



Peace and Conflict Studies

Volume 8 | Number 2

Article 2

11-1-2001

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Recommended Citation

Calhoun, Laurie (2001) "Killing, Letting Die, and the Alleged Necessity of Military Intervention," *Peace and Conflict Studies*: Vol. 8: No. 2, Article 2.

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Abstract

Recent international developments have introduced the possibility of war waged on behalf of people unable to defend themselves, and when the attacking parties' interests appear not to be at stake. Are purely military forms of "humanitarian intervention" sometimes morally required? Can such military missions be reconciled with the widely held belief in the moral distinction between killing and letting die? In exploring these questions, the two dominant paradigms in writing about war are considered: just war theory and utilitarianism. The moral centrality of intentions emerges through an explanation of the distinction often made between natural and man-made catastrophe. Ultimately, the alleged permissibility of the "collateral damage" to which military intervention gives rise implies the permissibility of pacifism, thus invalidating the claim that the resort to deadly force is sometimes morally obligatory.

Introduction

In civil society, to terminate another person's life is usually considered a crime. Exceptions to the prohibition against killing must be justified. Most people regard self-defense as permissible, but other forms of killing are far more controversial. Abortion and euthanasia are fiercely debated moral issues because it is unclear whether fetuses are persons and whether human beings have the right to terminate their own lives. Capital punishment is opposed by many on the grounds that the "self-defense" rationale fails, for a convict has already been incapacitated in the relevant way. Nor does there appear to be empirical evidence for any deterrent effect, which some maintain would permit an interpretation of the practice as a form of community "self-defense".

War, the socially coordinated use of deadly force by groups against other groups, prematurely terminates human lives. Because wars involve many different people, moral judgments regarding war and the various actions carried out by military personnel during wartime are highly complex. The diffusion of moral responsibility, characteristic of wartime activity, arises because a variety of agents are contributing in one way or another to what amounts, taken as a whole, to a war. Although leaders wage wars, rarely do modern leaders themselves wield deadly weapons. Rather, leaders order their troops to kill, and, far more often than not, the troops obey (Calhoun, 2002c).

In the standard public justification of war, an enemy nation has acted so as to mandate military retaliation by the victimized nation. The rhetoric of "just retribution" continues to be wielded by leaders, but the United Nations now officially condones the use of deadly force only in the name of defense. Allegedly

“just retribution” metamorphoses all too quickly to vindictive revenge. In the case of individual self-defense, only a threat to one’s very existence could justify the death of one’s aggressor, but less destructive forms of debilitation should be attempted, when feasible.

While the analogy to personal self-defense is frequently invoked and persuasive to many, the notion of “national self-defense” is fraught with difficulties. Because a nation is not a biological organism, the idea that a nation ought to protect its “life” does not apply. Furthermore, while persons are sentient, rational, conscious beings who were born innocent, no nation shares the first three of these properties, and some would insist that the establishment of most nations in existence has involved the victimization of indigenous peoples. In addition, analogies of nations to persons commit the fallacy of composition (Calhoun, 2000). Nonetheless, in spite of what appear to be intractable conceptual difficulties with “national self-defense”, rhetorically persuasive leaders nearly always garner support for their wars through appeal to precisely this notion.

Not all theorists regard war and the military activities within the context of war as susceptible of moral judgment. Two distinct forms of *realism* about war are sometimes conflated. One version of “realism” is simply moral relativism applied to the case of war. According to moral relativists, “Everything is permitted”, so “All’s fair...in war” as in everything else. However, some *soi-disant* “realists” about war uphold the absolutism of morality when it comes to the conduct of individual agents, (whether such a stance is consistent is unclear, given that wars are waged and executed by individual agents). Realist paradigms are frequently invoked in retrospective historical analyses of wars, while philosophers often attempt to reach normative conclusions, invoking one or another well-established idealist paradigm and assessing whether a given conflict passes that paradigm’s test. Leaders themselves invariably justify wars to their populace by appeal to moral frameworks. In public discourse regarding war, the dominant frameworks have been the idealist perspectives of just war theory and utilitarianism.

Standard Normative Approaches to War: Just War Theory and Utilitarianism

Writers in the just war tradition have always insisted that a set of conditions must be met in order for a military campaign to be morally permitted. The just war tradition presumes what is widely accepted in modern societies, that civilians may never kill other civilians, except in self-defense, and even then only as a last resort. By articulating requirements upon a *just war*, ancient and medieval thinkers affirmed as the default position that it is wrong to kill, and that exceptions to this rule must be justified. Specifically, the *jus ad bellum* conditions require that war be publicly declared by a legitimate authority with right intention as a last resort with a reasonable chance for success and for a just cause sufficiently grave to warrant recourse to deadly force. Once justly waged, a war remains just (*jus in bello*) only so long as non-combatants (including prisoners of war and soldiers who surrender) are treated as immune from attack, and the means deployed are not disproportionate to the moral end to be achieved.

