

ABSTRACT

In 2010, Belorussian software developer Sergey Ulasen discovered a bug in several customers' computers that indicated something far more sinister than just a flaw in the system. The computer worm, later christened Stuxnet, is thought to have been created through a joint effort from the American and Israeli governments with the purpose of destabilising Iran's nuclear weaponry program, reportedly ruining a fifth of Iran's nuclear centrifuges. General Michael V. Hayden, former director of the CIA and NSA, called it "the first attack of a major nature in which a cyberattack was used to affect physical destruction."¹

As technology progresses and develops, it becomes crucial to determine how just war principles will apply to this new realm of combat. Stuxnet is an example of how new avenues of technology can produce attacks with unprecedented consequences. We don't exactly know what technology's full capabilities are. Because much of technology's scope and reach remains speculative, it is difficult to envision its limits and boundaries. Nonetheless, it is definitely present, prevalent, and only likely to increase, making it worthy and necessary of discussion. This thesis focuses on three primary avenues of technology - cyberwarfare and drones - and how they affect the scope of the ethics of warfare as we currently envision them.

The thesis begins with a brief overview of just war theory, covering its earliest documented usage and comparing that to its contemporary view today. This includes the most prominent just war theory of the 21st century, set out by Michael Walzer in *Just and Unjust Wars*. It is Walzer's conception of just war theory that I will be referring to, citing its inapplicability to modern technological forms of warfare. Also in this chapter, I develop three criteria for an enduring, applicable just war theory: consistency, adaptability, and defensibility. I then spend significant time discussing the domestic analogy, a conceptual tool that philosophers use to streamline their arguments, but arguing against it in contexts of war. After this, I discuss cyberwarfare and drones. Both of these technological developments propose unique problems to traditional just war theory that necessitate the development of a new framework. Finally, I introduce the concept of moral particularism, a position most thoroughly outlined by Jonathan Dancy. I argue that moral particularism is the best framework through which we can evaluate the ethics of war, because it fulfills the three criteria for an adequate just war framework: consistency, adaptability, and defensibility.

¹ David E. Sanger, "Obama Order Sped Up Wave of Cyberattacks Against Iran," New York Times, June 1, 2012, <https://www.nytimes.com/2012/06/01/world/middleeast/obama-ordered-wave-of-cyberattacks-against-iran.html>

Do Philosophers Dream of Electric Sheep? The Ethics of War in the Age of Technology

**Nadia Babar
Mount Holyoke College
Department of Philosophy
May 2019**

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ACKNOWLEDGEMENTS

My first and biggest thank you goes to my advisor, James Harold, without whom this thesis truly would not exist. The fact that he was willing to continue as my thesis advisor while on sabbatical is a testament to his commitment to his students and passion for philosophy. Thank you for teaching me how to write a philosophy paper. Thank you for the countless times where I prefaced a conversation with “Can I complain about something first?” to which the answer was always “Sure!” Thank you for your constant words of encouragement, gentle guidance, genuine enthusiasm for this project, and responding to all my emails, even the frantic ones sent at three in the morning.

Second, I would like to thank my friends for constantly supporting me throughout this process. They heard me present on this project multiple times and each time demonstrated the same level of interest and enthusiasm for my progress. Thank you for listening to me complain about this thesis every day for the better part of a year and being genuinely interested in what I study. You guys are great and I couldn’t ask for a better group of people to have spent the last four years with.

Lastly, I would like to thank the rest of the philosophy department, especially my fellow majors, and *especially* my fellow seniors and thesis-writers. I was lucky to be surrounded by wonderfully stimulating conversations with amazingly intelligent people and I will be forever grateful for the friends I’ve made via the philosophy department at Mount Holyoke. Imara White, thank you for being so unapologetically brilliant and finding time to read and comment on my thesis while writing your own. Gabrielle Kerbel, thank you for being a constant voice of reason and reassurance; I wouldn’t have made it through this year without you. Thank you all - professors and students - for

forcing me to think harder, reason better, and speak thoughtfully. I truly believe that the philosophy community at Mount Holyoke is special, and I hope it continues to be for a long time yet.

INTRODUCTION

I'm not sure where my fascination with war came from, or when it started, but I do remember it having an effect on my life from a young age. In the late 2000s, I was living and attending school in Karachi, Pakistan. In Karachi, we didn't have snow days - we had bomb days. I remember being ten years old and hearing about a bomb going off in the city somewhere, and then waiting to see if my school would cancel classes the next day because it was too dangerous for us to go. I remember the initial excitement of hearing that school was cancelled the next day, and then processing the situation more thoroughly and immediately feeling guilty for my excitement once I realised that the reason I didn't have to go to school the next day was essentially because people had been hurt or killed somewhere nearby. It was odd how close I lived to war, but still remained detached enough that I was never directly impacted by it. I've since found myself harbouring a strange curiosity with war and morality; this thesis is the manifestation of several years' worth of contemplation, theorising, and existential moral crises.

My interest in technology came much later. In fact, I don't think I really started developing an interest in new technology and development until I was halfway through college. My interest developed very suddenly, probably jump-started by a certain seminar on U.S. Foreign Policy in Space. This, coupled with a few scandals and events that I couldn't help but hear about, like Cambridge Analytica and Elon Musk launching his Tesla into space. This thesis combines two inescapable facets of my life - war and technology - into my primary academic focus: philosophy.

War is a part of life. Every day, states find something new to fight about, be it territory, money, resources, or ideology. This isn't something that has changed - war has existed in some form since the earliest forms of human civilization. Ethics are the same. Humans love to moralise and

have always done so. So, why such a lengthy discussion of the ethics of war? Because despite the less than benevolent intentions of state actors, war can bring out the best in humanity. It can also bring out the worst.

The paper begins with a brief overview of just war theory, from its earliest documented usage its contemporary views. This includes the most prominent just war theory of the 21st century, set out by Michael Walzer in *Just and Unjust Wars*. While Walzer's conception of just war theory is valuable, I disagree with several of his claims and argue that it isn't suited to the ethical considerations posed by modern technological forms of warfare. Through the study of various ethical frameworks, I have developed three criteria for a just war theory: defensibility, adaptability, and consistency, which are explained in Chapter I. Chapter II discusses the domestic analogy, a popular means of justification for wartime actions, and its fallibility. While a conceptual tool that philosophers can use to successfully streamline their arguments, I argue against using it in contexts of war, citing inapplicability and oversimplification as potential problems. After this, I discuss cyberwarfare and drones. Chapter III discusses the uniqueness of cyberwarfare as a form of combat and how that has implications for just war theorists, while Chapter IV discusses how the introduction of drones to the battlefield has fundamentally changed the nature of warfare, resulting in the need to re-evaluate our moral judgments. Finally, I introduce the concept of moral particularism, a position most thoroughly outlined by Jonathan Dancy. I argue that moral particularism is the best framework through which we can evaluate the ethics of war, because it fulfills the three criteria for an adequate just war framework: consistency, adaptability, and defensibility.

A few have asked me about pacifism, and whether I think it's a better option to just fight for the eradication of war. I don't think this is possible. However reluctantly, I believe that war is an intrinsic part of human nature. But do I think it can be conducted with ethics in mind? Yes. My views may seem to conflict; how can I eschew pacifism but support ethics? Because while war may be a part of human nature, so are kindness, compassion, and mercy. I still think this topic necessary and worthy of discussion because humanity deserves some faith, even when the world seems so brutal. We owe it to ourselves - and to each other - to believe in a world where ethics are not obsolete.

CHAPTER I: JUST WAR THEORY

“We are fighting to save the whole world from the pestilence of Nazi tyranny and in defense of all that is most sacred to man. This is no war of domination or imperial aggrandizement or material gain; no war to shut any country out of its sunlight and means of progress. It is a war, viewed in its inherent quality, to establish, on impregnable rocks, the rights of the individual, and it is a war to establish and revive the stature of man. Perhaps it might seem a paradox that a war undertaken in the name of liberty and right should require, as a necessary part of its processes, the surrender for the time being of so many of the dearly valued liberties and rights. In these last few days the House of Commons has been voting dozens of Bills which hand over to the executive our most dearly valued traditional liberties. We are sure that these liberties will be in hands which will not abuse them, which will use them for no class or party interests, which will cherish and guard them, and we look forward to the day, surely and confidently we look forward to the day, when our liberties and rights will be restored to us, and when we shall be able to share them with the peoples to whom such blessings are unknown.”

- Winston Churchill to the House of Commons, 3rd September, 1939

When Winston Churchill made this statement and speech to Parliament at the onset of World War II, he did so with grandiose bravado, appealing to emotive values and nostalgia to justify Britain’s engagement in the war. He was impassioned, fierce, and above all, *moral*. Likewise, so was George W. Bush when he justified the U.S.’s invasion of Iraq in 2003: “For the sake of protecting our friends and allies, the United States will lead a mighty coalition of freedom-loving nations and disarm Saddam Hussein.” This style of speaking is purposeful; the rhetoric of war has always involved some kind of moral justification. We all want the wars we support and fight in to be for a just cause. No one wants to be fighting or supporting a cause for no “good” reason. We want to be fighting the *good* fight, sacrificing for the greater *good*. Brave soldiers are risking everything in the

name of all that is *good*. Even in the face of absolute pessimism and knowledge about the true nature of state intentions, we still feel the need to justify our wartime actions in the name of *goodness*.

Just war theory deals with the ethical how and why of warfare. It involves the philosophical consideration of war's ethical limits and whether or not conventions and rules of engagement reflect those ethics. It is the basis for all international humanitarian law, United Nations provisions, the Geneva Conventions, the Tallinn manual, etc. It considers the moral conduct of combatants and whether or not a war is waged with good reason. This chapter provides an overview of just war theory, detailing its earliest, most rudimentary forms and its contemporary form. The most prominent contemporary just war theory was outlined by Michael Walzer in *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, and remains possibly the most famous and influential modern theory of just war. It is Walzer's ethical framework that I analyse and critique in this thesis. But despite my criticisms, I also use it as a jumping off point for my own moral framework, and it is his principles that I frequently refer back to throughout this thesis. In this chapter, I trace the development of the just war tradition, starting with some of the earliest writings about ethical codes in war. I'll also mention how various fragments from these writers have endured and made their way into contemporary just war theory. Following this, I outline the principles of just war theory in contemporary discourse, according to the Walzerian tradition. Then I will begin my critique of Walzer's framework, suggesting areas where it fails to accommodate various facets of modern warfare and why this failure is a problem. Following this, I introduce three criteria for a coherent just war theory: adaptability, defensibility, and consistency. These three criteria are crucial in the development of a cohesive just war framework that will endure the problems that technology poses. This will all lead to my conclusion, which introduces the concept of moral particularism. Moral

particularism - as opposed to moral generalism - is the perspective that I develop fully in the last chapter of this thesis, as I argue that it is better equipped to deal with decision-making in the ethics of war. The goal of this chapter is to provide background information on the history of just war theory, its contemporary form, introduce the problems modern technology poses for it and what we should focus on when evaluating an ethical framework, an introduce the concept of moral particularism.

History of the Just War Tradition

“For as long as men and women have talked about war, they have talked about it in terms of right and wrong,” said Michael Walzer in the first chapter of *Just and Unjust Wars*. And indeed, this is true. Ethical codes have guided human conduct since the earliest forms of civilisation. In other words, just war theory has been around for a very long time, and has existed in some form in almost all traditions, Western and otherwise. For example, the Warring States era in China produced numerous works on warfare. Of *The Seven Military Classics*, a collection of works on ‘the art of war’ from premodern China, four were produced during this period.² The material from this time emphasized the principle of legitimate authority - or the validity of a war based on its instigator. This principle is still a component of modern just war theory; whether a war is just or not can hinge upon whether or not the person waging the war comes from a position of authority. Additionally, wars of conquest or wars waged for profit were condemned in Ancient China, indicating the importance of war having a noble purpose.³ War ethics were also a significant part of Ancient Greek civilisation. Aristotle first mentions the concept of justified war in his *Politics*, where he says, “... there must be

² Ping-cheung Lo, “The ‘Art of War’ Corpus and Chinese Just War Ethics Past & Present,” *The Journal of Religious Ethics* 40 (2012): 404. doi: 10.1111/j.1467-9795.2012.00530.x

³ Nadine Godehardt, “The Chinese Meaning of Just War and Its Impact on the Foreign Policy of the People’s Republic of China,” *German Institute of Global and Area Studies*, no. 88 (2008): <https://core.ac.uk/download/pdf/6862967.pdf>

war for the sake of peace... For men must be able to engage in business and go to war, but leisure and peace are better; they must do what is necessary and indeed what is useful, but what is honorable is better.”⁴ This is one of the first rudimentary mentions of the principle of necessity, which later becomes an integral part of contemporary just war theory. Aristotle later says, “Neither should men study war with a view to the enslavement of those who do not deserve to be enslaved; but first of all they should provide against their own enslavement, and in the second place obtain empire for the good of the governed, and not for the sake of exercising a general despotism, and in the third place they should seek to be masters only over those who deserve to be slaves. Facts, as well as arguments, prove that the legislator should direct all his military and other measures to the provision of leisure and the establishment of peace.”⁵ According to Aristotle, the main goal of war should be peace. However, Aristotle’s broader argument about war stands in stark contrast to more traditional war conventions. Aristotle did argue that war could be fought for acquisition, and that war was instrumental in establishing an appropriate hierarchy in a city, provided that it eventually resulted in peace. This peace would be acquired and perpetuated through the establishment of a rigid, functional hierarchy. He even outright remarks that slavery is just, and wars that may result in the enslavement of someone is just: “... those human beings who are naturally suited to be ruled but [are] unwilling... [is] by nature just.”⁶ This is a very different view from those more commonly held today, or even from those that developed not much later in history. Nevertheless, it incorporates various elements of political philosophy, such as realism, that still form part of the discussion around the ethics of warfare today.

