

THE CONSEQUENCES OF WAR

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A standing temptation for moral philosophers is to approach their subject in a primarily intellectual way. Many of us are initially drawn to it by the pressing human issues it raises, both about concrete moral problems and, more generally, about how we should live. But over time we can come to care more about making clever ethical arguments or formulating new theories or detecting new subtleties. Our engagement with moral questions can become the more purely cerebral one found in, say, metaphysics or epistemology.

Jonathan Glover's writings are an antidote to this temptation. For alongside their philosophical acuity they always retain a profound interest in moral questions as moral, and a deep emotional engagement with them. He never subordinates ethical substance to intellectual flash. One reflection of this engagement is his willingness to explore the empirical issues relevant to a given moral issue, even though for many philosophers doing so is less prestigious than spinning abstract theories. Another is his strong focus on what must be central to any plausible morality, namely human well-being and how acts and policies affect

people for good or ill. The result is an approach to moral questions that is broadly if not exclusively consequentialist, evaluating policies largely for their effects on human and other happiness.

This approach is evident in his writings about the morality of war, which he treats theoretically in *Causing Death and Saving Lives* and discusses from a more practical point of view, concerned to avert its horrors, in *Humanity: A Moral History of the Twentieth Century*.¹ Though the former discussion gives some weight to individual autonomy, its watchword is Bertrand Russell's insistence on a "vital realization of the consequences of acts," and it therefore sets aside such deontological distinctions as between doing and allowing harm, intending and foreseeing harm,² and even between soldiers and civilians. Throughout its focus is on what war will do to people.

As Glover recognizes, this broadly consequentialist approach is revisionist. Both everyday thought about the morality of war and the international law governing it derive from the Catholic tradition of just war theory, which is avowedly deontological, attaching weight to just the moral distinctions Glover ignores. But exactly how his view is revisionist depends on exactly what just war theory says, and that is the subject of this paper. Operating within the just war model, or assuming pro tem that it is true, I will ask what general principles

underlie the judgements it makes about particular cases of war. More specifically, I will ask what general principles underlie its judgements about the consequences of war. Any credible theory makes the moral permissibility of war turn largely on its effects: both the suffering and destruction it will cause and the rights-violations it can, if justified, prevent. Consequentialism does this, of course, but so to a large extent does just war theory. It does so, however, in a distinctive way. Identifying the various features of the just war assessment of consequences will permit both a better understanding of what the theory says and a clearer contrast between it and consequentialism. How exactly do the two views differ when they assess war by its effects? Is one more likely to permit war than the other, and if so, why?

1. Just War Consequence Conditions

A purely consequentialist approach identifies all the goods and evils that will result from a given war, whatever their type and however they will be produced, and weighs them equally against each other, so the war is justified only if it will produce more overall good than evil or, more strictly, if its balance of good over evil consequences is better than that of any alternative. This view is obviously difficult to apply in practice. Before a war it must make probability estimates of the war's different possible outcomes, and even after the war it

requires counterfactual judgements about the effects the alternatives to war would have had, to compare the war with those alternatives. But theoretically it is very simple, providing a single moral test that involves weighing all of a war's good and evil consequences equally against each other.

The just war assessment of the consequences of war is much more complex, first, because it involves a plurality of moral tests. The theory holds that to be morally permissible a war must satisfy a number of conditions, of which some, such as that the war be declared by a competent authority and fought with a right intention, are purely deontological. But four other conditions concern the war's consequences. One says a morally permissible war must have a just cause. There is a small set of types of good effect that constitute just causes, such as resisting aggression and preventing genocide, and the war must be directed at one of them. More specifically, since the just causes all involve preventing or rectifying some wrong, there must be a relevant wrong committed or in prospect to which the war is a response. Second, the war must have a reasonable hope of success in achieving its just cause or, more generally, in producing relevant goods. Third, it must be a last resort, so there is no less destructive way of achieving those goods; if there is, the war is wrong. Finally, the damage the war will cause must not be excessive, or disproportionate to the relevant good it will do. In short, a morally

permissible war must satisfy just cause, hope of success, last resort, and proportionality conditions.³

This view faces the same practical difficulties as consequentialism, requiring both probability estimates before a war and counterfactual judgements after it. But it is theoretically more complex, because it imposes four different conditions about consequences rather than a single one. This plurality of conditions is by no means unique to just war theory but is also found in the morality of self-defence and in constitutional provisions explaining when a state may legitimately infringe the rights of its citizens. Both allow only acts that have a specific type of good effect, such as thwarting an unjustified attack, and a reasonable hope of achieving it, while also being necessary, or the least harmful way of achieving that effect, and not disproportionate to the value of that effect. So the four-part assessment of consequences in just war theory instantiates a more widely accepted pattern.⁴

The multiplicity of these conditions can be reduced a little, by subsuming the hope of success under the proportionality condition. If a war has no or only a negligible chance of producing relevant goods, the harm it will cause is excessive compared to any good it is likely to do and the war is therefore disproportionate. In addition, the last resort condition, while distinct from the proportionality

condition, is derivative from it conceptually. This may not be apparent if we consider only the artificial situation where war and some alternative will be equally effective at achieving relevant goods: then the last resort condition need only compare their levels of destructiveness. But often a war will achieve its just causes to a somewhat higher degree than an alternative like diplomacy, will achieve additional goods, such as deterring future aggression, or has a higher probability of achieving some goods. Then the last resort condition must compare the extra benefits of war with its extra costs, which makes it in effect a comparative version of the proportionality condition. For each of war and its alternatives it does a proportionality assessment, weighing the relevant goods each will cause against its relevant evils to arrive at its net relevant outcome, and then permits the war only if its net outcome is better than any alternative's. The last resort and proportionality conditions can still yield distinct verdicts: a war can be proportionate but not a last resort, because there is a less harmful way of achieving its goals, or the only way of achieving those goals but excessively destructive. Still, the last resort condition depends conceptually on the proportionality condition, since it is a comparative version of it.

Even with these reductions, the theory's plural conditions make it in one way more complex than consequentialism. But it is also more complex in how it

identifies and weighs consequences. Whereas consequentialism counts all the goods and evils a war will produce, just war theory discriminates between types of good and evil effect, counting some more than others that are equally great, and also between the causal mechanisms that can produce effects, so some goods or evils count more or only when they have one kind of history rather than another. Finally, the theory does not always weigh good and evil effects equally, sometimes giving goods more weight than evils and sometimes doing the opposite. Let me turn to this second, less straightforward set of complexities.