Self-defense is often regarded as a cause weighty enough to bear within it the other requirements of just war theory, and literal self-defense may be the only cause sufficiently weighty to justify killing, since any lesser cause would seem to violate the rational constraint of proportionality. Douglas Lackey applies the proportionality constraint in his analysis of the 1991 Gulf War as follows:

Since the damage to Iraq was nearly total, and Iraq is considerably larger than Kuwait, the restoration of Kuwait cannot counterbalance the destruction of Iraq. If Saddam is evil because he has brought so much death and destruction into the world, the moral remedy can hardly be to cause even more destruction and death (1991, p. 278).

Comparing the action provoking retaliation and the retaliation itself in terms of sheer numbers of deaths (several hundred versus several hundred thousand), Lackey's early assessment has become *a fortiori* persuasive more than ten years after the Gulf War. In any case, whether or not just war theorists agree with Lackey's assessment, they do share a commitment to the basic principle of proportionality.

Non-threatening civilians, including children, die in every modern war. According to some thinkers, the requirements of classical just war theory can no longer be met. But self-proclaimed "just war theorists" hold open the possibility of a just war, for they do not typically think that the requirement of non-combatant immunity implies the impossibility of a just war. In their view, so long as non-combatants were not targeted, they have not been wronged when killed collaterally by soldiers fighting in a just war, even if the deaths were foreseen.

The most important (idealist) rival to the just war tradition is utilitarianism. "Utilitarianism" is the ethical theory according to which one ought to act so as to maximize the utility (usually construed as happiness) of the greatest number. If through killing some people in war, one will thereby secure the well-being and/or happiness of the whole group, then utilitarianism deems killing not merely permissible but, further, obligatory. There is a sense in which a utilitarian constraint is built into just war theory, given its proportionality requirement. Although just war theorists insist that there are important distinctions between the two approaches, when leaders explicate their reasons for advocating war, they nearly always appeal to some variant of utilitarian reasoning. Regarding the need to consider consequences, Michael Walzer writes:

...the case for breaking the rules and violating those rights [to life of innocents] is made sufficiently often, and by soldiers and statesmen who cannot always be called wicked, so that we have to assume that it isn't pointless...the very existence of a community may be at stake, and then how can we fail to consider possible outcomes in judging the course of the fighting? At this point, if at no other, the restraint on utilitarian calculation must be lifted (1977, p. 228).

Note that Walzer overlooks a plausible alternative to calling soldiers and statesmen “wicked”. They may simply be ignorant. Walzer also fails to recognize that to accept utilitarian reasoning in war is to accept utilitarianism, *tout court*. To say that “rights always trump”, except when it comes to war, is simply to deny that “rights always trump”. (The expression “rights trump” is derived from Dworkin, 1978.)

Consistent utilitarians are ready and willing even to kill innocent people, if necessary. The alleged permissibility of “collateral damage”, and the euphemistic manner in which it is described by the military and the media alike, is perfectly in keeping with the utilitarian outlook. In view of the virtual inevitability of non-combatant civilian deaths attending any decision to resort to military intervention in the modern world, some contemporary scholars maintain that *only* utilitarian reasoning could justify war. Furthermore, international law now prohibits the waging of war for purely punitive or retributive causes (Richard Regan, 1996, chapter 3). Wars may be waged only when they will lead to an overall improvement in the current state of affairs. The “self-defense” rationale for war seems to many to be fairly straightforward in the utilitarian framework. If more people will die if one does nothing than if one goes to war, then, in this view, one is morally obliged to go to war.

The major distinction between the “just war” and the classical utilitarian approach is that the former insists upon the moral centrality of intention, while the latter does not. Intentions are, strictly speaking, morally irrelevant in utilitarianism. If a military campaign does not lead to an overall improvement in the state of affairs for all members of the moral community, then, according to classical utilitarianism, the executors of war have acted wrongly, even if they had the best of intentions. In contrast, the just war tradition demands that the *jus ad bellum* requirements be fulfilled, including right intention and just cause, in order for a war to be waged justly. Only a war waged with moral intention could be conducted justly, but some justly waged wars are conducted unjustly, viz., those in which the requirements of *jus in bello* are violated.

In its insistence upon moral intention, just war theory may seem more complex and demanding than utilitarianism. However, in another sense, just war theory is less demanding, for it permits radically divergent interpretations of the same sets of historical circumstances. Just war theory requires that there be a *reasonable chance for success*, while utilitarianism requires success *tout court*, an objective improvement in the state of affairs. So, for example, regarding the Gulf War, just war theorists hold every conceivable position ranging along the entire spectrum of possibilities. While some who apply just war theory conclude that the Gulf War was an abomination, others are convinced that it was just. In view of the problem of interpretation, some critics dismiss just war theory on the grounds that it is wielded at least as often for evil as for good ends and is, in reality, the criminal leader’s most deadly weapon. It seems fairly clear that every group that has committed mass murder at the behest of its leader has been persuaded to do so by appeal to an interpretation according to which those killings were “just” (Calhoun, 2002b).

But the problem of interpretation is pervasive and hardly unique to just war theory. Although utilitarianism is an ostensibly simpler theory, an accurate assessment of the morality of a war would require that one consider all

consequences of the resort to deadly force, a daunting task indeed. In reality, seldom are more than the immediate consequences of prospective military action taken into account. Ultimately, the conclusion one reaches through applying utilitarianism to a particular instance of war will depend upon the length of time over which one conducts one's analysis. While military action may seem to be the optimum solution in the short term, induction on the wars of the twentieth century might, in contrast, lead one to conclude that recourse to war will never maximize utility (Calhoun, 2002a).