⁴ Aristotle, *Politics*, trans. Benjamin Jowett (Kitchener: Batoche Books, 1999), 173.

⁵ Aristotle, *Politics*, 174.

⁶ Aristotle, *Politics*, 175.

Just war theory was also (and perhaps still is) extremely prevalent in the Christian and Islamic traditions. The Catholic priest St. Thomas Aquinas remains a largely influential figure in the history of war ethics, with the bulk of his work published in the mid-1200s. In *Summa Theologica*, which was written as a guide to living for theology students, Aquinas outlines three conditions for a just war, taking much direction from Aristotle. These three conditions provide the foundational tenets of modern just war theory, and have since been adapted and modified. The three conditions are legitimate authority, just cause, and right intention.⁷ Legitimate authority is concerned with whether or not a war is instigated by a state actor recognised by both the ruler or the state and the ruled. Just cause refers to whether or not an attack was provoked and therefore deserving of retaliation, and right intention is concerned with whether or not a war is being conducted with an end goal of establishing peace in mind. All three of these remain large components of modern just war theory, as seen in Walzer and others' works. In the Islamic tradition, the concept of *jihad*, which translates to *the struggle*, appears in the Qur'an multiple times and is interpreted in a number of ways, but most commonly as *holy war*, referring to the spread of Islam by Muslims or to war waged in defense of Muslims' right to practice Islam. In modern scholarly texts, *jihad* is most frequently associated with defensive warfare or as referring to a war waged with a praiseworthy or noble aim - battles of survival rather than conquest. This idea of war as a means to a worthy end is still a crucial element of modern conversations regarding war, evidenced by the impassioned speeches given by Bush and Churchill over the last century. It doesn't stop there, history of brimming with examples of military and state leaders constantly reassuring their populaces of the moral duty being fulfilled by engaging in conflict.

⁷ Saint Thomas Aquinas, *Summa Theologica*, trans. Fathers of the English Dominican Province, (Cincinnati: Benziger Bros., 1947), II-II, Q. 40.

There seems to be a gap in the literature concerning the ethics of warfare during the 18th and 19th centuries, only for the topic to experience a resurgence during the 1900s. Of course, wars continued to occur quite regularly, but the topic of war ethics did not seem to produce as much philosophical content as it did in earlier centuries. Perhaps this can be attributed to the nature of warfare staying the same for the most part for a couple hundred years. However, the 20th century saw a revitalised interest in the topic. This can most probably be attributed to the burst of military technology that accompanied World War I and II. This time period saw a renewed interest in just war theory, since the nature of warfare had changed irrevocably. The invention of nuclear weaponry and the question of humanitarian intervention (which had become more possible owing to a more globalised world) contributed to this swell in discourse. Additionally, with an increasingly globalised world, international law developed from the aftermaths of wide-scale international conflict, supposedly enforced by institutions such as the League of Nations or the United Nations. Attempts were made to generate universal rules of engagement. Now, just war theory is a hot topic in philosophy, politics, international relations, and military studies. Arguably the most notable philosophical figure of this modern period of just war theory (beginning in the mid to late 20th century) is Michael Walzer, whose *Just and Unjust Wars* was first published in 1977. In this thesis, it is Walzer's just war framework that I am primarily critiquing and referring to, unless otherwise noted.

Contemporary Theory

Many of the concepts and principles mentioned above that were introduced by older traditions have remained cornerstones of modern just war theory, like the elements of just cause, right intention, necessity, and discrimination. In modern ethics, Michael Walzer's thorough, detailed

just war framework remains the most popular and prominent conception of just war theory in modern ethics. Walzer's work is now considered a standard in the literature of this topic. Walzer also employs many of the same principles first mentioned by the older philosophers mentioned above, but goes further, elaborating on these principles and introducing new ones. Most contemporary critiques and discussions of just war theory involve a discussion of Walzer in some form. For example, the philosophers David Luban⁸ and Jeff McMahan⁹ both frequently refer to Walzer in their own works on the ethics of warfare.

In *Just and Unjust Wars*, Walzer describes what he calls *the war convention*: “the set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles, and reciprocal arrangements that shape our judgments of military convention.”¹⁰ We can build our theory of just war using this mine of information. In discussions of war, there are two categories of debate: *jus in bello* (justice of conduct in war) and *jus ad bellum* (justice of the war itself). *Jus ad bellum* “requires us to make judgments about aggression and self-defense,” while *jus in bello* requires us to make judgments “about the observance or violation of the customary and positive rules of engagement.”¹¹ The principles of *jus ad bellum* are:

→ *Just cause*: Deals with the issue of whether the onset of a war was owed to some sort of provocation. If there was a provocation, does it deserve retaliation? War takes millions upon millions of lives each year and destroys economies and infrastructures. It is waged with the assumption that its results will be worth all this death and destruction. For this reason, just

⁸ David Luban, “Just War and Human Rights,” *Philosophy & Public Affairs* 9, no. 2 (1980): 160-181, https://www.jstor.org/stable/2265110?seq=1#metadata_info_tab_contents.

⁹ Jeff McMahan, “The Ethics of Killing in War,” *Ethics* 114, no. 4 (2004): 693-733, doi: 10.1086/422400

¹⁰ Michael Walzer, *Just and Unjust Wars: A Moral Argument With Historical Illustrations*, 3rd ed. (New York: Basic Books, 2000), 44

¹¹ Walzer, *Just and Unjust Wars*, 21.

cause is a vital component of *jus ad bellum*. For example, a just cause could be self-defence, human rights violations, or assisting a friendly country.

→ *Legitimate authority*: Questions whether the war is instigated by an appropriate figure of authority. Typically, a legitimate authority is recognised by both the ruler of a state and the ruled. This qualification may be contentious because of insurrectionists or rebel forces being labelled as 'illegitimate', leading to the propensity not to help civilians that are rebelling against oppressive regimes. For example, a rebel group's actions can be labelled as criminal rather than indicative of a need for regime change, since the group isn't considered a legitimate authority.

The principles of *jus in bello* are:

→ *Discrimination*: Refers to the distinction between combatants and non-combatants. Are the combatants engaged in the conflict taking care to only target other combatants, ensuring the safety of civilians, regardless of what side of the war those civilians may fall on? Modern warfare presents a unique challenge to this position, as certain technological advancements have made discrimination more difficult when evaluating a wartime conflict. This is a point I expand upon in Chapter IV.

→ *Proportionality*: Refers to measuring the damage of one incident vs. another. Is a retaliatory attack proportionate, in terms of resources and casualties, to the initial one? For example, a proportionate response to State A's destroying of a bridge in State B is State B launching a counterattack that also destroys a bridge or structure of similar size. A disproportionate response would be State B dropping an atomic bomb on State A, eradicating most of the state. Proportionality has also been complicated by technology, since there is no way to

measure out conventional harm vs. non-conventional harm. This is a point I expand upon in Chapter III.

→ *Necessity*: War should be a last resort - a solution only made after attempts at negotiations and diplomacy have failed. For example, peace talks and attempts at negotiation should have been exhausted. With certain advancements in warfare, it is nearly impossible to tell whether a certain attack was launched with necessity in mind. This point is expanded upon in Chapter IV.

According to Walzer, these two categories - *jus ad bellum* and *jus in bello* - are distinct and can be distinguished from each other; they are logically independent. He argues that even if a soldier is fighting in a war that is 'unjust', his conduct *in* the war can be just. Likewise, even if a soldier is fighting a 'just' war, he can still act unjustly, let's say by torturing unnecessarily. The distinction arises when determining what combatants are responsible for. While combatants are not necessarily responsible for the existence of a war itself, they can be held responsible for how certain events of the war pan out, at least "within their own sphere of activity."¹² This implies that an 'unjust' combatant (a combatant that is on the 'unjust' side) is not wrong to participate in a war, but only if they violate *jus in bello*. In theory then, all soldiers in a war are morally sound until they violate *jus in bello*; Walzer refers to this as "the moral equality of soldiers."¹³

A few other components of the just war theory include anticipations, aggression, and intervention. In regards to anticipations, Walzer claims that states have the right to an anticipatory attack "whenever the failure to do so would seriously risk their territorial integrity or political independence." As for aggression, Walzer describes it as "the name we give to the crime of war."¹⁴

¹² Walzer, *Just and Unjust Wars*, 39.

¹³ Walzer, *Just and Unjust Wars*, 34.

¹⁴ Walzer, *Just and Unjust Wars*, 11.

Aggression is considered a crime because it threatens certain rights: rights so important that they are worth dying for. These rights in question are “territorial integrity” and “political sovereignty.”

Walzer states that while these rights belong to the states, the states are made up of the individuals and therefore, the rights belong to the individuals. Intervention is another tricky thing to navigate.

Humanitarian intervention by its nature undermines the political sovereignty and territorial integrity of the country being intervened in. But according to Walzer, it can sometimes be acceptable:

“Humanitarian intervention is justified when it is response to acts ‘that shock the moral conscience of mankind.’” This gut reaction is indicative of a further need for a moral framework, because why else would we be hesitant to stand by and let a country deteriorate, if not for some moral reason?

Critique of Walzer

Walzer’s just war theory is an invaluable component of modern political philosophy, but his work as a whole does not endure. Warfare has changed so much even since the 1970’s (when *Just and Unjust Wars* was first published) that many arguments of Walzer’s just war theory are now inapplicable or obsolete. Walzer himself has to keep updating the book to reflect new concerns, such as terrorism, which reflects the need for a framework that can update *itself*. While there are many arguments against many aspects of Walzer’s tradition, I’m focusing on the ones that are directly challenged by technological progress of the 21st century. Namely, the principle of discrimination is challenged by both cyberwarfare and drones, the principle of proportionality is challenged by cyberwarfare via the attribution problem, and necessity is no longer verifiable due to dronewarfare.

“The rules actually observed or violated in this or that time and place are necessarily a complex product, mediated by cultural and religious norms, social structures, formal and informal

bargaining between belligerent powers, and so on.”¹⁵ Due to the ever-changing nature of warfare, politics, and even morality, coming up with universal principles for terms of war may not be practical - or if it is, it may not stand the test of time. My concern is how to reconcile this with my belief that nevertheless, we need a just war framework and can come up with one that will remain applicable in various situations. As I mentioned before, my solution is to adopt a position of moral particularism, focusing on moral features rather than moral principles, which I will fully articulate in Chapter V. By doing this, we don’t need to abandon traditional just war principles completely. We will still keep them in mind when making moral evaluations. But rather than attempting to come up with a standard for each principle, the principle will be evaluated in terms of the moral features that are contextually present in the situation being discussed.

While mentioning a number of important core concepts, Walzer’s just war theory focuses on generalist principles that lead us to faulty methods of reasoning. For example, Walzer argues that we wouldn’t study the way friends treat each other to understand the norms of friendship - I argue that we would do precisely that, in addition to studying our visceral reactions to certain notions and concepts of friendship. While we must, of course, analyse our judgments about war, it’s also vital to study the behavioural patterns of those engaged in war to determine why we maintain such judgments. Walzer then argues that we need to study our judgments, rather than our conduct, implying that study of combat behaviour wouldn’t help create a theoretical just war framework. He implies that there is some intrinsic and essential property about friendship that helps us recognise it. I reject this type of universalism; it rather seems that our beliefs and judgments regarding friendship stem from the norms and behaviours we see exhibited as we grow up, eventually forming our own

¹⁵ Walzer, *Just and Unjust Wars*, 43.

beliefs as we integrate all that we learn from our environment. Similarly, we study war constantly to help us understand the norms and conventions of it. We wouldn't have a conception of how we treat prisoners of war unless we analysed our behaviour and judgments about it.