2. Relevant Goods

Just war theory discriminates between effects first, in its just cause condition, which identifies certain types of good, such as resisting aggression, as pre-eminently morally important. If a war is not directed at one of these goods, then no matter what other benefits it produces, it is not permitted. By “directed” here the theory does not mean something about a person’s intentions; it does not require an agent resorting to war to be motivated by desire for its just cause. If a political leader resists aggression against a distant nation only to boost his popularity with voters, he acts on a disreputable motive and thereby violates the right intention condition, but still has a just cause. But the just cause condition is

also not satisfied merely by the existence of a relevant wrong. If one nation invades a province of a second nation, that does not permit the second to invade some third nation, or even to invade some province of the first. It only permits it to do things that are directed at the wrong in the sense that they are in principle capable of preventing it, such as trying to expel the invading forces from its own territory. The second nation's acts need not actually be able to prevent the wrong; that is a matter for the hope of success condition. But they must at least be of a type that can prevent it.

Some goods good identified by the just cause condition have instances that are comparatively trivial. Thus, one nation can sponsor terrorist attacks that kill, not thousands of another's citizens, which would clearly provide a just cause, but only one or two, or its government can murder just a few members of a minority population. These wrongs seem insufficient to justify the full horror of war, but there are two possible explanations why. One is that the wrongs are too trivial to constitute just causes, the other that they do constitute just causes but war to rectify them would be disproportionate. The second explanation may yield a more elegant version of just war theory, in which the just cause condition identifies only types of morally crucial good and leaves issues of their magnitude entirely to the proportionality condition.⁵ But the first explanation seems more intuitive; surely

most people would say the above cases do not involve a just cause. And I will argue below that adopting this explanation saves the theory from some counterintuitive consequences. I will therefore assume that the just cause condition not only identifies types of morally crucial good but also makes an initial assessment of their magnitude, so goods below a threshold of seriousness cannot constitute just causes.

The goods that do constitute just causes also clearly count toward the proportionality and last resort conditions: that a war will stop aggression or prevent genocide is obviously one thing that weighs against its destructiveness, both when we assess it in itself and when we compare it with alternatives. And a very restrictive version of just war theory says they are the only goods that count: on the negative side of a proportionality assessment is all the destruction a war will cause, on the positive side only the benefits in its initial just causes. But this version is too restrictive, for there are at least some other morally relevant goods.

The most important of these have been called “conditional just causes.” Unlike “independent just causes” such as resisting aggression, they cannot on their own satisfy the just cause condition; if a war will achieve only conditional just causes, it is not morally justified. But once some other, independent just cause is present, they become legitimate aims of war and can contribute to its being

proportionate and a last resort.⁶

One category of these causes contains lesser instances of the types of good that can, when greater, be independent just causes. Before their ouster the Taliban oppressed the Afghan people, for example, by restricting the rights of Afghan women. But a war fought only to liberate Afghan women would on most views have been unjustified no matter how much other good it did, because it lacked an independent just cause. Once there was another just cause to remove the Taliban from power, however, based on their support for terrorism, the fact that war would benefit Afghan women became a factor that counted in its favour and helped to make it proportionate, so a good that could not justify the war on its own did help to justify it given other factors. It seems an essential feature of this case that the independent just cause already justified removing the Taliban. If they had merely invaded a neighbouring nation, giving other nations a just cause to expel them but not to do more, it would not have been permissible to remove them in order to benefit Afghan women. But if the Taliban's support for terrorism already justified ending their regime, the fact that doing so would benefit Afghan women became a relevant good.

A second category of conditional causes contains goods that can never, whatever their magnitude, be independent just causes, but that also count in favour

of war when a separate such cause is present. The central such goods are incapacitating an aggressor from further aggression by forcibly disarming him, and deterring both him and other would-be aggressors by showing that aggression does not pay. On most just war views, the mere fact that a nation has weapons it may use aggressively in the future is no justification for war against it now; *pace* the Bush doctrine, merely preventive war is wrong. But once a nation has committed aggression, eliminating its weaponry becomes a legitimate aim of war and can be pursued even after the war's initial just causes have been achieved. Thus, Iraq's possession of chemical and biological weapons before 1990 did not in itself justify war against it, but once Iraq invaded Kuwait, that permitted other nations not only to repel the invasion but also to partially disarm Iraq, either forcibly or by writing conditions about disarmament into the ceasefire agreement that ended the war. A similar point applies to deterrence of aggression. Even if invading a non-threatening neighbour would decisively demonstrate our nation's military might and so deter potential aggressors against us, that does not make the invasion right. But if our neighbour itself commits aggression, the fact that resisting it will deter others can become an important factor favouring war and even the main one making it proportionate. The Argentinian invasion of the Falkland Islands in 1982 gave Britain an independent just cause for war, but given

the islands' remoteness and sparse population many would deny that considerations of sovereignty alone made a British military response proportionate. And British prime minister Margaret Thatcher's justification of the war did not appeal only to those considerations, citing also the need to maintain international security by resisting even minor aggressions. It may be that while the Argentinian invasion provided the independent just cause for the Falklands War, the main factor making it proportionate was its contribution to international deterrence.

It is of course hard to assess, and easy to exaggerate, the deterrent effects a given war will have. How many would-be aggressors today think consciously of the Falklands War? But in assessing this benefit we must consider not only a war's positive deterrent effect but also the negative effect of not encouraging aggression. Once aggression has occurred, the status quo before the aggression is no longer an option. One can either resist the aggression, which will deter future aggression, or let it stand, which will encourage aggression by allowing a precedent of successful aggression. And a proportionality calculation must consider a war's avoiding the bad effect as well as its producing the good one, so the difference between the two is its total contribution to deterrence. A similar point applies to the last resort condition. In the lead-up to the 1991 Gulf War, the Soviet Union and France

sought a negotiated Iraqi withdrawal from Kuwait. But it was evident that any such withdrawal would require diplomatic concessions to Iraq, for example about some disputed islands on the Iraq-Kuwait border. The United States and its closest allies vigorously opposed any such concessions, saying there must be “no rewards for aggression.” In doing so, they recognized that the deterrent benefits of war include not only positively discouraging aggression but also not making it more attractive.