In the end, we will be plagued by the problem of interpretation whether we favor just war theory or utilitarianism (or vacillate between the two). Still, from the perspective of either the "just war" or the utilitarian approach, we can appreciate Lackey's concern with proportionality. Although he focuses upon "Bush's Abuse of Just War Theory", Lackey's criticism of the Gulf War can be read equally plausibly as a utilitarian critique. The crucial point is that, in considering whether to resort to the use of deadly force, a leader must, morally speaking, bear in mind the consequences of his actions for his fellow human beings. According to utilitarianism, the right action maximizes the happiness of the greatest number. If waging war will result in a better net outcome, then war must be waged, and unless war will result in a better net outcome, war may not be waged. But just war theory, no less than utilitarianism, proscribes wars that culminate in pyrrhic victories.

Intervention, Sovereignty and Supererogation

In spite of our default presumption against killing, when a person succumbs to disease or malnutrition, we do not hold morally culpable all those who might have saved the victim. There are two notable exceptions: parents are held responsible for their children's death through neglect, and physicians for deaths caused through their malpractice of medicine. Special responsibilities derive from the parents' or the physician's special relation to the victim.

Military missions of "humanitarian intervention" pose new and unanswered questions, for the attacking nations are not direct parties to the dispute allegedly justifying recourse to war. The widespread belief in the necessity of a "self-defense" rationale for killing explains why "humanitarian" military missions are often regarded with suspicion by both the populace and military personnel. Since, by definition, self-defense is self-referential, non-interventionists regard missions such as NATO's 1999 attack upon Kosovo as illegitimate, at best officious and at worst immoral. Of course, cynics about particular conflicts often insist that, during wartime, the self-interest of a nation *masquerades* as a moral cause weighty enough to justify the annihilation of innocent people. For example, (then) President George Bush justified the Gulf War sometimes as a reinstatement of justice and sometimes as "self-defense":

The state of Kuwait must be restored, or no nation will be safe, and the promising future we anticipate will indeed be jeopardized (cited in Sifray and Cerf, 1991, p. 229).

Many people suspected that what really motivated Bush and other United States strategists was concern over the control of oil in the region. This suspicion accrued plausibility through a sober consideration of the many previous cases of “naked aggression” committed throughout the world, and against which the United States had taken no action whatsoever. “National prudence” or political realism and morality are often conflated in public discourse about war.

According to some theorists, interventionism raises problems tangentially related to the issue of “self-defense”. Michael Walzer (1977) argues for communities’ rights to self-determination and the state sovereignty, which this implies. In Walzer’s view, only in extreme cases, what he terms “emergencies” of the magnitude of genocide, can intervention in the affairs of another nation be justified. According to advocates of state sovereignty, the right to self-defense on the part of a nation is so weighty that most (if not all) intrusions by other nations constitute veritable declarations of war against the people of the trespassed land. This idea, that the people of a nation have the right to contend with their own problems, is not simply a curiosity of political theory. Members of communities who regard intervention as in some sense degrading hold precisely this view. As an illustration of this perspective, in Randa Chahal Sabbag’s film *Civilisées* (2000), based on the twenty year civil war in Lebanon, soldiers attack a representative of “*Médecins sans frontières*” who insists that he has come to help them. Notably, even one of the wounded soldiers, who presumably would benefit directly from medical assistance, spurns the French doctor, telling him to mind his own business. The crux of this controversy revolves around the level and quality of political content that may be required in order for an established state to merit sovereignty. Some writers insist that other peoples have the right to erect and maintain state structures that we may view as unjust. Others would deny the status of “sovereign state” to incurably unjust structures (Beitz, 1980).

Champions of sovereignty reject the validity of any military mission that does not bear directly upon the attacking nation’s interests. But war advocates who believe that leaders are not morally obliged to weigh the interests of all people equally may insist (somewhat less emphatically) that no nation could be *required* to help outsiders in need, though this may sometimes be *permitted*. “Humanitarian interventions”, by definition, do not involve the “vital interests” of the intervening nations. Accordingly, it is sometimes said that the military personnel in such cases are acting supererogatorily, “above and beyond the call of duty”. In this view, the beneficiaries of military intervention should simply be grateful that any form of assistance whatsoever has been offered. The idea here is that, since the intervening nations are doing the recipients of their action a favor, to which they are in no way entitled, they have no grounds for complaint when the mission is not a resounding success.

Wars of “supererogation” may not cohere well with the requirements of just war theory, according to which just war is always a last resort and should not be undertaken without a reasonable prospect for success. To claim that war is a “last resort” is to assert that the situation is desperate. But it does not make sense, in a truly desperate situation, to select one’s strategies by appeal to popular opinion polls or the guiding principle that one’s own soldiers ought under no circumstances to be

harmed, even at the price of non-combatant lives. Yet precisely such considerations seem to have guided NATO strategists who refrained from deploying ground troops in the 1999 bombing campaign in Kosovo. By refusing to risk the lives of military personnel, strategists may significantly decrease the probability of success, making it far more likely that the entire mission will have been otiose or that the outcome will be worse than had they done nothing at all. In other words, while in the just war framework a war may sometimes be *waged* supererogatorily, it would seem that once war has been waged, the required *jus in bello* observation of non-combatant immunity precludes the deployment of means that decrease soldier casualties at the cost of civilian lives.