In regards to *anticipations*, I'm very wary of Walzer's argument, because it seems like a standardization for what would necessitate a preemptive attack would be very difficult to agree upon. It would be dependent on a number of factors, from the relative size of the states, to the relative size of the states' armies, to the relative likelihood of attack based on past aggressions, contemporary political sentiments, and the incumbent governmental parties. Additionally, as will be expounded upon in Chapter II, territorial integrity is made incredibly convoluted by the advent of technology. Borders are no longer entirely physical, making it more difficult to pinpoint a breach of territory.

In international society, the concept of aggression is a tricky one. Walzer describes it as "the name we give to the crime of war."¹⁶ As mentioned before, aggression is considered a crime because it threatens certain rights. These rights in question are "territorial integrity" and "political sovereignty." Walzer states that while these rights belong to the states, the states are made up of the individuals and therefore, the rights belong to the individuals. I strongly disagree with him here - the whole 'state' is not merely a sum of its individuals. A collective is not merely a reflective of its individuals - it turns into something greater. A state is led by a representative, who may have been democratically elected by the people, but who doesn't represent each individual of the state equally. Any future arguments from Walzer that rest on this assumption may be in trouble.¹⁷ While it's true that an individual has a certain right to territorial integrity, it's not in the same way that a state has a

¹⁶ Walzer, *Just and Unjust Wars*, 11

¹⁷ This point is expanded upon and critiqued in more detail in its own chapter, Chapter V: The Domestic Analogy.

right to territorial integrity. An individual, for example, does not have the right to territorial integrity over a public space. It does not belong to them, per se. It belongs to the state that the individual happens to be a part of, and therefore reaps the benefits of.

Missing the critical discussion of *jus post bellum*, which was only considered after the after-effects of the Iraq War were broadcasted to the world and it became a matter of public interest. Technology has enabled the constant monitoring of post-war situations, meaning that there's more accountability to go around. A moral framework that focuses on just war theory should now also incorporate a discussion of *jus post bellum*, as states should be held responsible for the effects they cause to the states they have been involved with.

The Aim of Just War Theory

Scholars disagree on what the purpose of just war theory is. Indeed, many think it irrelevant or even damaging, either because no one actually bothers to adhere to just war principles or because the existence of just war theory validates the waging of war. In an article for *National Catholic Reporter*, Terrence Rynne argues that modern wars have “made the just war theory obsolete”¹⁸ since its purpose - discriminating between justified and unjustified behaviour - is rendered “null and void by the massive, indiscriminate violence of modern wars.” He argues that modern wars never meet traditional just war principles and that rather than attempting to wage a just war, we should aim for peace instead. But it has already been established that just war theory is going to exist no matter what, so now our focus should be on what it achieves rather than whether it should exist in the first place.

¹⁸ Terrence Rynne, “Why is the Catholic church moving away from just war theory?” *National Catholic Reporter*, April 9, 2016, <https://www.ncronline.org/news/world/why-catholic-church-moving-away-just-war-theory>.

The goal of establishing a coherent just war theory should be for use as a conceptual tool to guide moral evaluations and curb moral infractions. It shouldn't exist under the illusion that wars will always be conducted in the most moral way possible, provided we develop a good enough theory. I have three criteria for such a framework. By fulfilling these criteria, we will have a framework that equips us to navigate moral problems adequately. I believe these criteria to be crucial to the foundation of war ethics, considering the nature of warfare as unpredictable, constantly evolving, and extremely polarising. The criteria are:

→ *Defensibility*

A just war theory should not make unreasonable moral demands or operate under any illusions about the nature of mankind, expecting that all those involved in conflict will always act in the most moral way, in every situation. In other words, it should retain some element of realism. War is a tricky matter of discussion because it simultaneously brings out the best and the worst in people. Walzer maintains that we still exude some level of restraint in war: "Even in hell, it is possible to be more or less humane, to fight with or without restraint. We must try to understand how this can be so."¹⁹ This is because even at the most brutal, bloody points of war, humans are driven to a less harmful, more honourable way of conducting themselves. Yes, there is something about war that drives us to fight without restraint, but there is also something about war barring us from abandoning all ethical codes. We should not always expect the epitome of depravity in war, although there have been instances to exhibit it.²⁰ We see an example of this restraint in early twentieth century Russia: a revolutionary hell-bent on assassinating the Grand Duke Sergei, armed

¹⁹ Walzer, *Just and Unjust Wars*, 33

²⁰ For example, Nazi Germany and Abu Ghraib can generally be considered instances of people exhibiting the worst of humanity. The crimes committed in these two situations were absolutely atrocious and truly demonstrated the worst of mankind.

with a bomb, stopped in his tracks as he approached his target when he saw two young children perched on the Duke's lap, and decided to wait for another day. This balance is important to keep in mind as we evaluate the ethics of war, refraining from being too pessimistic about human nature, but also refraining from being too optimistic about states' intentions. It is possible to accept that many wars are waged with nefarious intentions, while still acknowledging that there are many combatants who attempt to act honourably while engaging in war.

→ *Adaptability*

The entire premise of this thesis is that the nature of warfare is ever-changing, and so just war theory should be able to reflect those changes with ease, without needing an entire reworking every couple of decades. Technological developments are a prime example of this. For example, the potential development of autonomous weapons systems calls into question who is and who isn't a combatant, distorting our *jus in bello* principle of discrimination. So, in order for a just war theory to remain practical and endure the various changes in how we wage war, it should be flexible and adaptive. In war conflicts, each situation is so unique that generalising results in too much breadth, resulting in not much help at all. While it's possible that one could come up with a guidebook of ethics to guide moral reasoning in conflicts, how often would it need to be updated? It makes more sense to develop a framework that doesn't need to be constantly updated to reflect changing moral norms.

→ *Consistency*

It may seem like the criteria of consistency inherently conflicts with the criteria of adaptability, and indeed with most of my arguments against generalism. But consistency doesn't necessarily arise from assuming that moral principles will always function in the same manner in

every situation. By having a consistent just war theory, I mean that our methods of applying it to situations should remain the same. We should be consistent in how we evaluate the moral relevance of a particular feature of a situation. For example, in Chapter V I develop an example wherein the moral feature of the violation of territorial integrity is irrelevant when contrasted with the overpowering moral feature of ethnic cleansing. We would be consistent by using the same schema of juxtaposing moral features against each other in other situations too.

Conclusion

This chapter has established the history of just war theory and its major contemporary form, mentioned some initial problems with said form, and outlined criteria for a more coherent just war theory. Just war theory is nothing new, despite its current status as a hot topic of contemporary ethics. This is evidenced by the plethora of material we have from even ancient times that discuss war ethics. Walzer's conception of a just war framework is a very valuable resource, synthesizing many of the principles that have littered treatises on war ethics for a very long time, whilst remaining secular. However, technological advancements of the 21st century continue to complicate our notions of such ethics, and so there is a need for a revamped moral framework that is able to accommodate for such changes. Such a moral framework must fulfill the three criteria of defensibility, adaptability, and consistency. The following chapters will now examine particular instances of technology and how they challenge just war theory.

CHAPTER II: THE DOMESTIC ANALOGY

Analogies have always been key tools of philosophy in various disciplines, meant to simplify, streamline, and ground arguments. The term *domestic analogy* was coined by Hedley Bull, a professor of International Relations, in “Society and Anarchy in International Relations”²¹ in 1966. This chapter will discuss the shortcomings of using a domestic analogy to illustrate philosophical considerations of war. I will argue that while there are philosophical questions where the domestic analogy is useful, using domestic analogies to justify claims pertaining to acts of war such as humanitarian intervention, torture, and aggression, are not appropriate. I will first define the domestic analogy and offer some remarks on analogies in general, before explaining why it is specifically the *domestic* analogy that doesn’t work in cases of war. Then, in “The International/Domestic Dichotomy,” I will briefly discuss works by David Mellow and Michael Walzer, both of whom use the domestic analogy to ground their claims. I will evaluate their views on the analogy, and discuss some key differences in dynamics between international and domestic cases. I conclude by offering an alternative that eradicates the need for the domestic analogy: moral particularism.

Description of the Analogy

The domestic analogy essentially treats states and their interactions like individuals in a society. It relies on the presumption that relationships between individuals and relationships between states operate the same way. A prime example would be the following: You are walking through a park and see a grown man attacking a defenseless woman with a knife. You, being a person of similar size to the attacker, decide to intervene to save the woman, pulling out your own

²¹ Hedley Bull, “Society and Anarchy in International Relations,” in *International Theory: Critical Investigations*, ed. James Der Derian (London: Palgrave Macmillan, 1995), 75-93.

knife to defend yourself. This is meant to be analogous to an instance of armed humanitarian intervention. The purpose of the analogy is to simplify the complexity of war by putting everything in more relatable terms. In domestic cases, the answer is simple and instinctive, a mere question of “What would you do?” This is supposed to inform our decisions regarding international conflicts, by applying the same reasoning one used in the domestic case. It is also supposed to make the moral features of the international conflict more salient by simplifying the dynamics at play. In a domestic case, we are supposed to easily be able to identify the source and nature of the wrongness occurring; this wrongness would then manifest in the same way in the real problem. By simplifying things in this manner, we are theoretically able to better understand the dynamics transpiring between the parties involved, treating the international community as a society of people. In the above example, the answer is simple: if you’re of similar size, you would defend the woman. Translating internationally, you - a bystanding state - would intervene on behalf of a weaker state being invaded.

The Inapplicability of the Domestic Analogy

I’m not writing off all analogies as impractical and inapplicable. I don’t disagree that analogies can function as a valuable tool for simplification and streamlining in philosophical arguments. They serve to put things in relatable terms to understand the conflict better and allow philosophers to determine the essence of the problem. Consider the example from “A Defense of Abortion” by Judith Jarvis Thomson. In this example, you wake up one day to find your life directly attached to the life of a famous violinist, and you are made to decide whether or not you should sacrifice the next nine months of your life in order to save the violinist.²² According to Thomson,

²² “You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist’s circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. [If he is unplugged from you now, he will die; but] in nine months

bodily autonomy supersedes any moral duty to stay plugged to the violinist. The right to life does not include the right to another person's body, so you would not be immoral to unplug yourself from the violinist whose right to life depends on their right to your body. You are depriving the violinist of their right to your body, but you are not violating his right to life. The same reasoning applies to the case of a pregnant person. A fetus has no right to the body of a pregnant person, so if a pregnant person were to choose to have an abortion, they would not be committing a moral violation. In a likewise matter to the individual choosing to unplug the unresponsive violinist, a person who chooses to terminate their pregnancy is not violating the fetus of any right to life, due to the fact that the fetus is using the person's body as a host. The fetus has no right to the body of a pregnant person and its subsequent life-support functions; that right remains solely with the person.

This is an example of how powerful an analogy can be. It's simply using the *domestic* analogy to simplify considerations of war that is problematic, because the relationships attempting to be translated are far more complex than those in Thomson's case. This complexity cannot be ignored in matters of war, because details that may be otherwise insignificant in domestic cases can make profound impacts on the ethics of an international conflict. For example, in a domestic skirmish of a burglary, it doesn't matter what nationality the burglar is. It doesn't matter whether or not the burglar woke up the people he was robbing to inform them that they were being robbed so they could reasonably defend their home (that would be a very bad burglar indeed). It doesn't even really matter whether he has a history of past burglaries (it might make a difference when it comes to sentencing the burglar, but it doesn't affect whether or not the burglary itself is ethical or not.) But

he will have recovered from his ailment, and can safely be unplugged from you." Judith Jarvis Thomson, "A defense of abortion," *Philosophy and Public Affairs* 1, no. 1 (1971): 48-49. <https://www.jstor.org/stable/2265091>.

in a war, all of those factors (or rather, their international equivalents) would matter when making an ethical evaluation.

War is an incredibly complex affair. To gain a full understanding of a particular conflict, one needs to be knowledgeable about the involved states' histories, economies, policies, demographics, and numerous other things too. Countless confounding factors accompany an international conflict. The mere scale on which war is conducted alone makes attempting to relegate it to a simple domestic analogy misguided. It is impossible to account for every important factor of war when purposefully using simpler terms. This leaves too much out of the problem. States are not individuals, and domestic skirmishes are not international conflicts.

