier, it would be nothing strange or even necessarily incorrect.

Some commentators erroneously claimed that "prisoner exchanges generally come when hostilities have ceased,"[77] but they can be commonplace even in the midst of conflict and do not necessarily indicate any movement toward reconciliation or resolution. During the four-century war between the Arab Caliphate and the Byzantine Empire (629–1050s AD), for example, almost two dozen prisoner exchanges were recorded over nearly two centuries (late eighth through mid-tenth centuries AD). Amid continuous raiding activity, the two empires exchanged prisoners, sometimes by the thousands, by having them simultaneously walk across bridges over the Lamis river on their shared borderland.[78]

In recent times, some countries such as Israel, the United Kingdom, and France have been more willing to exchange hostages,[79] and there is a long history of successful trades, including with terrorist groups. Since its inception in 1948, Israel has frequently traded with its various Arab enemies, releasing over eight thousand prisoners in dozens of exchanges in the past three decades alone for Israeli citizens, amid what could be considered a single, continuous—albeit complicated and ever-changing—quarrel. The myriad bilateral antagonisms in the region (involving Israel, Egypt, Palestine, Syria, Iran, and others) are all part of this complex conflict, with cross-cutting interests and shifting microalliances, and the numerous prisoner exchanges involving tens of thousands of people have not been harbingers of any greater resolution.

While most exchanges were with established states (e.g., Syria, Egypt, Lebanon), many were with Palestinian and other Arab political groups it does not recognize or classifies as terrorist, including Fatah, the Democratic Front for the Liberation of Palestine (DFLP), Hamas, and Hezbollah. Recently, in 2011, Hamas released Israeli soldier Gilad Shalit, whom it had captured in 2006, in exchange for 1,027 Palestinian prisoners held by Israel.[80] One has even seen successful hostage exchange involving Boko Haram, a militant Islamic group in Nigeria so extreme it is shunned by many others—here, eighty-two of nearly three hundred kidnapped schoolgirls for some militant commanders.[81]

Clearly, cooperation can take place between enemies—not just between conventional opponents in a structured, iterated game, but also under less organized or stable circumstances—that does not necessarily confer legitimacy. Limited pockets of cooperation can and often do punctuate a longer, sustained conflict, without any contradictions: enemies can negotiate over smaller issues, make agreements in good faith, and keep their word, whether or not the other side is an organized political faction, while simultaneously warring against each other in the broader context.[82]

Modern Institutionalization of Cooperation and the Rise of International Law

Different forms of cooperation can be arrayed along a spectrum of defined organization and design. At the more structured end, one might find something like redistributive welfare, in which citizens must pay a prescribed

percentage of their income and spending in taxes but the particular use of these revenues is left to the vagaries of political negotiations. In the middle of the spectrum, where processes are less constraining, there is, for example, competition between businesses for market share. Beyond the cooperation of obeying laws for product safety, copyright, antiprotectionist or antimonopolist practices, or other commercial restrictions, actors are free to do almost anything else: they might choose to improve on an existing product, create something radically different to do the same thing but better, or something else, so it is also not a zero-sum game. At the more amorphous end of cooperative enterprises would be spontaneous orders, e.g., development of a language or emergence of the use of money.

Usually, cooperative effects without cooperative intent are not particularly significant, as they can be produced quite accidentally,[83] but it is noteworthy when an ethic of cooperation is built in at a higher structural level. The most striking example of such institutionalized cooperation is the establishment and widespread acceptance (at least in name) of international warfare law. Such cooperation, for example, the ban on hollow-point bullets, generates something that looks quite different from individual cooperation to maintain "live and let live" in the World War I trenches: How can they both be considered manifestations of the same phenomenon, an ethic of cooperation in warfare?

In some areas, cooperation is scalable, from the level of the individual actor through intermediary levels to the institution, for example, with expectations for POW treatment.[84] At other times, the form of cooperative ethic is fairly unique, as with "live and let live," and cannot be institutionalized into law. In both cases, cooperation can be considered a good, a positive reason to engage in the action, independent of the other reasons for that action.

Adherence to the law requires the cooperation of all relevant actors (nation-states, soldiers, and everyone in between), not just between adversaries, but also internally, by domestic authorities enforcing the international laws on their own populations. National and international institutions can enable actors' cooperation, or the institutions themselves can be the object of cooperation, such that individuals operating under those laws are primarily rule-following with or without cooperative intent. In the latter case, the intent to cooperate still exists, but not necessarily for each acting individual; the institutions and rules form the cooperative structure and embody cooperative intent.

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In between self-interested and intentionally-cooperative conduct lies behavior such as rule-following, and at times, the ethic of cooperation in warfare appears to be merely rule-following. The two can look similar, especially when international law prescribes cooperation as a means or an end such that cooperation in warfare then *entails* rule-following.

But cooperation can contradict the rules or engage where they are silent. "Live and let live" clearly flouted regulations and defied the wishes of high command, for example, while ad hoc decisions to spare someone out of a sense of fairness arise in the absence of established rules or expectations or after all the rules have been obeyed. So there is no clean relationship between cooperation and rule-following.