The role of these conditional causes parallels that of similar goods in the morality of punishment. If a person has not yet committed a crime, the fact that he is likely to do so in future is on most views no justification for imprisoning him now, nor is the fact that imprisoning him may deter others. But once he has acted criminally, the fact that imprisoning him will incapacitate him for criminal activity and deter others do become relevant benefits of punishment and can help fix the appropriate severity of his punishment. This parallel suggests a second, somewhat less restrictive version of just war theory, on which the only goods relevant to the proportionality and last resort conditions are those in a war’s independent just causes and in conditional causes such as disarmament and deterrence.

This second version gains support from the fact that some goods seem entirely irrelevant to these conditions. Imagine that a war will give pleasure to

soldiers eager for real combat or to citizens on the winning side, who will be elated by their nation's victory. Though certainly good, these pleasures do not, intuitively, count toward the war's justification. An otherwise disproportionate conflict cannot become proportionate because it has these effect. Or imagine that a war will stimulate more powerful art than would otherwise be created; that too cannot help justify it. It may be objected that these are such modest goods that even if relevant they would hardly ever make the difference between a war's being proportionate and not. But I think our intuitive understanding of just war theory goes further and says they are simply not relevant, and a similar point applies to more substantial goods. Imagine that the world's economy is now in a depression and that a war will end that depression, as World War II ended the depression of the 1930s. The economic benefits here may be significant, yet they surely cannot count toward the war's justification; an otherwise impermissible war cannot become permissible because it will boost global GDP.

One may conclude that all these goods – pleasure, art, and economic growth – are as types irrelevant to the justification of war, and then extend that conclusion to all goods not in the independent and conditional just causes. But this inference to the second view would be too hasty. While these goods are indeed, when brought about in one way, irrelevant to the proportionality and last resort

conditions, when brought about in another way they seem relevant. This brings us to the second distinguishing feature of the just war view: its discriminating between the causal mechanisms that produce certain effects.

The point is best illustrated by the example of economic goods. I have said that when fighting a war will boost GDP, this is irrelevant to the war's justification. But imagine that in 1990 Saddam Hussein had annexed Saudi Arabia as well as Kuwait and then cut off all their oil exports, raising the world oil price and seriously damaging the world's economy. Imagine in particular that his action damaged the economies of African countries, who could not easily pay the higher price. In this case preventing the economic harm would seem a relevant good of war. There is surely a stronger reason to reverse Saddam's aggression when it will cause significant economic hardship than when it will not, a reason that makes the war more probably proportional. Is there a moral difference between this case and one where war ends a depression?

Let me suggest a possibility. When war ends a depression, the economic benefits do not result from the achievement of the war's just causes but instead derive entirely from the process of pursuing them. To reverse our enemy's aggression we have to produce armaments; to do that we invest in military production and those investments boost our and the world's economy. So it is a

means to achieving the war's goal rather than the goal itself that does the economic good. But in the Iraq case the economic benefits do result from a just cause. The harm to the world's economy depends on Saddam's annexing Kuwait and Saudi Arabia, and we prevent the harm by preventing those annexations. Here the economic goods follow from our achieving a just cause; more specifically, they consist in our preventing harms that are causally downstream from the wrong that provides that cause, so the causal route to the goods runs through the just cause rather than coming directly from a means to it.

A similar point applies to diplomatic goods. In the mid-1990s it looked as if the Gulf War was going to help resolve the Israeli-Palestinian conflict, through the Oslo Accords it helped make possible. That result did not in fact eventuate, but imagine that it had and the Middle East was now at peace. It seems to me that, though substantial, the benefits of Israeli-Palestinian peace would not count in favour of the Gulf War's proportionality. The reason again is that the benefits would result from a means to the war's just causes rather than from any such cause itself. In order to expel Iraq from Kuwait, the United States and its allies formed a coalition that united Arab states such as Syria and Saudi Arabia with Western ones and even had Israel as, if not a formal member, then an informal ally. And the contacts this coalition involved helped start the Oslo process. But the

coalition was only a means to the Gulf War's just cause rather than any part of it, and the benefits it caused are therefore irrelevant to the war's justification. To confirm this, consider a contrasting case. One effect of the 2003 Iraq War was to end Iraq's payments to the families of Palestinian suicide bombers. Stopping these payments has not had much effect, but imagine that it had: that suicide bombings ceased, leading to Israeli-Palestinian negotiations and a lasting peace. In this case the benefits of the peace would, I think, count in favour of the Iraq War, since eliminating support for terrorism is a just cause.

Or consider the other goods discussed above. The pleasure soldiers get from real action cannot help justify a war, because it results from a means to the just cause. But imagine that because of an oppressive regime's policies its citizens enjoy much less pleasure than they otherwise would. Here the fact that removing the regime, assuming an independent just cause for doing so, would allow the citizens greater pleasure does seem a relevant good, and it likewise seems relevant if the regime suppresses great art that would otherwise be produced. There is a difficulty about the pleasure of citizens on the winning side, since it also results from the achievement of a just cause. But we can exclude this pleasure either by counting only those goods that result from the just cause, more specifically, by preventing harms causally downstream from its grounding wrong, as in the

Kuwait-Saudi oil example, or by saying that some types of good, such as pleasure at winning, are irrelevant to proportionality and last resort however they come about. Either way, there will be some goods that do not count toward a war's justification if they result only from a means to the war's just cause but can count if they result from the achievement of that cause itself.⁷

This distinction among causal processes is not important for the categories of good discussed earlier. An independent just cause such as preventing aggression is not excluded from contributing to the proportionality and last resort conditions by the fact that it will result from a means to itself, and something similar holds for conditional causes. Much of the disarming of an aggressor occurs during the war. In order to expel him from occupied territory, we use military force that destroys much of his military, leaving him in a weakened condition for future aggressions; this was a significant effect of the Gulf War on Iraq. But the fact that the disarming results from the process of pursuing the just cause in no way eliminates it as a relevant good. The same holds for deterrence: would-be aggressors will not be deterred much by knowing that aggressions they attempt will be reversed; that shows only that the attempts will leave them no better off. They will be much more affected by knowing that the process of reversing their aggression will degrade their military and leave them worse off. The benefit of deterrence can

even count in favour of a war, it seems to me, when its independent just cause will not be achieved. Imagine that a powerful nation elsewhere in the world has invaded a neighbour and that military intervention by us will not be able to reverse that aggression. But the intervention will demonstrate our commitment to fighting aggression and will deter other, weaker nations from aggressions they might otherwise attempt. Here the deterrent effect seems to me a relevant benefit and can even make the war on balance justified, though its independent just cause will not be achieved.