In "Iraq: A Morally Justified Resort to War", David Mellow uses the domestic analogy to justify the United States' invading Iraq under the guise of liberating the citizens of an oppressive regime. He says, "Imagine that a family is being ruthlessly oppressed by the father/husband under threats - often carried out - of grave beatings if they speak out against any of his commands or attempt to leave the house without him. The moral offensiveness of someone saying that it is not society's place to, if necessary, physically intervene is obvious."²³ In an endnote, Mellow does acknowledge the fact that he frequently uses domestic analogies and anticipates potential objections, but remarks that they ultimately help with ethical decision-making. He states that using domestic analogies is helpful to test out one's own judgments about a situation, thereby making it easier to make ethical progress. However, in the case of conflicts such as international wars, judgments are not and should not be as simple. By attempting to use our judgments to make decisions on larger scales, we risk oversimplifying the problem. While moral judgment can be helpful, in larger conflicts

²³ David Mellow, "Iraq: A Morally Justified Resort to War," *Journal of Applied Philosophy* 23, no. 3 (2006): 296. https://www.jstor.org/stable/24355178?seq=1#metadata_info_tab_contents.

it's more vital to spend the time evaluating each factor of the situation that could possibly influence the moral reality of said situation.

The laws governing states' actions are not akin to the laws governing individual's actions. In the scenario provided earlier, the man attacking the defenseless woman is subject to the laws of his location. Let's say he overwhelms her and she dies. Ideally, he's now a wanted man and - presuming everything happens the way it should - he goes to prison for life. But how are we supposed to apply the same consequences to a situation wherein one country inadvertently kills those in another country while trying to defend its own borders? The two situations simply don't align. The consequences in an international case are far more widespread, influential, and potentially catastrophic than those in the domestic case. In a domestic case, the scope of damage or harm caused is usually limited to the parties directly involved in the conflict, and perhaps spreads to their families or loved ones. In the above example, it's easy to pinpoint the affected parties - the attacker, the victim, and the victim's close ones. In an international case, potentially *millions* of lives are affected. In India's 1971 intervention in the Bangladesh Liberation War, about 14,000 people were killed, with 25,000 casualties, even though the skirmish only lasted thirteen days. This isn't to mention the economic, social, environmental, and geographical impacts of the conflict.

The intervention resulted in the surrender of East Pakistani forces, leading to the declaration of Bangladesh as an independent state. This led to massive political effects: Yahya Khan's dictatorship collapsed and Zulfikar Ali Bhutto rose to power instead. General Niazi, the last Governor of East Pakistan, was shunned and branded a traitor for his meek surrender. Overall, West Pakistan was humiliated in their decisive loss to the Indian Armed Forces. So as we can see, India's simple decision to intervene had a massive ripple effect. In a domestic case, these significant

factors cannot be accounted for. Regardless of whether or not using a domestic analogy to guide international conflict results in the preservation or destruction of innocent lives the magnitude of those affected is simply incomparable. We usually don't weigh one individual's life the same way we measure millions of lives,²⁴ meaning that applying the same reasoning in the domestic and international cases results in a gross distortion of the original problem. It's like saying $2+2$ provides the same result as $2+2^2$. You're ignoring a vital part of the equation: scope. We hardly needed a domestic analogy to tell us that the deaths that occurred during the Bangladesh Liberation War were incredibly sad. The analogy didn't do anything to help determine the best course of action, because such a decision necessarily incorporates all the potential confounding factors of the situation.

Epistemically speaking, the ethics of a wartime conflict are not as black and white as those of a domestic analogy. The analogy is meant to provide a clear, intuitive answer, but in war, the best solution is rarely the easiest, nor the first thing you think of. When dealing with war, we should strive to find and make the best decision. By the "best" I mean one that attempts to reduce and avoid unnecessary death, preserves and propagates peace, and benefits the greatest amount of people while fulfilling the other two criteria to a sufficient degree. In matters of war, making decisions based on instinct could have potentially catastrophic results. To be fair, the same goes for domestic skirmishes; intervening in a kerfuffle you see happening on the street might not always be the wisest decision - you could be misreading the situation or you could potentially get hurt yourself. It's also worth mentioning that one's reasons for acting in a domestic situation are often not the reasons one makes the equivalent decision in an international conflict. For example, in the domestic analogy of seeing a man attack a defenseless woman, you intervene because it's the 'right' thing to

²⁴ There may be some who believe otherwise,, but generally I think we can agree that one death is not equal to one million deaths.

do. When India intervened in the Bangladesh Liberation War, they didn't do so just because it was the right thing to do. They also did it because they believed they were economically better off intervening and subduing the East Pakistani forces than they were accepting the millions of refugees fleeing East Pakistan. Of course, this isn't the only reason; again, there are a number of factors contributing to India's decision to intervene. The point of that we simply can't communicate all of those factors when using a domestic analogy.

Let's return to the example of a domestic analogy provided earlier. Except now let's use it to decide whether or not the U.S. should intervene in Uganda, which is being invaded by Russia. You are the U.S., Russia is the attacker of similar size, and Uganda is the defenseless woman. In this hypothetical situation, the domestic analogy would tell us that the U.S. should intervene immediately, to save Uganda, which is being attacked by Russia. Supposedly, we don't need to analyse the situation much further to decide that intervening on Uganda's behalf is the most ethical thing to do. The domestic analogy is meant to make it a simple and clear decision. But the decision isn't as clear and simple as we would hope. By oversimplifying the situation, we have failed to notice and incorporate a number of confounding factors into our decision to intervene. By intervening in Uganda, the U.S. puts a number of civilians at risk, depending on what methods they are using to stop Russia from invading. They are also leaving themselves open to attack, meaning Russia could deploy troops to retaliate on U.S. soil. Additionally, should the U.S. succeed and drive Russia out of Uganda, they are then faced with a wartorn country in need of funds and resources to rebuild its ravaged community. The question then is whether the U.S. will be willing to help rebuild the country once a threat is no longer imminent, if they even have the ability to do so.²⁵ There is also no

²⁵ When the U.S. invaded Iraq in 2003, they left the country in a far worse state than it had been initially. After the Bush administration promised a more stabilised life for the Iraqis, as of 2016 (U.S. forces officially withdrew in 2011) the country was still suffering from a shortage of clean water, poor electricity, and a failing economy.

guarantee that every U.S. soldier deployed against Russia will act as selflessly and heroically as the passerby in the domestic analogy. The U.S. has to ensure that each soldier is completely committed to the cause, trained to the highest standard, and will act exactly as discussed. But there is no guarantee that any given soldier will perform exactly as instructed. There's also economics to account for. In the domestic analogy, you saving the woman doesn't plunge you into debt. In an actual situation between countries, governments are forced to consider how much their actions will cost them and whether they can afford to act as they would like to. These numerous issues cannot be accounted for in our simple domestic analogy. We could attempt to modify the analogy to accommodate for these external factors, but by the time we would have reached an accurate representation of the international conflict, we may as well rid ourselves of the analogy and simply discuss the matter itself.

Let's build an example of this. An international conflict is as such: State A is invading, wreaking havoc, and displacing civilians in State B with the purpose of extracting oil from State B's natural resources. You are State C, deciding whether or not to intervene. The domestic analogy would tell us that the situation would align as such:

International Case	Domestic Analogy
State A	Attacker
State B	Defenseless woman
State C	You, a passerby

If we stick with this table, the dynamics at play and the most ethical choice seems easy. But this situation is a bit too black and white - not only does it miss some vital background information from the international case, even the domestic case is a bit too simplistic right now. Let's add in some confounding factors to the international case and attempt to find their domestic equivalents.

International Confounding Factor	Domestic Equivalent
i. State A and State C have signed a treaty agreeing not to interfere in each other's international affairs, the violation of which could result in State A attacking State C.	Unsure. Perhaps you, the passerby, see that the attacker is much stronger than you, so you are hesitant to attack.
ii. State C intervening entails sacrificing 100,000 of State C's own soldiers.	Again, unclear. Perhaps you intervene and you lose a hand or some other vital limb. Unsure what the domestic equivalent of 100,000 soldiers is supposed to look like.
iii. State C's economy is modest, and intervening would deal a significant blow to its economy.	Once again, unsure how to translate this accurately. My best guess is you lose your wallet in the ensuing scuffle.

Now, let's draw up a list of confounding factors in the domestic case and try to pinpoint their international equivalents.

Domestic Confounding Factor	International Equivalent
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<p>i. The attacker and victim appear to have a pre-existing relationship that you are unaware of. This may make you hesitant to intervene.</p>	<p>The state being invaded and the invading state have a history of amicable relations. It's not clear how this would deter you, the bystanding state, from intervening.</p>
<p>ii. You intervening may be seen as a sign of aggression from you, and other bystanders may take it upon themselves to call the police, getting you into trouble as well.</p>	<p>Does not translate, there is no equivalent of calling the police in an international conflict. Perhaps notifying the United Nations, but the UN does not have a force that can be deployed to de-escalate the situation.</p>
<p>iii. It becomes apparent that the attacker is not fully in control of their actions.</p>	<p>There's no equivalent of this for a state; a state cannot invade another without complete agency of its own.</p>

The fact of the matter is, individuals are not like states. They are prone to emotion, manipulation, coercion, and are subject to the conventions of the culture they are operating in. Treating individuals like states is to ignore the flaws of the human psyche. Humans are not machines, and even when lumped together to form a state, they do not become one. By treating humans as machines, we risk harming others and ourselves when engaged in the delicate matters of war. While we may be able to blow up the domestic case into an international one, coming up with translations of domestic factors to reflect an international sphere, it's impossible to do the reverse.

We cannot streamline an international conflict into a domestic case; we end up leaving too much out of the equation or coming up with unreasonable scenarios.

The International/Domestic Dichotomy

As stated before, David Mellow uses the domestic analogy in his paper “Iraq: A Morally Justified Resort to War”, when discussing a case of humanitarian intervention. He argues using the following example: your next-door neighbour is brutally beating his family and threatening to kill them, and suppose there is a law stating that only police officers (who you have called, but are not available) are allowed to use lethal force against other citizens, making your intervention illegal. This law would carry little (or no) moral force, he says, in “deciding whether you are morally permitted to act.”²⁶ Regardless of the law, you would still be morally justified in intervening to protect your neighbour’s family from your neighbour. Even though the law states that only police officers are allowed to use lethal force, you are still morally sound in choosing to intervene. He argues that if someone pointed out that shooting your neighbour would “cause a degree of breakdown in general respect for law and authority,” you would do it anyway; you *should* do it anyway, he argues - this wouldn’t make your action immoral. While you may be breaking the law, the act of intervening itself would not be a moral infringement. According to Mellow, an international conflict would operate the same way: if State A saw State B being attacked by State C, and there were laws in place making State A’s intervention illegal, State A’s intervention wouldn’t be immoral. He thinks that admitting to a difference between the domestic analogy and international realities simply reflects “an inconsistency in moral thinking rather than being grounded in some morally important difference between the domestic and international cases.”²⁷ But I would push back on this; I’m not sure how

²⁶ Mellow, “Iraq,” 302.

²⁷ Mellow, “Iraq,” 302.

simply conceding that there is a difference between the domestic analogy and international reality indicates any discrepancy between moral thinking.

I fail to see how the domestic scenario from above is even remotely similar to an international one. The stakes in an international conflict are much higher, and therefore the potential repercussions of a breakdown in general respect for law and authority could be potentially catastrophic. One entire state openly defying the rules of another in order to do something moral is such a large, widespread act, that a breakdown of general respect for law could result in even more widespread rebellion. Laws apply differently in international realms and domestic realms, meaning that the consequences of disobeying the law are different. In the domestic realm, the conflict would happen in what is essentially a vacuum. As I said before, the involved parties are generally only a few people. But in an international conflict, the entire world is watching; there's not really a way to conduct an act of war without the rest of the world knowing about it. And when the rest of the world knows about it, they're going to be influenced by it.²⁸ It's basically impossible for any state to take action against another without the entire world being informed immediately. Even covert operations, like Russia's social media campaigns in the U.S., are eventually thrown into public light, and in a most unflattering way. In the aftermath of the Iraq War, news and revelations of the U.S.'s abhorrent actions at Abu Ghraib were spread to the rest of the world.²⁹ The war itself was highly publicised and so were its aftereffects. This resulted in the opportunity for groups of extreme ideologies, such as ISIS, to capitalise on the U.S.'s actions and radicalise the public. As previously

²⁸ I'm reminded of a conversation I had a couple of years ago. I was travelling through Central America with the captain of a boat docked at the mouth of Haulover Creek in Belize City. I asked the captain about Belize's form of government and the political climate of the country. After assuring him that I wasn't a supporter of Donald Trump, we discussed the impact of American politics on the rest of the world. He then said something that really stuck with me: "Here in Belize, we have a saying: 'When America sneezes, Belize catches a cold.'"