Interventionism as Consistent Utilitarianism?

When leaders speak in utilitarian terms, they focus primarily on the net outcome for their own nations. As administrators, it is the primary professional duty of national leaders to be solicitous of their own citizenry. The possibility of “humanitarian intervention” might thus seem simply to require that leaders be less chauvinistic “utilitarians” than is ordinary. For example, United Nations Secretary General Kofi Annan’s mandate that powerful nations be more consistent in their interventions, rather than becoming involved only when their own interests are at stake, is a call to view all human beings as members of a world community (Williams, 2000). According to Annan’s cosmopolitan picture, what really matters is the outcome for humanity, not simply the net outcome for one’s own countrymen. If every life is equal to every other life, then a leader should not be more willing to fight wars abroad simply because his own nation’s civilian population will be at little risk during the conflict. Civilians are always at risk of death in modern war, but in a consistent utilitarian framework, according to which one’s place of birth is morally irrelevant, the members of one’s own community should not be prioritized to the members of other communities. Assuming that moral persons are human beings, one should not weigh more heavily one subset of humanity than another, even if one happens to be a national leader.

Precisely because national self-interest does not appear to be lurking behind the official (public) justification for military missions classified as “humanitarian”, actions such as that carried out in Kosovo by NATO seem less suspect to some liberals. Many people who vehemently opposed the Gulf War were not so averse to (and some even supported) NATO’s 1999 campaign in Kosovo, for its rationale appeared untainted by morally dubious ulterior motives. But, in retrospect, it seems difficult to reconcile the allegedly benevolent intentions of the attackers with their *modus operandi*. Non-combatant deaths and massive damage to civilian structures were directly effected by NATO during a campaign allegedly initiated to assist the Kosovars. If NATO was concerned with the plight of the people of Kosovo, then why were areas densely populated with civilians bombed? Why did ground troops not directly confront the enemy soldiers whose actions the campaign was supposedly intended to stop? Why did NATO reduce to rubble so much of the infrastructure of these people’s society? If the purpose of bombing “dual targets” such as bridges, power plants, and radio stations was to demoralize the civilian

population to the point that they would rise up against Yugoslav President Milosevic, then was not NATO using the civilians of Kosovo as means to its own military and political ends? Unalloyed benevolence does not obviously cohere with the type of insouciance regarding civilian casualty risk that attends the bombing of city centers.

Those who deny the legitimacy of “supererogatory wars” maintain that, because all military missions result in the deaths of people who might not otherwise have died, in “humanitarian interventions”, military personnel should be held to *even higher standards* than usual when it comes to non-combatant immunity. One “usual” standard involves “the doctrine of double effect”, by appeal to which just war theorists have for centuries interpreted the requirement of proportionality. In this view, unintended though foreseen deaths of persons officially immune from attack are permissible so long as they are not disproportionate to the moral end to be achieved. The other “usual” standard is provided by utilitarianism: the outcome of a morally permissible action must represent a net improvement in the overall state of affairs for all those concerned. Perhaps a “higher than usual standard” would combine the two requirements, but, again, some would say that the proportionality constraint of just war theory already embodies the utilitarian concern with consequences.

That military forms of “humanitarian intervention” must be especially observant of non-combatant immunity would seem to imply that an outside nation should be inclined to eschew intervention except in worse case scenarios (a position defended by Walzer and others). But, in the utilitarian picture, a life is a life. There is no extra value attached to non-combatant life, nor any reason to think that it is somehow intrinsically worse to kill a civilian than a soldier. Because utilitarianism does not accommodate our ordinary notion of “supererogation”, military intervention is never *optional* in a consistent utilitarian view. Only one action maximizes the utility of the greatest number, so any particular action *either* is obligatory, *or* it is forbidden. In a given set of circumstances, a leader will be morally obliged *either* to wage war *or* to refrain from doing so. Correlatively, a particular policy within a campaign, such as the decision of NATO leaders not to deploy ground troops in Kosovo, *either* is permissible, which is to say obligatory, *or* it is forbidden. If the refusal to deploy ground troops resulted in a less than optimum outcome, then that policy was simply wrong.