As with most human action, mixed motivations are the norm in the business of warfare. There are moments when people think that cooperation itself has moral purchase, but the desire to cooperate usually functions alongside and is buttressed by other rationales—foremost among them the self-interested desire to survive—and cooperation can be a means to an end.

It is also sometimes the case that soldiers engaged in cooperative behavior do not necessarily think of it as such, but that does not mean they are not cooperating. For example, says a US Marine deployed in Afghanistan in 2009–10, one of the major strategies was to establish a rapport and broker deals with locals so that they would see it was in their best interests not to fight the Americans: "We thought of it as building relationships, and if they wanted to fight, we'd fight. Sometimes multiple times a day. But if someone wanted to reach out to my extended hand, we'd negotiate, and sometimes we'd do that several times a day. . . . We had a mutual interest in survival. The Marines wanted to go home alive, and they didn't want us to burn their houses down."[85]

Motives evolve as well. The wearing of uniforms in combat is an interesting case of something that started for one reason—the internal objectives of imposing discipline and professionalism on a previously disordered militia and solidifying loyalty to the sovereign from mercenary fighters—that was later superseded by others, including (a) reciprocally and cooperatively protecting civilians, such that soldiers accept the disadvantages of uniforms on the understanding that their opponents do the same, and (b) shielding civilians on the grounds of innocence or human rights.

We are in a period of transition in international ethics, and the justifications for various international laws are in flux. This does not obviate any

original cooperative ethic that motivated those laws, and its evolution across a wide range of issues demonstrates its breadth, intensity, and depth.

By "evolution," I do not mean that there has been some kind of natural selection for cooperative behavior such that it is considered more "fit" for or more "right" in warfare—although now there is clearly *institutional* reward via international and national law. Neither do I imply any teleological claim about the development of cooperation over time, as institutionalized cooperation is associated with both more and fewer moral atrocities. The ethic of cooperation in warfare emerges and manifests itself inconsistently, in different ways and in varied settings throughout the history of warfare, and, like evolution, there is nothing teleological about it. It would be difficult to trace a clear progression of increasing cooperation overall, even accounting for halting development and setbacks.

That said, there is, however, something unique about the ethic of cooperation in warfare during the modern period, when it slowly gets systematized in international law and its accompanying institutions. Obviously, there are many ways to fight other than elaborate set pieces à la the Napoleonic era, but modern warfare, which developed in conjunction with the modern nation-state, has many distinctive features. Most visible are massive national armies who, for the first time, expected to die for their national homelands rather than for a god, lord, or paymaster. Along with the swelling size of armies grew the scale of war itself and the industrial production of weaponry, and this required management by a central bureaucracy.[86]

In addition to the military's institutional, organizational, and technological advances, modern warfare is also characterized by the development of governing codes of conduct and international laws that embody and prioritize certain cooperative values, e.g., yielding decisive outcomes.

These explicit international laws and treaties differ from the limiting principles and edicts of warfare previously issued by, for example, kings or religious leaders, in three related ways:

1. *Universalizability*: Adherence to religious edicts hinges on belief in that religion and political orders on loyalty to the king, for example. In contrast, contemporary international laws of warfare are universal in applicability, as modern just war doctrines purport to speak to all states and to all human beings in those states. Compliance with the law is not

grounded in membership in particular states or groups of states or in certain religious beliefs.

2. *Nonreliance on comprehensive doctrines*: Even as religious edicts can persuade only specific audiences, they still make comprehensive claims,[87] whereas contemporary international law does not rely on similarly-comprehensive doctrines and seeks instead to be universalizable. International law could be justified by appeal to certain comprehensive doctrines, but its acceptance does not depend upon holding a particular religious faith or nationalism. Rather, it rests on some overlapping consensus, whatever form that might take, and is universalizable in both justification and application.
3. *Legal specificity*: Finally, these international laws carry with them much more possibility for legal specificity, because their associated courts build up a body of case law through the process of adjudication. How a law applies in particular circumstances is better worked out in a court system than when promulgated by kings and priests, as courts actually hear cases, and from a variety of traditions and religious backgrounds. The ensuing body of case law built by the international judicial structure gives us better understanding of what that law means in specific cases than we had with canon law, e.g., Christian doctrine, which offers less detail for its application and would have pertained only to certain areas (e.g., Europe). In contrast, international law applies to all states and types of regime—whether imperial, anarchic, or other—and provides greater specificity, over a broader range of cases.

The development of established codes of conduct and international laws in the modern period shows that not all morality is lost in warfare. Cooperation is obviously motivated in large part by practical and self-interested considerations, but not entirely. One can interpret the law of armed conflict (LOAC) as yet another tool wielded by the more powerful states to oppress weaker ones; as Thrasymachus explains, "justice is . . . the advantage of the stronger," for "rulers proclaim that what is to their own advantage is just for those who are ruled by them."[88]

It is not so easy to rig the structure in one's favor, however. As Machiavelli counsels the prince: the law alone is insufficient, and he must contest by both law and force, in the way "proper" to man and beast respectively, while simultaneously disguising his actions, "to be a great pretender and dissembler" such that his deception remains hidden and that he continue

"to appear merciful, faithful, humane, honest."[89] This is a tall order indeed, one at which most princes fail.