²⁹ Seymour M. Hersh, "Torture at Abu Ghraib," *The New Yorker*, April 30, 2004. <https://www.newyorker.com/magazine/2004/05/10/torture-at-abu-ghraib>.

stated, relationships between states are not akin to relationships between people, because the way the law applies in each case is different. In the domestic case outlined by Mellow, our act of shooting our violent neighbour may not be immoral. But in an international conflict, we risk igniting even more rebellion that will in turn cause even more destruction. This would make our first action immoral, granted that we were aware of the potential consequences of our actions.

It's also important to mention that aside from the literal laws imposed upon interpersonal human relations by law enforcement entities, for the most part, humans in society abide by several *moral* laws, too. Domestically speaking, we have obligations and relations to each other that vary in strength and type depending on our familial relations, friendships, race, community dynamics, gender relations, and even nationalities.³⁰ For example, if you were to see your friend being harassed on the street, it's fair to say that you're more likely to come to their defense than if the victim was a stranger. Humans are more likely to come to the aid of those they have pre-existing relationships with or those who they share some sort of commonality with. Here I would like to introduce a distinction between two types of morality - formal and informal. Formal morality is that based on concrete promises, like international treaties, deals between parties, contracts, that sort of thing. The Treaty of Versailles is an example of formal morality, involving the creation of provisions for peace and providing the seed from which the League of Nations grew. There's some kind of tangible consequence for violating this type of morality. Informal morality is a little more subtle - it's the kind of morality reflected in friendships, familial relations, based on shared values. The closest thing the international community has to a reflection of informal morality that I can think of is the 'Special Relationship' between the United States and the United Kingdom. The Special Relationship refers to

³⁰ Thanks to Imara White for pointing out this distinction.

the political, diplomatic, military, economic, and cultural relations between the two countries, which have historically demonstrated consistent allegiance to each other, perhaps most evidenced by their ‘unparalleled’ sharing of information, ranging from nuclear technology to military operations. The two nations have been allied throughout many major wars, including both World Wars, the Cold War, and the War on Terror. The term was coined by Winston Churchill in 1946; Churchill himself was known to be close friends with Franklin D. Roosevelt, and many leaders of both states have continued to refer to the U.S.-U.K. relationship as ‘special.’³¹ But this relationship is an anomaly in the international community, and even then, it’s not unconditional, the way that it is possible for a friendship to be. The supposed friendship between these two countries is based on mutual economic benefit, allyship, and shared cultural values. Once one country begins to act in a manner deemed undesirable by the other (and it seems like this might happen sooner rather than later) this supposed friendship is essentially over. This is not what we would desire from a legitimate friendship between two individuals.

Unlike Mellow, Michael Walzer concedes that the domestic analogy isn’t the perfect tool for explaining the facets of war. “Though the domestic analogy is an intellectual tool of critical importance, it doesn’t offer an entirely accurate picture of international society. States are not in fact like individuals (because they are collections of individuals) and the relations among states are not like the private dealings of men and women (because they are not framed in the same way by authoritative law). These differences are not unknown or obscure. I have been ignoring them only for the sake of analytical clarity.”³² It seems that this is a rather large thing to ignore, even if only for the sake of analytical clarity. But it seems to me that for true analytical clarity, we *need* to

³¹ Elizabeth Schulze, “History shows the US-UK special relationship is increasingly one-sided,” *CNBC*, July 13, 2018. <https://www.cnbc.com/2018/07/12/trump-in-uk-history-shows-the-us-uk-special-relationship-is-increasin.html>.

³² Walzer, *Just and Unjust Wars*, 87.

acknowledge that states are not like individuals and that relationships between states are not like human relationships. I don't see how we can simultaneously have analytical clarity but lack an entirely accurate picture of international society. If Walzer is willing to concede that the domestic analogy doesn't offer an entirely accurate picture of international society, I don't see how he expects to use it to justify his claims and arguments that are entirely about international society. The point of the analogy is that it's supposed to function seamlessly; if it doesn't, there's no point in employing it.

Alternatives

I suggest that at the very least, we refrain from using the domestic analogy to describe international conflicts, or to aid us in discussing them. The discrepancies between the domestic analogy and international reality become particularly prominent when we consider the advent of technology in international conflict. Even if we were to accept the premise that individuals in a domestic skirmish are akin to states in an international conflict, the analogy wouldn't be able to account for newer avenues of war like cyberwarfare³³ and drones³⁴.

A solution to this issue lies in the creation of a coherent just war theory that doesn't rest on the oversimplification of international parties and states - the constituents of war. However, a just war theory also should not rest on what I will refer to as "moral crutches": universal, immovable moral principles. Rather, we should take a fluid approach to the moral principles we use to form a just war theory. My position is one of 'soft' moral particularism; I'm not arguing that there are no defensible moral principles, but rather that moral features are better indicators of ethical decision-making. They depend heavily on context. My view is that a feature can have two different

³³ See Chapter III.

³⁴ See Chapter IV.

moral implications in two different situations. This is a view I develop further in Chapter V: Moral Particularism.

Conclusion

The domestic analogy is ultimately a problem of scope, making it incompatible with situations of war. It leaves too much out of the equation but assuming that the only relevant factors in an international case are the same as those in a domestic case, resulting in gross oversimplification of a very complex, unique problem.

In this chapter, I have aimed to prove that the use of domestic analogies to justify arguments in just war theory is obsolete. The domestic analogy is an attempt to simplify and streamline a more complicated case, assuming that morals apply the same way in both cases. While analogies have their value, the domestic analogy is a gross oversimplification of an international conflict that omits important features of such a large-scale conflict. There are simply too many factors to account for in international conflict that make the domestic analogy effectively useless. Matters of war are rarely as simple as protecting a defenseless woman from harm. We do ourselves and each other a disservice by attempting to relegate matters of war to such simple scenarios. I suggest we refrain from using the domestic analogy to justify acts of war, and instead adopt a stance of moral particularism. Rather than attempting to develop a strict set of immovable moral codes, we should instead develop a framework that remains fluid and adaptable to shifting situations. This is of special importance considering the advent of technology in modern warfare.

CHAPTER III: CYBERWARFARE

In 2010, software developer Sergey Ulasen received an unusual customer service phone call while working for a small tech support company in Belarus.³⁵ An Iranian customer's machine was continuously rebooting itself and continuously displaying error screens. At the time he received the phone call, Ulasen was at a friend's wedding reception, frantically attempting to placate the customer, when he realised that the same problem was affecting other computers that used the same network. "This was the moment I realized this was something more than just your average system malfunction – there was no doubt a malware infection was involved. And it most certainly had been expertly designed and constructed since we couldn't detect it with regular detection means,"³⁶ said Ulasen later, reflecting on the experience.

The computer worm, later christened Stuxnet, is thought to have been created through a joint effort from the American and Israeli governments with the purpose of destabilising Iran's nuclear weaponry program. It was successful in doing so, infecting over 200,000 computers and causing 1,000 machines to physically degrade.³⁷ The worm targeted specific programmable controllers in computers which, when disrupted, could sabotage automatic electromechanical processes, such as those used on amusement park rides or factory assembly lines. Stuxnet reportedly ruined a fifth of Iran's nuclear centrifuges. Mark Clayton referred to the incident as "the cyber equivalent of the dropping of the atom bomb" and "a new era of warfare,"³⁸ while General Michael

³⁵ Jon R. Lindsay, "Stuxnet and the Limits of Cyberwarfare," *Security Studies*, no. 22 (2013): 365–404. DOI: 10.1080/09636412.2013.816122.

³⁶ Eugene Kaspersky, "The Man Who Found Stuxnet – Sergey Ulasen in the Spotlight," *Nota Bene: Eugene Kaspersky's Official Blog*, November 2, 2011. <https://eugene.kaspersky.com/2011/11/02/the-man-who-found-stuxnet-sergey-ulasen-in-the-spotlight>.

³⁷ Finlay, Christopher K. "Just War, Cyber War, and the Concept of Violence." 2018.

³⁸ Mark Clayton, "The new cyber arms race," *The Christian Science Monitor*, March 7, 2011. <https://www.csmonitor.com/USA/Military/2011/0307/The-new-cyber-arms-race>.

V. Hayden, former director of the CIA and NSA, called it “the first attack of a major nature in which a cyberattack was used to affect physical destruction.”³⁹ Stuxnet, along with other notable malware programs like flame and Duqu, was part of a covert operation by the U.S. government called Operation Olympic Games, initiated under President George W. Bush and continued under President Barack Obama. The program’s purpose was to deter Iran’s nuclear enrichment activities. To this date, the operation has gone publicly unacknowledged.⁴⁰

Cybertechnology still remains largely theoretical, but it has nevertheless begun to manifest and develop at a rapid rate, evidenced by various governments’ attempts at using it as a form of attack. I begin this chapter by laying out some definitions and arguing that technology’s newfound status as an intrinsic part of modern warfare necessitates the need for a coherent just war framework that incorporates cyberwarfare, in the section “Cyberwarfare and Its Inevitability.” Following this, I will argue that we cannot accurately apply traditional just war principles to cyberwarfare for three main reasons. In the section “Kinetic vs. Non-Kinetic Harm,” I argue that it’s impossible to equate physical harm with non-kinetic harm in a manner that is accurate, reasonable, and appropriate. Michael Walzer’s principle of proportionality is ill-equipped to do this. Second, in “Cyberwarfare: The Weapon of the Weak,” I explain how the scope of combatants in cyberwarfare is not clearly demonstrated through traditional just war definitions of combatants vs. noncombatants. Walzer’s argument for the moral equality of soldiers cannot apply to cyber-combatants, due to this equalizing property. Third, in “Territorial Integrity, Sovereignty, and Attribution” I argue that Walzer’s conception of territorial integrity is inapplicable to cyberwarfare, since countries don’t have virtual,

³⁹ Sanger, “Obama Order.”

⁴⁰ Guilbert Gates, “How a Secret Cyberwar Program Worked,” *The New York Times*, 2012. <https://archive.nytimes.com/www.nytimes.com/interactive/2012/06/01/world/middleeast/how-a-secret-cyberwar-program-worked.html?module=inline>

online borders. Sovereignty, which is a key factor in just war theory, doesn't exist in the cyberworld the same way it does in the physical world, making it virtually impossible to invoke it as a means of justification. This is an even bigger complication when we consider how difficult it is to attribute cyberattacks. Justifying retaliatory attacks becomes impossible if one cannot pinpoint the source of the initial attack. To support these claims, I discuss and invoke a piece by Randall Dipert, who argues that the ethics of cyberwarfare are such that they cannot be applied to the just war tradition. Ultimately, I aim to have successfully demonstrated two main points: that cyberwarfare is an imminent, legitimate form of warfare that must be accommodated by a coherent just war theory, and that traditional just war theory is inadequate to accommodate it.

As cyberwarfare progresses and develops, it becomes crucial to determine how just war principles will apply to this new realm of combat. Stuxnet is an example of how new avenues of technology can produce attacks with unprecedented consequences. However, traditional just war principles focus heavily on proportionality. The *jus in bello* principle of just war theory states that a counterattack from state B must aim to either compensate for the damage taken by state B from state A or to inflict the same amount of damage. In terms of conventional warfare, determining whether a counterattack is proportionate is usually simple. If state A blows up a bridge in state B, a justified retaliatory attack would involve state B blowing up a bridge in state A of similar size. Put simply, the principle of proportionality is "an eye for an eye." A disproportionate response would be if state B retaliated by dropping a nuclear bomb on state A, essentially obliterating it. This is wrong because it seems unnecessary - it results in the death of thousands of innocent civilians that isn't needed in order for state B to get its point across. Proportionality becomes much more difficult to discuss when cyberwarfare comes into play. How should we measure the damage caused by a

cyberattack against damage caused by a conventional attack? Without answering this question, we can't determine whether a retaliatory attack is warranted. This is one way in which cyberwarfare challenges just war tradition, which relies heavily on proportionality, one of the tenets of *jus in bello*.

It's important to mention that while cyberattacks have occurred and cyberwarfare is more than likely upon us, much remains theoretical. We don't exactly know what cybertechnology's capabilities are. Large-scale cyberwarfare, with prolonged, consistent cyberattacks between two states, has not yet occurred.⁴¹ Because much of cyberwarfare's scope and reach remains speculation, it is difficult to envision its limits and boundaries. Nonetheless, it is definitely present, prevalent, and only likely to increase, making it worthy and necessary of discussion.