“Humanitarian Interests”

In contrast to utilitarianism, just war theory provides a framework for defending not the moral *obligation*, but the moral *permissibility* of waging war. Nonetheless, during times of war, the rhetoric of justice becomes hyperbolic and the aspersion of the enemy nearly always absolute. It appears obvious to many that it is *permissible* to combat “Hitler”, the task remaining only to show how *obligatory* war has become. Because the permissibility of fighting “Hitler” seems so patent, war opponents often strike war advocates as ridiculous, certainly confused, if not downright immoral. Along such lines, one might claim that, in prospective cases of “humanitarian intervention”, even where the economic interests and integrity of

one's own community are not in jeopardy, a broader set of "vital interests", on the part of humanity, may be involved. Human beings should not be in the business of killing other human beings, and least of all as matters of institutional policy on a large scale. Thus all nations have interests at stake in preventing and halting the murderous policies of criminal regimes. Advocates of military intervention insist that recourse to deadly force is sometimes necessary. When the very existence of an ethnic or religious group hangs in the balance, outsiders may feel that they cannot simply stand by. The credibility of this stance might seem to fly in the face of the habitual refusal on the part of first world nations to intervene in notorious cases such as Rwanda. "Humanitarian interest" rationales also seem *prima facie* inconsistent with the refusal on the part of wealthy nations to provide significant aid to countries whose inhabitants succumb far more often to starvation, illness and natural calamities (such as floods, earthquakes and freezes) than to death by murder. Why should it be morally obligatory to save people from each other but not from non-human foes such as droughts, disease, famine and other natural disasters?

Those who morally distinguish man-made from natural disaster reason that death by murder is a direct result of volitional human action. In contrast, the mere lack of food, medicine, potable water, shelter, etc., is not attributable to malevolence on the part of human beings, and this is why instances of the former, but not the latter, involve "vital humanitarian interests" and thus necessitate intervention. Drawing such a distinction between artifactual and natural disaster is certainly the most charitable way of explaining what may appear to be inconsistent behavior on the part of nations far more willing to provide assistance in the form of deadly weapons than in the form of life sustaining food, water, and medicine. For example, the attitude of U. S. leaders vis-à-vis the AIDS epidemic in Africa can be understood along these lines. In this view, AIDS is a non-human enemy, so, although the entire continent of Africa is being ravaged by the disease, U.S. leaders have not felt obliged to offer significant assistance to combat and prevent the spread of the disease beyond its own national borders. The moral import of the distinctions between (1) man-made and natural catastrophe and (2) killing and letting die is crucial to any plausible defense of the United States' relative insouciance toward the plight of the people of Africa during the AIDS era.

Utilitarianism effectively denies the distinction between killing and letting die. A death is a death, no matter how it transpired. Utilitarianism would also appear not to distinguish between human and non-human generated disaster. Disaster is disaster, culminating in the loss of life. The origin of disaster is morally irrelevant. What matters, according to utilitarians, is that utility be maximized through one's response to disaster. Accordingly, it is unclear that a utilitarian can coherently support destructive military intervention (or the provision of deadly weapons to other groups) while neglecting to provide other forms of positive aid, for what matters, at the end of the day, is whether or not utility has been maximized. If a given amount of money provided in the form of medicine would save more lives than an equivalent amount of money provided in the form of bombs, then the consistent utilitarian must opt for the former rather than the latter allocation.

The distinction between killing and letting die, though rejected by utilitarians, is widely affirmed in our ordinary moral practices and crucial to just war theorists'

explanations of the moral permissibility of “collateral damage” (Calhoun, 2001c). Because military means of “humanitarian intervention” effect the premature deaths of human beings, defending such missions may require that we forsake our ordinary distinction between killing and letting die. On the one hand, in civil society, we uphold the moral significance of this distinction. On the other hand, during wartime, advocates of military forms of “humanitarian intervention” relax the distinction, sometimes going so far as to characterize war opponents as “cowardly”, “incoherent”, or even “immoral” for failing to intervene to stop the slaughter of people by criminal regimes. But advocates of military intervention often seem to want to have it both ways, insisting that military action, which will (in the modern world) result in the deaths of innocent people, is sometimes necessary, while denying that positive assistance is morally obligatory in other sorts of cases. Is this position consistent?

The Importance of Intentions

In civil society we sharply distinguish positive cases of killing from negative cases of omission, wherein an agent refrains from helping. Parents and physicians are exceptions, for they have extra obligations to attend to the needs of children and patients. But even physicians and parents have incurred special obligations only to their own patients and/or own children, not to all of the people or children of the world. The simplest way of understanding the importance we ascribe to this distinction is that positive action is presumed to reflect a positive intention, while negative omission is presumed merely to evidence a lack of intention. In cases of negligence and malpractice, agents are held culpable for deaths resulting from their failure to attend (positively) to the needs of victims to whom they are specially related.

Moral relativist Gilbert Harman (2000) offers an alternative explanation for our ordinary distinction between killing and letting die (or negative and positive duties), viz., that morality is purely conventional, arrived at through a process of sometimes overt but usually tacit “bargaining”. A requirement not to harm would benefit both the rich and the poor, but a requirement to provide positive assistance would benefit the poor at the expense of the rich. Harman regards the existence of this distinction in our ordinary morality as evidence for the thesis of moral relativism. However, unlike Harman, those who defend the recourse to deadly force on moral grounds operate under the assumption that moral absolutism is true (Calhoun, 2001a).