That conditional just causes such as deterrence count no matter how they are caused is some justification for linking them terminologically with independent just causes and separating them from goods such as pleasure and art, which are not just causes at all. It also explains why the just cause condition must not only identify relevant types of good but also make an initial assessment of their magnitude. If it did not, a war could in principle be justified given only a terrorist or humanitarian threat to one or two people: that threat would constitute an independent just cause, and facts about disarmament and deterrence could then make the war proportionate. But if war, no matter how beneficial, is impermissible without any good of a relevant type, it is surely also impermissible given only a trivial good. And that is ensured if independent just causes must reach a threshold

of seriousness.

It seems, then, that just war theory divides the goods resulting from war into three categories. There are independent just causes, which a war must be in principle capable of causing and which always count toward its being proportional and a last resort; conditional just causes, which cannot justify war apart from an independent just cause but, given one, count in war's favour no matter how they are caused; and further goods such as pleasure, art, and economic growth, which count only when they result from the achievement of a just cause rather than directly from a means to it. This three-part division makes just war theory in a further respect more complex than consequentialism, and there are related complexities on the side of evils.

3. Relevant Evils

The just war assessment of evils does not involve the same divisions as among goods. The theory may hold that the disappointment citizens on an unjust side feel at their nation's defeat does not count against the war's justification, but most other bad effects, including the pain of soldiers, economic dislocation, and the stifling of art, do. Nor does it matter how these effects relate to the just causes. The vast majority of a war's destructiveness results from the means to its just

causes. It is the process of, say, expelling an aggressor from occupied territory that causes people to be killed and buildings destroyed, yet that in no way reduces their weight against the war's benefits in a proportionality assessment. Nor do evils count less if, unusually, they result from a war's just cause. Imagine that winning a war against aggression will set a precedent of resolving disputes by violence and so lead to more unjust wars in the future. If so, the fact that the bad effect is downstream from a just cause does not make it count any less against the war now.

But just war theory does make a different division among evils, which parallels one in its account of the morality of waging war. Central to the latter is a discrimination condition whose standard versions say that force may be directed only at combatants and not at civilians. Civilians may sometimes be permissibly harmed as an unintended side-effect of force directed at a military target, or as what is called "collateral damage," and only if the harm is unavoidable and not disproportionate to the target's importance. Civilians therefore have in two respects higher moral status than soldiers: they may not be the targets of military force, and even collateral harm to them must meet a stringent proportionality standard.

The theory seems to use the same division in its account of the morality of

resorting to war, so in assessing the evils a war will cause it weighs harms to enemy civilians much more heavily than harms to enemy soldiers. Thus the deaths of a hundred civilians, even if merely collateral, can count more against the permissibility of a war than the intended deaths of a hundred soldiers. This is reflected in criticisms of the Gulf and Iraq Wars, which focus much more on the number of Iraqi civilians killed than on the number of Iraqi soldiers killed. (The latter are often barely mentioned.) Consequentialism makes no such division: since a civilian's death is in itself no worse than a soldier's, the view weighs the two exactly equally. And Glover takes a similar line in *Causing Death and Saving Lives*, saying he will treat killing in war as morally on a par with other killing.⁸ But just war theory distinguishes sharply between military and civilian deaths, and not only on the enemy but also on our side. Imagine that to prevent terrorist attacks that will kill a certain number of our civilians we must fight a war in which a somewhat greater number of our soldiers will be killed. I think the theory will permit this war, again because it weighs civilian lives more heavily. As Paul Christopher says, the deaths of soldiers should always count less than those of civilians because "risking one's life is part of what it means to be a soldier."⁹ Our government may have moral responsibilities to its own soldiers that it does not have to enemy soldiers, so the deaths of the former should have more weight in its

deliberations. But on each side the interests of soldiers, because they are soldiers, count less than those of civilians.

Discussions of the discrimination condition have proposed several justifications for the lower moral status of enemy soldiers: that they are a threat to our soldiers, that they are morally guilty, or that even if morally innocent they are engaged in an objectively unjust proceeding.¹⁰ But none of these justifications captures the full moral division in just war theory, because it does not apply to our soldiers. Since they are fighting on our side, these soldiers are not a threat to us, and if we have a just cause, they are neither morally guilty nor engaged in an unjust proceeding. A justification that does yield the desired results is most clearly available if there are volunteer militaries on both sides of the war. Then we can say that by voluntarily entering military service, soldiers on both sides freely took on the status of soldiers and thereby accepted that they may be killed in the course of war, or of formally declared hostilities between their nation and another. By volunteering, in other words, they freely gave up their right not to be killed and so made their killing not unjust. Their status is like that of boxers who, in agreeing to a bout, permit each other to do in the ring what outside it would be forbidden as assault. And just as the boxers' interaction is governed by formalized rules, so is the soldiers': there are uniforms to distinguish those who have surrendered and

gained rights from those who have not, and formal declarations of war and ceasefires to indicate when the permissibility of killing begins and ends. This surrender-of-rights justification of the soldier-civilian divide is not without its difficulties. It assumes that soldiers can alienate their right not to be killed, which some may deny. It also applies less clearly to conscript soldiers or ones who entered the military only because they had no other acceptable career options, and may therefore support a lesser reduction in moral status for them. But I will assume that these difficulties can be overcome and that their having freely entered military service gives the best explanation of the lesser weight soldiers' deaths have on both sides of a war.¹¹

That soldiers' deaths in war are not unjust does not mean they have no moral weight, because there are duties other than ones of justice. In particular, a state has special duties of care to its own soldiers, which mean its soldiers' deaths have only somewhat less weight than its civilians'. But the state has no such duties to enemy soldiers, and their moral status is therefore much lower. Exactly how much lower, however, is harder to determine.