Cyberwarfare and Its Inevitability

First, a few definitions:

→ *Cybertechnology*

→ Technology relating to computer networks, informatics, operational systems, the Internet. Put simply, involving a computer of some kind in some way. It is distinguished from regular technology because of this element of computerization. This crucial element not only opens up the scope of what is cybertechnology, but helps put into perspective how prevalent of a force cybertechnology is becoming. For example, most cars now possess some sort of computerization system, most probably even with Internet capabilities, whereas a few decades ago, they didn't. Cars have now become cybertechnology, as opposed to just the 'technology' they were

⁴¹ If we accept that social media can be used as a cyberweapon, I may rescind this statement, since I believe the events of the 2016 U.S. election in regards to Russia's propaganda dissemination may count as cyberwarfare. Later on in this chapter, I will discuss the possibility of social media as a cyberweapon.

before entering the realm of computerization. This helps us see how everyday objects are shifting into the cyber realm.

→ *Cyberwarfare*

→ Sustained aggression between states that primarily consists of cyberattacks. Unlike traditional warfare, a cyberwar has no clear start or end points. It's not clear that there has yet been a cyberwar by this definition. However, this is disputable; some may argue that cyberwarfare has/is occurring in the form of Cold War-esque propaganda campaigns via social media. But according to the type of large-scale cyberattacks that I am discussing in this thesis, it still appears that a full-fledged cyberwar has not yet occurred.

→ *Cyberattack*

→ An isolated incident using cybertechnology to inflict damage or *cyberharm*. The Stuxnet incident is an example of a cyberattack, as is Shamoon, a computer virus that targeted Saudi Arabian oil company Saudi Aramco in 2012. The attack deleted and overwrote information on up to 50,000 hard drives of Saudi Aramco workstations. A vigilante group called Cutting Sword of Justice took responsibility for the attack, labelling themselves 'an anti-oppression hacker group.' However, specific individuals have not been identified, and attribution of the attack remains largely unknown.⁴²

The attack caused significant cyberharm and was conducted with political intentions.

→ *Cyberharm*

⁴² Heather Mackenzie, "Shamoon Malware and SCADA Security - What Are the Impacts?" *Tofino Security*, October 25, 2012. <https://www.tofinosecurity.com/blog/shamoon-malware-and-scada-security-%E2%80%93-what-are-impacts>.

→ Intentional virtual damage sustained from a cyberattack. This declaration of intention is important in distinguishing system failures caused by accident or negligence from actual cyberattacks. Shamoon is a cyberweapon that caused cyberharm, through wiping hard drives clean, resulting in weeks worth' of restoration labour. This attack primarily resulted in non-kinetic harm, but it did enact the physical effect of necessitating physical labour to fix the problem.

→ *Cyberweapon*

→ A digital instrument that causes either kinetic or non-kinetic harm using the Internet, information technology, or computers. Stuxnet is an example of a cyberweapon, as is Shamoon. Other examples include Duqu⁴³ and Flame.⁴⁴ The exact definition of a cyberweapon remains up to interpretation and can widen in scope as technology progresses and state actors find new ways to manipulate information systems to their advantage. One could argue that social media is a form of cyberweaponry due to its ability to effectively mobilise populations and disseminate information.

The 'Digital Age' has brought about a huge dependency on technology and the inclusion of computers into almost all daily actions, from making a phone call to driving to work. According to Christopher Finlay, there are a few instances wherein an entity of some sort has already determined cyberwarfare legitimate and authorized the use of kinetic warfare as an appropriate response. He mentions the United States (specifically referencing Obama) approving of physical retaliation as a response to a cyberattack and that International Humanitarian Law treats cybermeasures "as a new

⁴³ "The Mystery of Duqu 2.0: a sophisticated cyberespionage actor returns," *Kaspersky Lab*, June 10, 2015. <https://securelist.com/the-mystery-of-duqu-2-0-a-sophisticated-cyberespionage-actor-returns/70504>.

⁴⁴ Kim Zetter, "Meet 'Flame,' the Massive Spy Malware Infiltrating Iranian Computers," *Wired*, May 28, 2012. <https://www.wired.com/2012/05/flame>.

category of weapons and is subject to the requirements and restrictions of International Humanitarian Law.”⁴⁵ If this is true, then the international community has already recognised the dangers of cyberwarfare and its ability to be waged in place of or as part of conventional warfare. According to the United Nations Conference on Trade and Development, 138 countries have some form of cybercrime legislation.⁴⁶ There is also no denying cybertechnology’s assimilation into modern warfare. Not only have cyberattacks themselves become viable forms of attack, but technology permeates almost every aspect of modern warfare. Drones are electronically controlled, bombs are dropped through strategic coordination enabled by computers, and military vehicles can now be operated remotely and are constantly being enhanced through technological developments. It is difficult to find an example of modern warfare that doesn’t incorporate cybertechnology in some fashion. Cybertechnology has become an intrinsic component of modern warfare. Therefore, it makes sense to consider whether the just war framework can incorporate and accommodate such technological developments. The current trajectory of military development is only reflecting further incorporation of technology and further technological developments. Cyberwarfare’s inevitable status as part of modern warfare necessitates incorporating it into a coherent just war theory. There has already been some effort made by states to develop rules of engagement, the most notable result being the creation of the *Tallinn Manual*, a study on how international law applies to cyberwarfare. Approximately twenty experts wrote the manual after NATO’s Cooperative Cyber Defence Centre of Excellence commissioned the project. As an attempt to police and develop rules regarding cyberwar, the manual is an importance piece of political literature in this field.

⁴⁵ Christopher J. Finlay, “Just War, Cyber War, and the Concept of Violence,” *Philosophy & Technology* 31, no. 3 (2018): 358. <https://doi.org/10.1007/s13347-017-0299-6>.

⁴⁶ “Cybercrime Legislation Worldwide,” *United Nations Conference on Trade and Development*, March 27, 2019. https://unctad.org/en/Pages/DTL/STI_and_ICTs/ICT4D-Legislation/eCom-Cybercrime-Laws.aspx.

Randall Dipert suggests the enforcement of a policy wherein a preemptive attack is justified if there is “likelihood of significant damage being taken” if nothing is done. This is similar to Walzer’s claim that states have the right to anticipatory attacks whenever “failure to do so would seriously risk their territorial integrity or political independence.”⁴⁷ Dipert then goes on to say, “... if every state followed such a policy, overall damage to all parties over the long run would be minimized because of a deterrent effect.”⁴⁸ This statement seems rather ignorant, because there are already numerous debates about preemptive attacks that all seem to fall victim to the slippery slope fallacy. We end up in an infinite cycle, watching each side preemptively strike to avoid the other side’s preemptive strike. However, he recognises the fact that since cybertechnology is much more abstract and intangible than traditional means of war, enforcing international treaties governing its use would be incredibly difficult: “Cyberattack technology is more like an idea than like a physical thing (or person). These facts would seem to make the creation of international treaties governing cyberattacks between governments, and laws within sovereign territories, extraordinarily difficult to develop, verify, and enforce.”⁴⁹

This obstacle, while prevalent, doesn’t excuse us from at the very least attempting to regulate cyberwarfare. Left unchecked, the use of the internet and informatics systems to harm others will grow in scope. For example, aside from direct, targeted attacks like Stuxnet, it’s possible to use information systems like the internet to instigate fear and panic. What comes to mind is the false alarm of a nuclear attack on Hawaii in January of 2018.⁵⁰ If such a simple mistake can cause such

⁴⁷ Walzer, *Just and Unjust Wars*, 85.

⁴⁸ Randall R Dipert, “The Ethics of Cyberwarfare,” *Journal of Military Ethics* 9, no. 4 (2010): 11. DOI: <http://dx.doi.org/10.1080/15027570.2010.536404>.

⁴⁹ Dipert, “The Ethics of Cyberwarfare,” 22.

⁵⁰ Reference to:

https://www.washingtonpost.com/news/post-nation/wp/2018/01/14/hawaii-missile-alert-how-one-employee-pushed-the-wrong-button-and-caused-a-wave-of-panic/?utm_term=.3f16f294086e

widespread panic and alarm throughout a state, the possibility of purposefully spreading fear and panic among even larger populations is easily feasible. Enemies of a particular state may use fear-inducing tactics such as a fake missile alert to foster distrust and uneasiness among the public. Some may argue that this phenomenon is already occurring in the form of ‘fake news’ and propaganda, where targeted articles and advertisements weed their way into peoples’ Internet browsers and breed discontent.

Kinetic vs. Non-Kinetic Warfare

The introduction of cyberwarfare has changed how we look at war. War has shifted from a tangible, physical phenomenon to a more abstract one. The advent of cyberwarfare has introduced the possibility of virtual damage, an entirely new realm to evaluate. We can now divide acts of war into *kinetic* and *non-kinetic*. Kinetic warfare includes conventional warfare - physical damage, like from bombs and guns. Non-kinetic warfare refers to virtual damage, like the destruction of a firewall in order to gain access to sensitive information. Cyberwarfare can be both kinetic and non-kinetic, sometimes causing both kinds of damage from the same attack. An example of this is Stuxnet, which caused both kinetic and non-kinetic damage. The kinetic damage done was to the uranium-enriching centrifuges at Natanz, which were physically degraded. Agents from the International Atomic Energy Agency were visiting the site and noticed that an odd number of centrifuges were breaking. The source of the damage was later traced back to malicious computer files - the Stuxnet worm.⁵¹ This is an example of the *physical* damage a cyberattack can cause. As for non-kinetic damage, Stuxnet reprogrammed the software on Natanz’s computers, modifying commands and effectively hiding damage reports - while in actuality, the nuclear centrifuges were speeding up and slowing

⁵¹ Lindsay, “Stuxnet,” 366.

down, causing them to break, the modified software reported that everything was operating normally. Sometimes, a cyberattack can result in harm that is solely or primarily non-kinetic, as seen in the case of Shamoon.

The question is how to measure kinetic harm vs. non-kinetic harm. How many destroyed firewalls equal one life? How many centrifuges does a cyberattack have to destroy to warrant a retaliatory drone strike? This question is crucial to the development of a coherent just war theory that accommodates cyberwarfare, because a proportionality is a key component of the just war tradition. Christopher Finlay discusses this in his article “Just War, Cyber War, and the Concept of Violence,” grappling with questions about the applicability of cyberwar to ethical questions of war: Can cyber-attacks or cyber-threats justify kinetic war? Can cyberwar itself be a justified form of war? How might the occurrence of specifically cyber components in armed, conventional conflict be reflected in the just war tradition? To answer these, we have to accept that cyberwar has characteristics that make it normatively equivalent to kinetic war in *some* fashion. While different in how it manifests and its effects, it retains certain core elements of conventional warfare, like an indication of aggression or being planned covertly. Now the question is, how should we determine when to use cyber measures, or when to use kinetic measures as a response to cyber measures? Finlay makes the following statement: “Whether or not kinetic defensive measures may be used against a Violent Cyber-Attack in any particular case cannot therefore be decided in advance on the basis of the way the two types of threat are characterized—kinetic or cyber—but must be judged on the basis of three factors: first, the degree and type of harm that each threatens (i.e. questions of

proportionality); second, the comparison between different alternatives as to the balance of costs and benefits they are likely to bring about (necessity); and third—crucially—discrimination.”⁵²

According to Finlay, it seems that the fine details are what matter the most. I can anticipate potential objections to this: “*What’s the point of trying to come up with a system if we have to evaluate everything case-by-case anyway?*” My answer is that in matters of war, we *should* be evaluating everything case by case. Despite my argument for a just war framework that guides us in making moral and ethical decisions, the fact remains that we shouldn’t have blanket rules that are immovable. Rather, we should have a just war theory that is flexible enough to accommodate multiple different situations, whilst still incorporating some of the fundamental tenets of just war theory that we can evaluate in each situation. We owe it to the victims of war to make decisions as informed as can be.

Finlay’s conclusion is “Whether armed force may justifiably be used in defence against such cyber-attacks in particular contexts may be settled, therefore, on the basis of comparing the degrees and types of harm threatened by the attackers and the defenders respectively, and the extent to which defensive measures are discriminate.”⁵³ This solution is akin to my preferred framework of particularism.

While Dipert doesn’t say so, I believe he’s also implicitly arguing for the application of moral reasoning to cyberwarfare because despite its detachment from the ‘real world’ of physical, kinetic harm, cyberwarfare is still controlled by humans and is therefore subject to human error and emotion. Despite a cyber attack taking place ‘in cyberspace’, it is controlled and monitored by a human that is subject to human mistakes. Though there is a degree of separation in this form of warfare that doesn’t exist in conventional warfare, humans shouldn’t be exempt from applying moral

⁵² Finlay, “Just War,” 374.