In the just war framework, the distinction between “collateral damage” and “war crime”, mutually exclusive interpretations of positive and deadly actions, can only inhere in the *intentions* of the agents involved. The “doctrine of double effect” is a test for the moral permissibility of the “collateral damage” killings brought about during a war. According to the doctrine of double effect, non-combatants may never be targeted, either directly or indirectly as a means to another objective, but sometimes non-combatants may be killed, as an unintended though perhaps foreseen side effect. So, for example, if an elementary school is situated in the vicinity of a crucial military target, then bombing the military target may still be permissible, though doing so will in all probability result in the destruction of the

school and the deaths of numerous innocent children and teachers. In contrast, the doctrine of double effect would not sanction the direct targeting of the school, because non-combatants are immune from attack. Controversial cases arise when so-called “dual” targets, such as electrical power plants, radio stations, oil refineries and even water treatment plants are positively targeted during a war, as some of these were in Kosovo and all of these were in Iraq. What might “non-combatant immunity” mean, if densely populated civilian areas and structures basic to civil society are regarded by military strategists and spokesmen as legitimate targets?

Other people’s intentions are ultimately inaccessible. Accordingly, utilitarian analyses of the rightness or wrongness of human actions are in one way straightforward, for they do not require the divination of any actor’s intentions. As one example, consider U. S. President Truman’s atomic bombing of Japan in 1945. When Truman bombed Hiroshima, what did he intend? It might be difficult to imagine how a leader could deploy an atomic bomb in a location densely populated with civilians without in some sense *intending* that those within the radius of destruction be affected. Understandably, then, Truman apologists invoke utilitarianism in their explanations of his action. Difficult though it may have been, say Truman’s defenders, the deployment of the atomic bomb in Hiroshima actually saved human lives by bringing the conflict to a relatively swift conclusion rather than permitting protracted conventional bombings to continue on both sides. Is the utilitarian vindication of Truman correct? Retrospectively, utilitarian defenses always rest upon speculative historical counterfactual conditionals. Things might have been worse, or they might have been better. Which would they have been, had Truman not done what he did?

Utilitarian rationales are equally dependent upon projections of multi-variable functions when planning for the future. Will a prospective action ameliorate or exacerbate the current situation? Because the utility of an action is a function of the desires, beliefs and values of many different people, utilitarian calculations may seem to require supra-human abilities (indeed, omniscience) even in the more local and seemingly unproblematic cases. To confound matters, how the world will be affected by one’s own actions is crucially dependent upon how other persons are acting simultaneously. The net utility of an action is determined by a nexus of factors, including actions performed by a variety of agents. Still, after the fact, interpretations of military actions often take on a utilitarian cast, as in the defense of Truman sketched above. Sheer numbers of human lives are usually regarded as a crude proxy for utility, for only living agents can be the repositories of utility. Due to the seemingly intractable epistemological problems associated with utilitarianism, some of the theory’s defenders have proposed amendments such as defining “right actions” as those which can be *reasonably foreseen* to maximize the utility of the greatest number. If *ought* implies *can*, then no one could be required to do the impossible, so in assessing the morality of an action, what should matter is the agent’s *intention* to maximize utility.

Thus, superficial appearance to the contrary, the importance accorded intentions in moral matters need not diminish through affirming utilitarianism. Indeed, the typical utilitarian defense of Truman may well be parasitic upon a prior assumption regarding his moral intentions. Even those who condemn Truman’s actions in Japan

do not generally think that his *primary* intention was to cause thousands of innocent people to suffer and die. Nor did Truman intend to cause birth defects in the next generation of Japanese. Only under the assumption that Truman *intended* to stop the war would one be inclined to defend Truman along utilitarian lines. Assuming that Truman was not simply a mass murderer *tout court* (who would have bombed Hiroshima even if Japan had already surrendered), the harm that Truman wreaked upon the Japanese people was an unfortunate “side-effect” of his moral intention to stop the war. Of course, the problem with using intentions to dispel moral culpability for the deaths in which military actions result, is that the same logic applies to both sides of most conflicts. The doctrine of double effect insists upon the relevance of intentions in ascribing moral culpability for the deaths of other people, but when military personnel kill on command, their leaders have invariably characterized the deaths as mandates of justice. There may be rare cases in which an agent himself claims to be doing evil for the sake of evil, but far more frequently agents pursue what they take to be a good end through what they acknowledge are unsavory though necessary means. War thus construed is an instance of the more general “problem of dirty hands”, the alleged incompatibility of moral and administrative excellence. Consistent utilitarians reject “dirty hands” analyses as delusive, on the grounds that one’s moral obligations are univocal. If by waging war a leader will bring about a better net set of consequences, then it matters not, in the utilitarian picture, that doing so will culminate in the deaths of some innocent people.

War Opponents and Double Effect

Military forms of “humanitarian intervention” are alleged by some to be morally obligatory under certain circumstances. One assumption made in accusing war opponents of “immorality” is that it is impermissible *not* to help those in need, that to fail to react is to capitulate to evil (Johnson, 1984). Even in the limiting case, where the pacifist refuses to fight back when personally attacked, critics claim that, by refusing to defend himself, the pacifist surrenders to evil. But, strikingly, the very doctrine of double effect so frequently invoked by military spokesmen to absolve their personnel from culpability for “collateral damage” deaths serves equally well to absolve pacifists from any responsibility for the deaths to which their inaction might be said to lead. The pacifist *intends* not to capitulate to evil but, rather, to not kill human beings. In other words, if intentions are constitutive of morality, then the war advocate has no real case against the pacifist. (Interestingly enough, St. Augustine himself, arguably the father of just war theory, considered killing in literal self-defense to be impermissible, a manifestation of covetous attachment to terrestrial life.)