The morality of waging war seems to give enemy soldiers' lives almost no weight. The conventional view, expressed for example by Michael Walzer, is that once war has begun enemy soldiers are essentially free targets that one's own

soldiers may kill at virtually any time.¹² One's soldiers may not kill them wantonly or to no purpose; that would violate a necessity condition in the morality of waging war. But if killing a large number of enemy soldiers is necessary to achieve just a small benefit, say, to save just one of our soldiers, the killing is permitted. (In the movie *Saving Private Ryan*, there is surely no number n such that Tom Hanks must be careful not to kill more than n German soldiers in the course of saving Ryan.¹³) Now, if a similar view were adopted in the morality of resorting to war, the fact that a war will kill large numbers of enemy soldiers would count only marginally against its permissibility. That is an extreme view, and there are surely versions of just war theory that weigh enemy soldiers' deaths more heavily than that. But there is one context, generated by the hope of success condition, where the extreme view does seem to be accepted.

This condition implies that when a war has no chance of achieving any relevant goods it is morally impermissible, and this implication is compelling for offensive wars. Imagine, as many would deny, that there are economic just causes, such as the unjust abrogation of a trade agreement. If war in response to an economic wrong will do nothing to redress it, the war is pointless and wrong. The same holds for humanitarian causes. If intervening against an oppressive regime will not remove it or change its policies, that too is wrong. But the implication is

more problematic for wars of national self-defence, where hopeless resistance is not morally condemned but is often viewed as permissible and even heroic. The best-known example is Belgium's resistance to Germany in 1914, which had no hope of success but is nonetheless widely admired. In this case the defence may have had significant benefits: by slowing the German advance into France, it prevented a quick German victory on the Western front and so may have altered the final outcome of the war. But those who applaud "plucky little Belgium" usually have no such consideration in mind; they approve the defence apart from any effects. And there seems to be a similar permission in the morality of individual self-defence. Imagine that Lennox Lewis confronts me in an alley and starts beating me up. It may be that nothing I can do – no feeble punches I throw in his direction – will do anything to stop the beating or reduce its severity. Am I therefore forbidden to throw those punches? May I not give him, however fruitlessly, my best shot? Consequentialism says no, but that is surely not the intuitive view. May the parallel view about military defence not also be intuitive?

I think the answer depends on the type of harm the defence will cause. If a hopeless resistance to invasion will involve bombing targets inside the aggressor's borders, thereby killing, even if collaterally, some of its citizens, the defence seems morally wrong. (Likewise in self-defence: if giving Lennox Lewis my best shot

involves swinging a stick that will seriously hurt a bystander, I may not do so.) But when we think of cases like that of Belgium, we imagine the defence being mounted entirely within the defending nation's borders, so it will kill only enemy soldiers. And in these cases many have held that the defence is permissible. Since the defence will not do any good, the harms it causes enemy soldiers must, as on the extreme view, have no moral weight at all.¹⁴

Whether it adopts this extreme view or not, just war theory makes one distinction among types of evil by counting soldiers' deaths considerably less than civilian deaths. It may also distinguish between the causal mechanisms that produce evils. This is, however, another difficult issue.

Often the good or bad effects of war result directly from our acts, as when bombs we drop kill enemy civilians, but sometimes they depend on later choices by other agents. The question is whether, when this is so, it diminishes our responsibility for the effects, so they count less in assessing the proportionality of our resort to war. In the case of good effects, the answer seems to be no. If resisting aggression now will deter future aggression, that is only because would-be future aggressors will decide not to launch invasions they otherwise would have launched, but the role of these right choices does not stop our war's deterrent effects from counting fully in its favour. The issue is more difficult for evil effects,

however, since many hold that the intervention of another's wrongful choice does diminish one's responsibility for resulting harms, as in the legal principle *novus actus interveniens*. And this possibility can arise often in war. Imagine, to take the most compelling example, that if we fight and win a war with a just cause, disgruntled elements on the enemy side will with no moral excuse launch suicide attacks against our civilians. Setting aside the deaths of the civilians, does the fact that the war will lead to the deaths of the suicide bombers count morally against it? Surely one wants to say no. The bombers' deaths result from their wrong choices and are therefore their responsibility, not ours. But other cases are more difficult. Imagine that in a short war we bomb our enemy's infrastructure, damaging its electricity-generating plants. This damage would cause only limited harm to civilians if the enemy state repaired the plants immediately after the war, as it has a moral duty to do. But it does not do so, preferring to spend its limited resources on rebuilding its military, with the result that many more civilians die. In assessing the proportionality of our resort to war, do we count all the deaths that resulted from it given our enemy's immoral behaviour, or only the smaller number that would have resulted had our enemy acted as it should?

A similar issue, though about past choices, arises in wars against insurgents who hide among a civilian population, as the Viet Cong did during the Vietnam

War, or who purposely locate military installations among civilians, as Hezbollah did when attacking Israel in 2006. If, given these tactics, effective military action against the insurgents will inevitably cause civilian deaths, do those deaths count fully against the action's proportionality or are they discounted for the enemy's wrongful contribution? The international law of war seems to say they are not discounted. Though it forbids placing military installations among civilians, it holds that the violation by one side of its obligations in war does not release the other side from any of its obligations.¹⁵ But the U.S. and Israeli militaries seem to take the opposite view, saying that if an enemy hides among a civilian population, that enemy brings the civilians into the line of fire and so is responsible for their deaths. Early in the Iraq War, for example, a fight outside Nasiriyah moved into the city when Iraqi forces retreated there, with resulting civilian casualties. The commander of a U.S. artillery battalion firing on Nasiriyah "placed responsibility for any civilian deaths on the Iraqi soldiers who drew the marines into the populated areas," saying "We will engage the enemy wherever he is."¹⁶ Does just war theory follow international law on this issue, or discount evil consequences that depend on others' wrong choices?

I find this a difficult issue, both in itself and as about what just war theory says. I suspect that if they consider the above cases intuitively, people will have

conflicting views about them. Some will say an enemy's failure to repair power plants after a war does not affect the proportionality of the original bombing of them while others will say it does, and there will be similar disagreements about the deaths of civilians in attacks on insurgents. Nor do abstract principles clearly settle the issue. On the one side, we can say that we must make our moral judgements in the world as we find it and not ignore the predictable effects of a choice we can make because we dislike some other causal factors that will help produce those effects. On the other side, we can say that agents should not be morally protected by their evil characters; the fact that they will bomb civilians or let children die if we take some otherwise justified action against them should not make that action wrong. Because I cannot resolve this issue, I will have to leave undetermined what just war theory says about it. The issue is vitally important for assessing particular wars: it will make a large difference to our assessment of, for example, Israel's 2006 actions against Hezbollah if the resulting deaths of Lebanese civilians count fully or only partly against it. But I will leave this issue and move on to how just war theory weighs goods and evils against each other.