⁵³ Finlay, “Just War,” 376.

reasoning to this particular form. Dipert could perhaps make a stronger argument by mentioning this as another reason for why we need a revamped just war framework when discussing cyberwarfare.

“The Weapon of the Weak”

Cyberwarfare can be considered “A Weapon of the Weak.” A crucial component of cyberwarfare that separates it from conventional warfare is its ability to be appropriated and effectively used by weaker state actors. Smaller states that can’t match a larger state’s physical military may be able to cause significant damage by exploiting the larger state’s cybersecurity instead. In “Stuxnet and the Limits of Cyberwarfare,” Jon R. Lindsay states, “Advanced industrial countries are far more dependent on cyberspace than are less wired countries, and great powers in particular live in glass houses full of tempting computer targets.”⁵⁴ When it comes to cyberwar, large states’ huge technological capabilities might actually contribute to their vulnerability. Contrary to a physical army, where having more troops, tanks, and guns generally indicates more protection, having such extensive technological capabilities may only mean more avenues of potential vulnerability. For example, North Korea has a very limited internet infrastructure, while the United States has a massive one. A country like North Korea could (dare I say, easily?) exploit such a wide variety of weaknesses. The wider a network, the more potential targets, and larger, richer states tend to have larger networks. State actors that are materially weaker can use cyberspace to their advantage and exploit the vulnerabilities of these larger state actors. Cyberspace provides anonymity that weaker states can use to avoid detection, and offensive cyber-capabilities can be procured through means other than financial prowess; Google Earth provides satellite imagery, social media websites provide

⁵⁴ Lindsay, “Stuxnet,” 375.

demographic information, and the dark web is a hub for criminal activity and hackers who freely disseminate technical expertise.⁵⁵

Another difference between cyberwarfare and conventional warfare is that cyberwarfare makes civilians⁵⁶ combatants. Whereas not every civilian has access to a machine gun or a drone, almost anyone can access the internet. This makes every potential internet user a potential attacker. If they know enough about operating systems, they could potentially hack a mainframe and bring it down from within. Additionally, placing sanctions on tools of cyberattack is far more difficult than placing sanctions on tools of conventional warfare. We can restrict access to guns, bomb-making materials, and ordnance, but we can't stop people from accessing the internet, or even from using a proxy. In cyberwarfare, everyone is potentially a combatant, as opposed to conventional warfare, where soldiers are clearly distinct from non-soldiers. This opens up the scope of who can be considered a combatant. In conventional warfare, the scope of who is and who isn't a combatant are much more clear-cut; soldiers and involved states are clearly designated through a number of bureaucratic processes. If anyone is potentially a cyber-combatant, there needs to be a threshold from a simple Internet user to become a cyber-combatant. Determining an exact point for this threshold proves difficult. Is it when a casual Internet user is recruited by a government into developing a cyberweapon? Or when a fifteen-year-old decides he wants to hack his school's mainframe? Does the person in question become a combatant when they begin to work on a cyberweapon, after the cyberattack occurs, or from the minute they begin conceiving of the attack? If an individual builds a cyberweapon, but never deploys it, are they still a combatant?

⁵⁵ Lindsay, "Stuxnet," 375.

⁵⁶ This chapter uses 'civilian' and 'noncombatant' interchangeably.

This presents a complication for just war theory, which has fairly strict criteria to determine combatants. With cyberwarfare, things aren't as clear, presenting a problem with the current definitions of combatants. This complicates the just war principle of discrimination, which states that targeting noncombatants is impermissible.⁵⁷ An unclear conception of who and who isn't a combatant results in further moral ambiguity; if we're unclear on whether a target is a combatant, it's unclear whether or not attacking them is justified.

Territorial Integrity, Sovereignty, and Attribution

Randall Dipert strongly argues against the possibility of reconciling the just war tradition with cyberwarfare. He outlines a few reasons why cyberwarfare is different from conventional warfare and how that renders the just war tradition unable to accommodate cyberwarfare. One of these reasons is the Attribution Problem: determining the source of cyberattacks is very difficult. Dipert states, "This fact would give many cyberattacks credible deniability especially since in many cases nations can plausibly claim that the attacks may have originated from within their territory but their governments did not initiate them."⁵⁸ It is easy to blame cyberattacks on other parties because of the equalizing factor that it produces. Whereas it wouldn't make sense to blame a nuclear bomb on a small rebel group that lacks significant military power, it is possible to attribute a large cyberattack to such a group.

Even with the best technology, it can be difficult to trace an attack with the easy use of proxies, fake IP generators, and VPNs. An example of this is Shamoons, which I mentioned earlier in the definition of *cyberattack*. The identity of Shamoons's creators remained unclear for a while. Over a month after the original attack, which occurred on the 15th of August, 2012, authorities still did not

⁵⁷ Alexander Moseley, "Just War Theory," *Internet Encyclopedia of Philosophy* n.d. <https://www.iep.utm.edu/justwar>.

⁵⁸ Dipert, "The Ethics of Cyberwarfare," 3.

have a clear idea of the identity of the perpetrator. An article published on the 25th of September that same year mentions the possibility of the perpetrator being ‘an insider,’ but says little else. An updated version of that article from another month later then confirmed that the attack was carried out by a ‘disgruntled’ Aramco employee who may or may not have been working with the Iranian government.⁵⁹ It took two months of speculation to confirm the identity of the attacker, and even then, his background isn’t completely clear. This spells trouble for the just war tradition. If it takes two months to attribute the source of an attack, is the victim state supposed to wait two months to launch a justified, proportionate counterattack? Or are they supposed to retaliate with their best guess at who did it?

Even when attributions are finally made, ambiguity persists. Despite the generally accepted knowledge that the U.S. government was primarily responsible for Stuxnet, the U.S. government has never publicly admitted so. This lack of accountability makes retaliatory attacks all the more controversial; in conventional warfare, there’s usually no denying the source of the attack. But with cyberwarfare, even if everyone knows it was a certain state, until there’s a way to prove the attack came from that state, any retaliatory attack would be unjust.

Attribution would probably only be even further complicated when we take into consideration how cyberattacks could be conducted using social media. The complicated boundaries of cyberwarfare are especially exemplified through social media. Various political campaigns and occurrences of the last decade have demonstrated the polarizing effect of social media and its powerful ability to influence, mobilise, and spread propaganda. This was best exemplified by Russian interference in the 2016 U.S. election, where Russian intelligence officers hacked and released

⁵⁹ Mackenzie, “Shamoon Malware.”

Democratic documents, disseminated anti-Clinton and pro-Trump propaganda via Facebook and Twitter to U.S. voters, and vigorously sought out Trump campaign officials to deliver “dirt” on Hillary Clinton.⁶⁰ The scope of how much social media can be used as a cyberweapon still remains to be seen. This potential avenue for cyberwar opens up the conversation to even more potential confusion. An extended analysis of how social media complicates these discussions is outside the scope of this paper, but I wanted to flag it as another potential method of propagating political conflict.

Conclusion

Dipert likens a cyberwar to the Cold War, wherein ‘attacks’ are rather subtle underminings and animosity is perpetrated through propaganda rather than physical attacks. Due to the nature of such ‘attacks’, it is difficult to apply moral reasoning to the Cold War. This is also true for cyberwarfare. There are no clear restrictions on cyberattacks, since the just war tradition focuses on principles of aggression and proportionality that correspond to physical harm. Ultimately, he concludes by saying that despite cyberwarfare’s imminence, there is very little moral reasoning to guide us through its ethical use. He suggests that we think about the moral reasoning of cyberwarfare either through analogy, or by using broader moral theories that are more widely applicable to diverse forms of warfare. As mentioned in Chapter II, I prefer to refrain from using domestic analogies to discuss matters of war, especially those involving technology, but I do see Dipert’s point. He argues that “the relevant entities in cyberwarfare are so unusual in comparison with the ordinary objects of daily life that the only useful way of thinking about them is by analogy.”

⁶⁰ Scott Shane and Mark Mazzetti, “The Plot to Subvert an Election: Unraveling the Russia Story So Far,” *The New York Times*, September 20, 2018.
<https://www.nytimes.com/interactive/2018/09/20/us/politics/russia-interference-election-trump-clinton.html>.

⁶¹ It's tempting to resort to using analogies when cyberwarfare poses such unique threats that we do not have any historical precedent to compare it to. As mentioned before, my solution to the problems that cyberwarfare poses to the just war tradition is one of moral particularism, which is outlined in Chapter V. This may be a way to appeal to Dipert's other preferred solution, "clearer moral theories capable of application to all possible ethical events and states of affairs."⁶² Moral particularism and the criteria that it fulfills (defensibility, consistency, and adaptability) also satisfy a number of concerns that Dipert raised. He mentions the desirable characteristics of a meta-ethical view that is 'realistic' and 'enforceable.'⁶³ Moral particularism will fulfill both of these criteria, as the positions characteristic of defensibility will allow for a framework that is realistic and therefore reasonably enforceable.

This chapter has aimed to pinpoint some of the unique threats cyberwarfare proposes that make a generalist, traditional just war theory ill-equipped to handle. Firstly, there is no way to determine how kinetic harm translates to non-kinetic harm. If we cannot determine how a cyberattack would translate to a conventional attack, planning retaliation based on the principle of proportionality is much more difficult. Additionally, cyberwarfare's unique ability to level the playing field through ease of access to the internet gives weaker state and non-state actors an edge that they wouldn't otherwise have, widening the scope of who can be considered a combatant. This complicates the principle of discrimination, as the boundaries between combatants and non-combatants become increasingly difficult to pinpoint. Difficulty in attributing the source of cyberattacks makes retaliation - stemming from the principle of proportionality - more complicated,

⁶¹ Dipert, "The Ethics of Cyberwarfare," 23.

⁶² Dipert, "The Ethics of Cyberwarfare," 23.

⁶³ Dipert, "The Ethics of Cyberwarfare," 12.

since verifying the source of cyberattacks is trickier than it is in conventional practice and may take longer than it usually would.

CHAPTER IV: DRONES

“A building circular... The prisoners in their cells, occupying the circumference—The officers in the centre. By blinds and other contrivances, the Inspectors concealed... from the observation of the prisoners: hence the sentiment of a sort of omnipresence—The whole circuit reviewable with little, or... without any, change of place. One station in the inspection part affording the most perfect view of every cell.”

- Jeremy Bentham, *Proposal for a New and Less Expensive mode of Employing and Reforming Convicts*
(London, 1798)

The Panopticon is a conceptual building and institution of control designed by English philosopher Jeremy Bentham. The architecture of this theoretical building is such that prison inmates, who live in cells that form an outer ring, are monitored from a tower located in the center of the ring. Theoretically, this means that a single watchman can monitor all the inmates at once, and the inmates never know when they are actually being watched. Although of course, one single watchman cannot observe all the inmates simultaneously, the inmates never know how many watchmen are in the central tower at once, since they are unable to see into the watchtower, so they never know when they're being monitored. This produces a curbing effect, subduing the prisoners and ensuring that they're always on their best behaviour.

The drone is a modern Panopticon. It offers persistent, constant surveillance, 360 degree views, and its subjects don't have to know they're being watched. Like the Panopticon, the drone uses an all-seeing eye to observe, surveil, and if need be, punish. But the fear of being watched rids the authority of the need to punish. However, the contemporary drone is also armed. It doesn't function merely as a surveillance device, but as a weapon, and one that is intrinsically incapable of being attacked. This chapter is all about how drones have changed the nature of warfare. For the just

war theorist, this innovation distorts and questions traditional rules of engagement. This chapter begins with a brief history of drones and a larger discussion of how drones have changed modern combat. In the section, “A Theory of the Drone,” I consider a number of ways in which the introduction of drones to the battlefield has created new ethical factors to consider, from shifting military priorities to removing degrees of agency. Then, I will explain how this poses complications for principles of just war theory. “The Drone Myth” discusses the principle of discrimination, explaining how drones are theoretically more precise and humane, but in practice probably end more lives than they save. The final section of this chapter, “Eradicating Combat From the Battlefield” discusses territorial integrity and last resort. Ultimately, this chapters aims to have outlined the various ways in which drones have changed the nature of modern warfare and how this poses a problem for several *jus in bello* principles.