War opponents naturally reject the insinuation that their inaction is *causally connected* to the deaths effected by other agents. The causal nexus is far too complex and their own threads to the deaths much too tenuous to ascribe responsibility to war opponents for other people’s acts of killing. Moreover, if the murderers suddenly decided not to kill their victims, the pacifist’s plan of action would in no way be altered. The pacifist “intends” the negative consequences of

refusing to fight back neither as an end nor as the means to the deaths brought about by other agents. In other words, the deaths said by some war advocates to “result” from the pacifist’s inaction are, *at the very worst*, a form of “collateral damage” (Holmes, 1989). Perhaps if the war opponent does nothing, then a murderer will kill innocent human beings. But the pacifist cannot (reasonably) be held responsible for and surely ought not to bear the burden of the existence of evil in the world. If *ought* implies *can*, then no one could be morally obliged to prevent all of the people of the world from being killed, for no one is capable of doing that. Strikingly, the very framework by which just war theorists defend actions resulting in the foreseen though unintended deaths of innocent people, simultaneously exonerates the pacifist. If “humanitarian intervention” is best construed as supererogatory, then the pacifist is nonetheless vindicated, merely declining to fight where the just war theorist allows that it is permitted.

Pro-military champions of sovereignty may retort that defending one’s self and one’s fellow citizens is a special case, since one has special connections to these people and, therefore, relational duties to them, on analogy to the cases of the parent and the physician. Such a position would seem to be unsound in a consistent utilitarian framework, if it is true (as is plausible) that where one happens to have been born is morally irrelevant. And surely no one is morally obliged to support the local regime in power simply because it is the local regime in power. Counter examples such as Nazi Germany leap immediately to mind. Obviously, if the leaders of one’s nation are evil, then the last thing that one should do is support them. But, given that all criminal leaders lie to their people, one really has no way of knowing, contemporaneously, whether one’s current leaders are criminals or not. Tragically, the leaders most adept at molding the information to which their citizenry are provided access may well be the most criminal of all. Even under the assumption that the distinction between just and unjust wars can be made, we know from history that all leaders rally their troops by claiming to have justice on their side. Accordingly, a pacifist may quite rationally reject all calls to war on the grounds that at least half of all rationales offered by leaders throughout history have been duplicitous or confused. If it is always wrong to kill human beings, then no leader’s call to war should ever be heeded by anyone.

War Opponents as Long-Range Utilitarians

Due to the nature of weapons and the structures of societies in the modern world, military interventions result in the deaths of people who would live were it not for the willingness of other people to opt for the use of military force in circumstances of crisis. Perhaps the most significant distinction between war advocates and opponents is the breadth of their vision of history. Calls to arms satisfy an immediate desire to take action and effect a swift solution to a difficult conflict. But the swiftest solution is seldom the best solution. In order to fashion a response that will have some chance of improving rather than aggravating the situation, one must assess the events and circumstances leading up to the present crisis. How did the world become such a murderous place?

A long-range utilitarian recognizes the ultimate inefficacy of “quick fixes” and the masking of symptoms with no attention to root causes of deadly strife. The dictum “violence breeds violence” succinctly expresses the long-range utilitarian’s concern that the *last* way to put a halt to killing is to engage in yet more killing. Likely consequences of the recourse to deadly force by powerful nations are not difficult to predict. Bombing campaigns create new victims who view themselves as unjustly harmed and often seek revenge. The use of deadly force by nations serves as a highly visible example of what are supposedly appropriate means to conflict resolution. In this way, military campaigns perpetuate and reinforce the view that killing is sometimes required in the name of morality, a view, which is of course, shared by factional terrorists and vigilante killers. By deploying military means, nations also frustrate progress toward the establishment of an effective international war crimes tribunal for the prosecution of criminal leaders. Finally, and, most importantly of all, military states produce and distribute weapons internationally, thus concomitantly empowering (indeed, creating) future potential despots. Unfortunately, these sorts of utilitarian considerations are virtually never entertained by policy makers during times of conflict. Leaders galvanize support for their wars by appealing to short-term consequences, usually in conjunction with claims about the injustices committed by their adversaries.

From the perspective of a long-range utilitarian, military missions are “quick fixes” in that they bring to a halt conflicts presumed to be situated in a limited time and space coordinate. But apparently isolated conflicts never occur in a vacuum and have consequences that invariably ramify in many directions and well into the future. Military actions are preceded by events that led one group to cross over the proverbial “line”, beyond what another group will tolerate. Given the default proscription to intentional killing within society, no military campaign considered out of context could withstand a moral analysis. While the results of a “just war” analysis require consideration of the stated cause of a military mission (in addition to an assessment of the other requirements of *jus ad bellum*), the results of a utilitarian analysis depend entirely upon the length of time over which one reflects upon history. In actual practice, it is nearly always presumed to be the time of the act of destruction or mass murder immediately preceding the violent retaliation currently being defended. But consider, for example, the plight of Iraqi civilians in the aftermath of the Gulf War. To some it seems quite difficult to understand (much less justify) “the silent war” of more than a decade that continues to victimize innocent people, and which is said to have been provoked by an act of naked aggression ordered in 1990 by Saddam Hussein, a dictator. Tragically, many of the recent victims of U.S. policies in Iraq were not even born at the time of Saddam Hussein’s invasion of Kuwait. Orders of magnitude more people were destroyed by the response to what was deemed “naked aggression”, than by the invasion of Kuwait itself.