4. Weighing Goods and Evils

Consequentialism weighs goods and evils equally, holding that a war is

wrong if it will cause even slightly more evil than good or, on the stricter criterion, if its net outcome is even slightly worse than some alternative's. The just war "proportionality" requirement can also require equal weighing of goods and evils, but the term is sufficiently elastic to allow two contrary alternatives.

The first weighs good effects somewhat more heavily than bad ones, so a war can be proportionate even if it causes somewhat, though not a great deal, more evil than good. This alternative parallels the morality of individual self-defence, whose standard versions allow a defender to use somewhat more force than is threatened against her. Thus, on most views she may kill not only to prevent herself from being killed but also to prevent herself from being raped, forcibly confined for a long period, or caused serious injury. And a similar view has been applied to war by Douglas Lackey. Though he joins consequentialism in counting all the good and bad effects of war, he considers a war proportionate "unless it produces a great deal more harm than good," thereby weighing goods somewhat or even significantly more heavily than evils.¹⁷

The contrary alternative counts evils more heavily, so a war is proportionate only if its good effects are considerably greater than its bad ones. This view parallels the central claim of moderate deontological moralities. They hold that an otherwise forbidden act such as killing an innocent person can

sometimes be permitted, but only if it causes a great deal more good than harm, for example, if it allows not just one or two but a thousand extra people to be saved. And a parallel view says the resort to war is permitted only if it will cause a great deal more good than evil. Does just war theory use this last view when judging proportionality, the contrary one that weighs goods more heavily, or the view that weighs values equally?

These questions only make sense given a common scale for measuring goods and evils, and that is not always available. Imagine that a war that will preserve our nation's sovereignty but collaterally kill 10,000 enemy citizens is morally permissible. We could say this is because the value of sovereignty equals that of 10,000 civilian lives and goods and evils weigh equally, or because the value of sovereignty equals that of 5,000 lives and goods count more. But there is no real difference between these explanations, because there is no independent scale for comparing sovereignty and lives. In cases like this, therefore, the issue of how values are weighed does not really arise. Sometimes, however, there is something like an independent scale. The goods and evils at stake in war are also the subjects of choice outside war, when the evils do not result from killing, and we can ask whether just war theory weighs either more heavily than would be appropriate in a non-war context. The answer is that it sometimes does the one,

sometimes does the other, and sometimes weighs the same as in peacetime.

For an example of the last possibility, imagine that to prevent terrorist attacks that will kill a certain number of our civilians, we must fight a war in which a certain other number of our civilians will be killed by enemy bombing. Here it seems the two sets of lives weigh equally. If the war will cost more civilian lives than it will save, it is surely morally wrong, but if it will save more lives, it may be right. The same holds for civilian lives in another nation. Imagine that to remove an oppressive regime that will murder a certain number of its citizens, we must fight a war in the aftermath of which an insurgency will kill another number of citizens. Setting aside issues of intervening agency, it again seems that the two sets of lives weigh equally: if the war will result in more civilians deaths overall, it is wrong.

In these examples the deaths are all on the same side of the war, but the issue is more complicated when they are on different sides. This is because most who accept just war theory do not hold, as standard versions of consequentialism do, that governments must always be impartial between their own and foreign citizens. On the contrary, most accept the nationalist view that governments may and even should give more weight to their own citizens' interests, so in framing trade and immigration policy, for example, they should care most about effects on

their current citizens. If just war theory applied this view unaltered in the context of war, it would give interests on one's own side considerably more weight than enemy interests. And since, especially in defensive wars, many of the relevant goods are on one's own side and of the evils on the other, that would mean giving good effects considerably more weight. But it seems to me that the theory does not apply the nationalist view unaltered: it makes two adjustments, one in each direction.

Imagine that to prevent terrorist attacks that will kill a certain number of our citizens, we must fight a war in which we will collaterally kill a certain number of enemy civilians. I think the just war view will give some extra weight to the enemy civilians' deaths because they will result from our acts, or because we will directly cause them. If a government has a choice between saving a few of its own citizens from a natural disaster and saving many more of another nation's citizens, it may prefer saving its own citizens. But it cannot do the same if saving a few of its own citizens from a disaster requires killing many of another nation's; then the saving is wrong. The degree of extra weight given enemy deaths here is not as great as when a moderate deontology allows deliberately killing an innocent person only if that is necessary to save some very large number of other lives. This is because the main deontological distinction in just war theory is not between

causing harm and allowing it; it is between intending harm and merely foreseeing it, and when we kill enemy civilians collaterally we merely foresee their deaths. But the distinction between killing and allowing to die seems to retain some moral force; it is not simply ignored. And that means the theory gives some extra weight to enemy deaths we directly cause. It may be that, given the nationalist view, our nation may still show some preference on balance for its own citizens' good, so a war to protect them from terrorism may be permissible even if it collaterally kills a somewhat greater number of enemy civilians. Thus, the Afghanistan War may have been justified even if it collaterally killed somewhat more Afghan civilians than it saved American civilians. But the degree of preference allowed here is far less than in trade, immigration, or other policies. Given a baseline of the normally allowed degree of nationalist preference, just war theory gives somewhat more weight here to evils than to goods, because the evils result from what we actively do.

But the theory makes the opposite adjustment for enemy soldiers' deaths. Outside war, these soldiers have no special moral status. If our government has a choice between saving some of its own soldiers from dying in an accident and saving enemy soldiers, it may and even should, as before, prefer its own soldiers. But the degree of preference allowed here is no more nor less than for civilians, since outside war soldiers are in effect civilians. Inside war, however, enemy

soldiers have a drastically reduced status, and may be killed for almost any purpose. The best justification for this, I have argued, is that by freely entering military service they have surrendered their right not to be killed and so made their killing not unjust. If so, whereas the deaths of enemy civilians we kill in war have greater moral weight than they would in peacetime cases of saving, the deaths of enemy soldiers have much less. And this means that just war theory takes, in different contexts, all three possible views about the weighing of goods and evils. When comparing civilian lives on the same side of the war, it weighs goods and evils equally; when weighing the deaths of enemy civilians whom we will kill collaterally against the benefits of war, it gives the former more weight than it would outside war, or when they civilians would not be killed by us; and when weighing the deaths of enemy soldiers we kill against the benefits of war, it gives them drastically less weight.