Once established, rules can take on a life of their own and serve as a touchstone. The content and structure of international laws of war do make it harder to win, which is why even stronger countries and their soldiers repeatedly try to break the rules.

The widespread institutionalization of wartime cooperation in international law has not been seen at any other time in history and it may not last, but it is the vehicle for one of the major features of morality in warfare—the ethic of cooperation and reciprocity between both allies and enemies—and it has implications for warfare and for the international political structure. Even in the most appalling of human activities, there is systematic, self-imposed legal restraint, such as banning hollow point bullets (Hague Convention, 1899) or regulating prisoner-of-war treatment (from the Peace of Westphalia of 1648 through the Geneva Conventions of 1949). Most notable is that formalized cooperation has bred normative expectations—and perhaps normative duties—of future collaboration.

Civilization in War

> If civilization has an opposite, it is war.
> Of these two things, you have either one or the other. Not both.
> —URSULA K. LE GUIN, *THE LEFT HAND OF DARKNESS*

The overwhelmingly dominant influence on contemporary international military ethics is the particular just war tradition that grew out of Augustinian and Thomist thought, which holds that the conduct of warfare should be constrained primarily by the principles of proper authority, just cause, and right intention, and then guided by considerations of last resort, proportionality, and probability of success. It would be difficult to overestimate the role that the secular inspirations from these principles play in the contemporary ethics training of Western militaries and in the content of established international laws. Emphasis on this canon, however, has meant that we have overlooked a significant thread running through different doctrines of military ethics across time and cultures.

Not only do people engage in ad hoc cooperation in war, but they are also influenced by an ethic of cooperation between enemies that has been

in play throughout human history. Given the violent, combative nature of war and what is at stake in its pursuit, the existence of this moral principle is surprising, yet simultaneously so commonplace that it defines the idea of modern warfare in largely unnoticed ways. Cooperation between enemies coexists with them trying to kill one another.

This book conducts a genealogical exploration of three different forms that the ethic of cooperation in warfare can take and shows how it has defined the idea of modern warfare in several—contradictory—ways. The three forms I discuss are merely a subset of broader cooperation. There are collaborations in war that I will not study, for example, that which intends to bring harm to a third party (e.g., conspiracies between military, industry, and political interests or the-enemy-of-my-enemy-is-my-friend). This is not because they are less common or important—only that they are unsurprising.

The ethic of cooperation between enemies in warfare is unexpected and perhaps unique in that there can be conscious intent to collaborate for some separate benefit, even while trying to impose the ultimate harm by killing the other. That is why the ethics of cooperation in warfare that are most interesting and counterintuitive draw from a common conception of cooperation as understood by most who engage in it, even if the practitioners themselves would not describe it that way. Understanding the ethic of cooperation in warfare is essential because various forms of this ethos have made their way into the practice of warfare and just war theory unspoken and unseen, so it is critical to recognize when militaries and soldiers act in terms of and are motivated by a cooperative ethic.

There are different ways to categorize cooperation in warfare, including by level (e.g., individuals, battalion units, states) or method (e.g., ad hoc negotiations, institutionalized rules, international law). Here, I look at cooperation by its purpose, and in particular three types (which are not exhaustive): (1) to set up a "fair fight," as soldiers commonly understand it, (2) to minimize damage to particular classes of individuals, and (3) to end the war quickly and/or definitively in order to minimize overall damage.

Studying it in this way reveals important tensions within the practice of war, between warfare and the ethic of cooperation, and between the different types of this ethic, and I then explore the limits of cooperation and its inconsistencies. Finally, I delve into the role that cooperation plays in the broader superstructure of warfare itself, in particular the relationship between war and politics, the international law's focus on *jus in bello* and

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relative silence on *jus ad bellum*, and determinations about legitimacy in war, the last of which helps to explain some of modern nation-states' inability to engage favorably with noncooperative forms of warfare.

Attempts to place constraints on war can be seen in light of the broad contexts of pacification, civilization, and humanitarianism. In addressing the "logic of violence," cognitive psychologist Steven Pinker turns to evolution:

> Nature does not consist of one big bloody melee. . . . If you attack one of your own kind, your adversary may be as strong and pugnacious as you are, and armed with the same weapons and defenses. The likelihood that, in attacking a member of your own species, you will get hurt is a powerful selection pressure that disfavors indiscriminate pouncing or lashing out. It also rules out the hydraulic metaphor and most folk theories of violence, such as thirst for blood, a death wish, a killer instinct, and other destructive . . . impulses. When a tendency toward violence evolves, it is always *strategic*. Organisms are selected to deploy violence only in circumstances where the expected benefits outweigh the expected costs.[90]

There are limits to analogizing from animal fighting to human warfare, especially when large-scale modern warfare seems to have thrown off any evolutionary constraints. At the same time, although contemporary war is an unusually bloody melee, one finds evidence of intelligent constraint. This book is about some of those different forms of intelligent constraint, which is as much a part of the story of war as its savagery.

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