Concluding Remarks

People often appeal to utilitarianism when retrospectively defending military actions such as Truman’s bombing of Hiroshima. However, utilitarian defenses of

recourse to deadly force do not fare well when a broader time slice of history is considered. In addition, while most people seem to accept the distinctions between (1) natural and manmade disaster and (2) killing and letting die, these distinctions are untenable in the utilitarian picture. Military supporters are more than willing to forsake our ordinary distinction between killing and letting die when it comes to responding to the conduct of a criminal regime, often insisting that the use of deadly force is morally required. But rarely do military supporters so enthusiastically advocate the provision of life-sustaining resources to the people of other lands in crisis. Yet it is obvious that food, water, clothing, shelter and medicine tend to sustain the lives of people, in stark contrast to bombs, which terminate human lives and destroy the fruits of human labor. Although the epistemological problems with utilitarianism are ultimately insoluble, it can hardly be denied that the bombs are inherently destructive of life and property, while food, water, clothing, shelter and medicine are not.

A multitude of economic and political forces conspire to shape foreign policy and impel leaders to engage their nations in war. Not unrelated to the distinction between manmade and natural catastrophe is the fact that most of the weapons in existence were exported by first world nations (the leading exporter being the United States) to less powerful and, more importantly, less stable nations. It is essential to recognize that criminal dictators are not born but made. Until empowered, no person can commit crimes against humanity. An inductive analysis of the wars of the twentieth century leads one quite reasonably to predict that exported weapons will at some point be used to murder human beings. Accordingly, one way of gauging the sincerity of nations involved in allegedly “humanitarian interventions” such as occurred in Kosovo in 1999 would be to examine their own policies regarding weapons exports. Massive amounts of money are allocated by powerful nations to the production of deadly weapons, all in the name of morality. But surely many cases of starvation and disease could be prevented through the simple redirection of military resources. The provision of medical assistance to combat AIDS in Africa would seem to be one case where redirection of resources might eventually save millions of lives. The fact that nations such as the United States are so loath to offer assistance in any form other than military destruction provides some evidence for the claim that apparent cases of disinterested intervention are really self-serving, when all is said and done.

Although major weapons exporters do not typically (at least not wittingly) provide their declared enemies (and associated allies) with weapons, it is indisputable that regimes remain in existence, on average, for shorter periods of time than do stockpiled weapons. Furthermore, international allegiances ebb and flow with the changing political climate. Because the weapons supplied to a given regime will be transferred to (or appropriated by) the successor regime of a nation, the only way to avoid aiding and abetting a future regime is to halt the transfer of weapons across national borders (Calhoun, 2001b). Unfortunately, little work toward “humanitarian intervention” is done along preventative lines. Rather, powerful nations tend to wait until massive havoc has broken out before considering the possibility of retaliatory bombing. But surely the best way to minimize the probability of slaughters by future regimes would be to halt the exportation of

weapons today. What could be less objectionable than to prevent the creation of future criminal dictators? The tragic irony of weapons commerce in the contemporary world is that the figures who evolve into enemies of human rights were supported, either directly or indirectly, by the international community during the formative phases of their military careers.

War results in the deaths of people who often have nothing to do with the crimes allegedly justifying violent retaliation. Although the moral permissibility of “national self-defense” is uncritically accepted as a justification for massive military expenditures, in reality, the modern means of “rescue” deployed during times of crisis are bombs, the effects of which are purely nocent. To interpret ghastly acts of destruction such as the demolition of water treatment facilities (with long-term ramifications for civilian life) as strategies of “self-defense” stretches credulity. While according to just war theorists intentions are crucial, virtually any action can be interpreted as permissible, provided only that it be construed as the “collateral damage” to a good end. The doctrine of double effect forgives Truman and Bush, but Hitler, Hussein, and factional terrorists no less.

Finally, to accept the doctrine of double effect, as any just war theorist concerned about defending the legitimacy of war in the modern world, is simultaneously to vindicate the categorical opposition to war championed by pacifists. By reacting with violence to the acts of the murderous tyrant, war advocates capitulate to evil, their own actions having become purely reactive. War advocates (whether just war theorist or utilitarian) allow the criminal regime to transform them into killers (or accomplices). In contrast, pacifists refuse altogether to descend to the level of the killers. Accordingly, pacifists have no need to indulge in the self-delusive casuistry of “double effect” rationalization of killings foreseen though unintended. War opponents categorically refuse to permit killers to mold them in their own image. Pacifists alone uphold the motivating premise of absolutism, that the killing of human beings is morally forbidden. The morally high-minded war advocate’s resort to deadly force is aptly characterized by the war opponent as follows: “The road to hell is paved with good intentions”.

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