5. Just War vs. Consequentialism

These various points about the just war consequence conditions help explain how the theory reaches its conclusions about particular wars, but they also allow a clearer contrast between it and consequentialism, in particular as to which is more permissive. The answer turns out to be complex, going one way on some

issues and the opposite way on others.

Let us begin with the issue of relevant goods. That just war theory requires a war to have a just cause makes it in an important respect less permissive than consequentialism. If a war will produce no goods of a type that constitute an independent just cause but will produce many goods of other kinds, consequentialism may approve the war while just war theory does not. Thus, consequentialism may approve an aggressive war that will significantly deter potential aggressors while just war theory does not. And this difference is accentuated by the theory's excluding certain goods from its proportionality assessment because they do not result from the achievement of a just cause. Thus, just war theory will not count even a significant boost to world GDP resulting from the process of fighting a war as relevant to the war's justification, whereas consequentialism will. But the very same feature that makes just war theory less permissive about the proportionality condition makes it more permissive about the last resort condition. Some critics say that the Gulf and Iraq Wars were wrong because the billions of dollars they cost would have done more good if spent in other ways, say, on development aid to Africa. This is a legitimate criticism by consequentialist lights, if these require a war to have the best outcome possible. But it is not so according to just war theory. If the goods relevant to the last resort

condition are only those in a war's independent and conditional just causes and in states causally downstream from them, then the benefits of aid to Africa are not relevant to assessing the Gulf and Iraq Wars and alternatives that produce them need not be considered in determining whether those wars were last resorts. The theory does not compare war with all possible alternatives, but only with ones that can achieve the same relevant goods, which usually means only with diplomatic or other responses to the same initial wrong. And requiring war to be the best of a small set of alternatives is less demanding than requiring it to be the best of a large set. On the just war view, the Gulf War was indeed wrong if there was a less destructive way of expelling Iraq from Kuwait, but not merely if some policy unrelated to Kuwait would have had better overall consequences.

When we turn to relevant evils, we again find a mixture of effects. Just war theory's main distinction here is between harms to soldiers and to civilians, and the greater moral protection it gives civilians makes it in several respects less permissive than consequentialism. During war, consequentialism can approve acts that intentionally kill civilians if those acts have sufficiently good effects. Thus, if Truman was right that bombing Hiroshima and Nagasaki saved hundreds of thousands of soldiers from being killed in an invasion of Japan, consequentialism can approve that bombing. Glover himself condemns it, but mainly on the

consequentialist ground that there were less destructive alternatives that would have ended the war as effectively. And he is not in principle opposed to targeting civilians, allowing that in other circumstances, such as those early in the war against Nazi Germany, it can be morally permitted. But absolutist versions of just war theory never allow the intentional killing of civilians, and even moderate versions set a much higher threshold for such killing than consequentialism does, requiring benefits that are not just slightly but massively better than any alternatives, so the killing is needed to avert disaster. Given the extra protection they give civilians, therefore, all versions of just war theory are less likely to permit the targeting of civilians than consequentialism is, and this difference about the morality of waging war extends to that of resorting to war. Just war theory holds that resorting to war is permitted only if the war will be fought in accordance with all the rules governing the waging of war. If there is a just cause that can be achieved only by targeting enemy civilians, consequentialism may approve war in pursuit of it while just war theory does not.

Again, however, other features of just war theory have the opposite effect. If its adherents usually allow nations to prefer their own citizens' interests to those of foreigners, then even if the degree of preference allowed is reduced when enemy civilians will be killed, the theory may approve wars that standard

consequentialism does not, for example, wars that will collaterally kill a somewhat greater number of enemy civilians while saving a smaller number of our civilians. An even stronger feature for permissiveness is the drastically reduced weight the theory gives enemy soldiers' lives. Since consequentialism weighs these soldiers' lives equally against enemy and even our civilians' lives, it finds a major moral objection to war in the deaths it causes enemy soldiers, one as strong as any involving deaths on our side. But just war theory does not follow it here, giving enemy soldiers' lives minimal weight in the morality of waging war and also, if not quite as clearly, in that of resorting to war. If a war in pursuit of a just cause will kill many enemy soldiers, this is a serious moral objection to it by consequentialist lights but not on the just war view. In *Causing Death and Saving Lives* Glover takes a broadly consequentialist line, but also gives weight to individual autonomy as a value competing with overall well-being. And I have argued that the best justification for giving reduced weight to soldiers' lives derives precisely from their having freely or autonomously surrendered their right not to be killed in war. The autonomy involved here is not quite like that Glover finds important in cases of suicide or voluntary euthanasia, since it does not involve a positive desire to die. But if he gives some moral weight to autonomy in general, should he not feel some sympathy for a feature of just war theory that likewise turns on the value of

autonomy? In any case, that theory's strong discounting of enemy soldiers' deaths makes it much more permissive than consequentialism about wars in which many such soldiers will be killed. By consequentialist lights a war in defence of national self-determination that will kill many enemy soldiers may not be justified whereas by just war lights it is.

Just war theory will also be more permissive if, in assessing wars for proportionality, it discounts evils that depend in part on others' wrongful agency, such as their locating military installations among their civilians. Consequentialism ignores facts about others' agency, looking only at what will actually follow from a choice we can make. If just war theory does attend to such facts, which admittedly is not clear, it will in another way be more likely to find wars proportionate and therefore permissible.

So each of just war theory and consequentialism is in some respects less permissive than the other and in some respects more so. Just war theory is less permissive about the goods that can permissibly be sought by war and about the use of force against civilians, but more permissive when it compares war with alternatives, about the use of force against soldiers, and perhaps about intervening agency. But then a complex comparison between just war theory and a more consequentialist approach like Glover's is what we should expect if the theory has

the complex elements this paper has tried to describe. Any credible theory of the morality of war will assess particular wars largely in light of their consequences. But there is more than one way to do this: not just the theoretically simple way of consequentialism but the much more complex one of just war theory. Some, perhaps including Glover, may say the just war complexities are casuistical, their too fine distinctions diverting attention from the central question of how many people are harmed and how badly. And it is not the aim of this paper to argue that that view is wrong. It is only to explain how there is a different approach, which assesses the consequences of war in a less straightforward way and has at least an intuitive integrity and some intuitive appeal.

Notes

1. Jonathan Glover, *Causing Death and Saving Lives* (Harmondsworth: Penguin, 1977), Ch. 19; *Humanity: A Moral History of the Twentieth Century* (London: Jonathan Cape, 1999).
2. In *Humanity* Glover grants that the intention/foresight distinction has intuitive appeal (84), but defends the conclusions others draw from it mainly on different, more consequentialist grounds.
3. For accessible accounts of just war theory, see Joseph C. McKenna, “Ethics and War: A Catholic View,” *American Political Science Review* 54 (1966): 647-58; and U.S. Catholic Bishops, *The Challenge of Peace: God’s Promise and Our Response*, reprinted in Jean Bethke Elshtain, ed., *Just War Theory* (New York: New York University Press, 1992), 77-168.
4. The Canadian Charter of Rights and Freedoms allows legislation that infringes citizens’ rights only if it passes an “Oakes test” with four parts. The legislation must have a “pressing and substantial objective,” or be aimed at a relevant type of good, as in the just cause condition; it must be “rationally connected” to that good, or have a reasonable hope of achieving it; it must pass a “minimal impairment” condition, or not infringe rights more than is necessary to achieve the good; and the cost of the infringement must not be disproportionate to

the good achieved. For a discussion that notes the parallel with just war theory, see L. W. Sumner, *The Hateful and the Obscene* (Toronto: University of Toronto Press, 2004), 56, 63-69, 212n9, 214n31.

5. This version is defended in David Mellow, *A Critique of Just War Theory* (Ph.D. diss., University of Calgary, 2003); and Jeff McMahan, "Just Cause for War," *Ethics and International Affairs* 19 (2005): 1-21.

6. The conditional/independent terminology comes from McMahan, "Just Cause for War." The distinction was originally introduced, though using different language, in McMahan and Robert McKim, "The Just War and the Gulf War," *Canadian Journal of Philosophy* 23 (1993): 501-41, 502-06.

7. This causal distinction is similar to one used by F. M. Kamm to explain when deontological moralities do and do not allow acts that produce a lesser evil in the course of producing a greater good. Kamm applies the distinction to the production of evils, saying an act is forbidden if the lesser evil results from a means to the greater good but not if it results from that good itself or its non-causal flip side (F. M. Kamm, *Morality/Mortality, Vol. II: Rights, Duties, and Status* (New York: Oxford University Press, 1996), Ch. 7). By contrast, I am applying the distinction to the production of goods.

8. Glover, *Causing Death and Saving Lives*, 252.

9. Paul Christopher, *The Ethics of War and Peace: An Introduction to*

Legal and Moral Issues, 2nd ed. (Upper Saddle River, NJ: Prentice-Hall, 1999), 165.

10. For these justifications see, e.g., Thomas Nagel, “War and Massacre,” *Philosophy and Public Affairs* 1 (1972): 123-44, 138-39 and Robert Fullinwider, “War and Innocence,” *Philosophy and Public Affairs* 5 (1975): 90-97, 94; Jeff McMahan, “Innocence, Self-Defense, and Killing in War,” *Journal of Political Philosophy* 2 (1994): 193-221; and G. E. M. Anscombe, “War and Murder,” in her *Collected Philosophical Papers, Vol. III: Ethics, Religion, and Politics* (Minneapolis, MN: University of Minnesota Press, 1981), 53.

11. In his influential discussion Michael Walzer says an enemy soldier is a legitimate target of force because “he has allowed himself to be made into a dangerous man” (*Just and Unjust Wars*, 2nd ed. (New York: Basic Books, 1992), 145). Sometimes Walzer emphasizes the “dangerous man” part of this phrase, as if it is just the threat the soldier poses that lowers his moral status. At other times he emphasizes the “allowed himself,” which he thinks applies even when the soldier’s options were few; this brings his justification closer to the surrender-of-rights one.

12. Walzer, *Just and Unjust Wars*, 138-51.

13. This example is not decisive, since in killing German soldiers Hanks also prevents them from killing later in the war. A clearer test-case is saving one of our soldiers at the very end of a war, when there is little chance the enemy

soldiers will kill or engage in any military activity later. Perhaps some will say there is a relevant number n here, but I am confident the military will say there is not.

14. McKenna defends the Belgian defence by saying “In extreme cases the moral value of national martyrdom may compensate for the destruction of unsuccessful war” (“Ethics and War: A Catholic View,” 651). But this argument begs the question, since we do not call an act one of “martyrdom” unless we think it is already on other grounds right. (“Martyrdom operation” is hardly a neutral description of the Sept. 11, 2001 attacks.) On the other side, it may be objected that even defence within one’s borders will harm enemy civilians, by causing pain to the families of dead soldiers, eliminating future productive workers, and so on. But a defender of the Belgian action can say there is a kind of estoppel: if the soldiers’ deaths are not a relevant evil, any harms causally downstream from them are also not relevant.

15. *1977 Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts*, Art. 51 (7-8), in *Documents on the Laws of War*, 3rd ed., ed. Adam Roberts and Richard Guelff (Oxford: Oxford University Press, 2000), p. 449.

16. “Marines Wade into Dreaded Urban Battle,” *The Globe and Mail*, Mar. 25, 2003 (New York Times Service). For a similar view about the Vietnam

War, see Paul Ramsey *The Just War: Force and Political Responsibility* (New York: Scribner's, 1968), 47 and William V. O'Brien, *The Conduct of a Just and Limited War* (New York: Praeger, 1981), 100; and about Israel, see Asa Kasher and Amos Yadlin, "Military Ethics of Fighting Terror: An Israeli Perspective," *Journal of Military Ethics* 4 (2005): 3-32, 17-21.

17. Douglas Lackey, *The Ethics of War and Peace* (Englewood Cliffs, NJ: Prentice-Hall, 1989), 40-41.