A History of Dronewarfare

The history of drone use isn’t entirely clear, owing to the secretive nature of their use during various wars of the 20th century. It’s thought that rudimentary drones were first used as reconnaissance vehicles on a large scale during the Vietnam War, but drones as we think of them were first used for surveillance purposes during the 1990s as part of the Bosnia and Kosovo campaigns. After 9/11, drones shifted from this pure role of surveillance to a potential form of weaponry. The first publicly reported drone strike (meaning that the first actual drone strike was probably long before) was in November of 2002, when the US confirmed that an RQ-1 Predator had killed an al-Qaeda operative in Yemen. In 2001, the U.S. operated about 160 drones. By 2009, that number had increased to 5500.⁶⁴ The same year, drones were praised for their powers of

⁶⁴ Daniel Brunstetter and Megan Braun, “The Implications of Drones on the Just War Tradition,” *Ethics & International Affairs* 25, no. 3 (2011): 341. DOI: 10.1017/S0892679411000281.

precision and labelled as “the only game in town in terms of confronting and trying to disrupt the al-Qaeda leadership” according to CIA director Leon Panetta.⁶⁵ In 2010, the US launched over a hundred drone strikes in Pakistan, killing hundreds, potentially thousands of people. The US government never acknowledged these deaths, so the number remains speculative at best. In 2011, a US drone strike killed Anwar al-Awlaki, a US citizen and member of al-Qaeda, in a targeted drone strike. They claimed his involvement in al-Qaeda without offering any evidence. The same year, al-Awlaki’s teenage son - also a US citizen - was killed by a drone strike in Yemen. President Obama called the strike a mistake, but didn’t offer any compensation or explanation.⁶⁶ By 2013, tensions in Yemen had risen and Yemenis were constantly living with the fear of constant drone strikes. Parents reportedly convinced their children to go to bed by threatening them with drone strikes. That year, Obama promised to exhibit more restraint with drone usage moving forward and acknowledged the countless civilian lives that had been lost in previous drone strikes.

A Theory of the Drone

“By inventing the armed drone one has also, almost inadvertently, discovered something else: a solution to the central contradiction that for several centuries has affected the modern theory of political sovereignty in matters of warfare. The generalization of such a weapon implies a change in the conditions that apply in the exercise of the power of war, this time in the context of the relations between the state and its own subjects. It would be mistaken to limit the question of weaponry solely to the sphere of external violence. What would the consequences of becoming the subjects of a drone-state be for that state’s own population?”

- Gregoire Chamayou, *A Theory of the Drone*

⁶⁵ Spencer Ackerman, “Inside Obama’s drone panopticon: a secret machine with no accountability.” *The Guardian*, April 25, 2015. <https://www.theguardian.com/us-news/2015/apr/25/us-drone-program-secrecy-scrutiny-signature-strikes>.

⁶⁶ Ackerman, “Inside Obama’s drone panopticon.”

A drone can mean a number of things. For the purposes of this argument, a *drone* is an unmanned aerial vehicle with destructive capabilities that can be controlled either remotely or automatically. The introduction of drones to modern warfare has resulted in dramatic changes to the nature of combat. Drones are accompanied by a number of innovations that have significant impact on the way we conduct war. For example, drones have archival capabilities. Not only can they record everything they see, but they can store video and audio data to be returned to later. The implications of this are obvious. Having documented footage of militant areas is both beneficial and worrisome. Beneficial, because the data being stored can be returned to later, with multiple different sets of fresh eyes, hopefully leading to more careful, accurate decision-making. But worrisome, because this same data is now immortalised, it is eternally subject to interpretation. Two people could look at the same footage and infer completely different things. This is opposed to one person watching security footage in real-time and making a decision in that moment, decisions which can't be questioned because there is no archival footage to be scrutinised later.

Additionally, drones filter out room for error, theoretically at least, since the drone operator is firing from a same distance and doesn't have to worry about self-defense, they shouldn't be distracted. This means that they should be able to make decisions with more clarity and thought. Much support for drones come from their powers of precision. Because drones increase militaries' effectiveness, they therefore reduce harm to civilians. There is evidence to prove this. For example, a new drone initiative launched by General Stanley McChrystal in 2009 resulted in a 28% decrease in civilian casualties.⁶⁷ However, there is evidence to suggest the falsity of this statement too. Drone operators are still more than capable of errors. For example, in 2010, American authorities claimed

⁶⁷ Brunstetter and Braun, "The Implications of Drones," 348.

to have taken care of a notable Taliban leader in Afghanistan. Further inspection revealed that the strike had actually killed Zabet Amanullah, a civilian leader, and approximately ten other civilians. The confusion was a result of the implicit trust placed in the technology of the drone, and the drone operators' insistence on examining phone records and social movements in the area, focusing on quantitative analysis based on information provided by the drone, than literally looking at who they were targeting.⁶⁸

The invention of the drone brought about immediate changes to the nature of conventional warfare. The use of drones immediately results in an asymmetrical fight. As stated in *The Theory of the Drone*, "... for whoever uses such a weapon it becomes a priori impossible to die as one kills."⁶⁹ The drone is such a trump card, owing to its status as the bearer of destruction but its lack of status as a target, that it precludes its victims from fighting back, defending themselves, or even being made aware that they are under attack. As Chamayou states in his book, part of the traditional war convention states that one forfeits their own right to life as they become a combatant. Hand-to-hand or even close-range firearm warfare involves risking one's own life in the attempt to take another. However, with drones, this interaction is eliminated. "But what is forgotten is that because this weapon rules out combat and because it transforms war from being possibly asymmetrical into a unilateral relationship of death-dealing in which the enemy is deprived of the very possibility of fighting back, it surreptitiously slips out of the normative framework initially designed for armed conflicts."⁷⁰ With this, much of the rhetoric we would use to describe combat interactions does not apply. Even with more modern weaponry, like sniper rifles or other long-range arms, the combatant operating the device is still present on the battlefield and is in some kind of danger. With drones,

⁶⁸ Chamayou, Gregoire, *A Theory of the Drone*, trans. Janet Lloyd, (New York: The New Press, 2015), 50.

⁶⁹ Ibid., 13.

⁷⁰ Ibid., 162.

humans experience a degree of removal from the battlefield that depletes something from warfare that we previously took for granted as intrinsic. But this might potentially be a good thing, according to proponents of dronewarfare. Advocates of drone use argue that “It is conceivable that the fear a drone operator feels for the men in the line of fire is accentuated by the fact that he is operating safely from a distance.”⁷¹ This is a particularly interesting line of thought, because we may tend to think that one becomes detached when sitting behind a screen, making it easier to call the shots. But perhaps it’s the opposite – since you are detached, you’re meant to make the right decisions far more often, since you have a more objective view of everything. There is more pressure on the drone operator to make an ethical, accurate decision, since he is not bound by the emotional turmoil of being directly on a battlefield. As mentioned earlier, there is evidence to suggest the validity of this statement. Then again, a drone operator may experience the removal of a degree of agency, based on the premise that he was just ‘following orders.’ Because the operator isn’t the one that gives the order, he could be absolved of moral responsibility. However, this is also a condition of conventional warfare; many (indeed, most) soldiers are just following orders. In conventional warfare, though, we don’t directly absolve the soldier of moral responsibility, even if they are following orders, because they still exhibit some degree of agency on the battlefield. Ridding soldiers of all moral responsibility, whether they are directly on the battlefield or sitting behind a screen, is probably not a good idea. They need to be held to some level of accountability, although we can acknowledge that in many cases, a combatant may not be acting as he would in an ideal case where he was free from coercion and not subject to the will of his superiors.

⁷¹ Brunstetter and Braun, “The Implications of Drones,” 13

Chamayou mentions and develops the idea that with modern warfare, certain priorities in combat have shifted. Namely, that modern armies tend to esteem and preserve the lives of their own soldiers more than the lives of civilians. Drones have only contributed to this attitude; a soldier can now carry out his duty while sitting safely miles away from the combat zone. This makes drones all the more desirable: as stated before, it becomes a priori impossible to die as one kills. Of course, militaries want to preserve their own lives, not just for the sake of numbers, but for the same of public image and morale. He points out that it's not good for public morale if the newspaper headline reads: "AMERICA LOSES TEN PLANES IN TWO DAYS." Therefore, the priorities of militaries have changed. They can afford to be less concerned with those they are targeting due to the removal of agency from the battlefield, the safety of their own soldiers, and the pervasiveness of media contributing to public image, and consequently, support for state actors.

The Drone Myth

After several years of consistent drone use, it's now apparent what aspects of drones actually translate from theory to practice. When drones initially broke into mainstream use, they were lauded as more ethical, owing to their powers of precision, accuracy, and their impermeability to human flaws. The drone myth, according to Brunstetter and Braun, is the belief that technologically advanced drones increase the probability of success while decreasing the risk to our soldiers and of collateral damage. But they argue that this actually leads to more frequent and less stringent interpretations of just cause that actually reduce the long-term probability of success in diminishing the external threat.⁷² This is probably the most important thing to realise when discussing the ethical implications of drones. They are very different in theory and in practice. "to assume that they are

⁷² Brunstetter and Braun, "The Implications of Drones," 10.

just like any other weapon, and therefore do not challenge the way just war principles are understood, is to underestimate their current impact and postpone what must be an inevitable renegotiation of just war principles as drone technology (and eventually robotics) becomes more integrated into military strategy.”⁷³ The invention and prevalence of drones have immediate consequences for traditional principles of *jus in bello*. This section discusses discrimination.

Theoretically at least, the precision of a drone enables it to more accurately discern between combatants and non-combatants. A drone doesn’t get tired, its eyes don’t play tricks on it, and its operator is sitting a safe distance from the action. Its archival capabilities mean that drone operators are able to look back at previous footage to help them determine whether or not a suspected combatant has a history of suspicious activity. However, drones still rely on imperfect human intelligence, meaning that their operations aren’t entirely rid of human error – there is still a human presence on the ground, even if it isn’t physical. So not only is the argument that drones are impervious to error not quite true, but now we have the added problem of mental detachment. As drone operators sit a safe distance away, “The status of combatant tends to be diluted in such a way as to extend to any form of membership of, collaboration with, or presumed sympathy for some militant organization, whether or not there is any link with its armed branch. What we now have is an insidious switch from the category of “combatants” to that of “suspected militants.” This combatant = militant equivalence has the effect of extending the right to kill well beyond the classic legal boundaries and conferring an indefinite elasticity on the concept of a legitimate target.”⁷⁴ So we can see that the scope of discrimination has become much wider with the introduction of drones. It’s now too easy to label anyone a combatant based upon their movements or locality, which may

⁷³ Brunstetter and Braun, “The Implications of Drones,” 19.

⁷⁴ Chamayou, *A Theory of the Drone*, 145.

just happen to be within the sphere of suspicious activity. This ‘kill rather than capture’ policy is responsible for the deaths of countless civilians.⁷⁵ As Brunstetter and Braun note, “the use of drones as a means to enhance a state’s capacity to act on just cause proportionately and discriminately may lead to the propensity to do the opposite.”⁷⁶ The ease of which a drone operator can claim that he is acting justly and has reason to believe that a suspected militant is a combatant is contributing to an increase in collateral damage.

Chamayou also points out that while drones are lauded for their powers of precision, the comparison between drones and other forms of aerial weapons doesn’t quite work. While a drone is undoubtedly more precise than a World War II bomber, the purpose of a drone is targeted assassination, while the purpose of a World War II bomber was carpet bombing. While drones are more precise in that they focus on a narrower scope of targets, they are not more precise in how they identify the target of the killing, as seen in the case of Zabet Amanullah. The drone is literally more precise in that it can accurately assassinate a specific target, but it is not precise in terms of distinguishing whether or not that target was the right person to attack. As Chamayou says, “That would be tantamount to saying that the guillotine, because of the precision of its blade—which, it is true, separates the head from the trunk with remarkable precision—makes it thereby better able to distinguish between the guilty and the innocent.”⁷⁷ There is actually very little information a drone can provide that would allow an operator to determine whether or not a particular individual is a combatant and therefore a legitimate target. An individual who is armed isn’t enough to be

⁷⁵ Literally countless, since dronewarfare is conducted so secretly, there are probably thousands of deaths that haven’t been reported. Micah Zenko, “Do Not Believe the U.S. Government’s Official Numbers on Drone Strike Civilian Casualties,” *Foreign Policy*, July 5, 2016. <https://foreignpolicy.com/2016/07/05/do-not-believe-the-u-s-governments-official-numbers-on-drone-strike-civilian-casualties>.

⁷⁶ Brunstetter and Braun, “The Implications of Drones,” 10

⁷⁷ Chamayou, *A Theory of the Drone*, 143.

considered a target, since there are states where most people are armed, like Yemen.⁷⁸ Uniforms are also not strong enough evidence; combatants can easily slip into civilian clothes. Even movement isn't a perfect means of determining the status of a combatant: it's possible that an individual who moves 'suspiciously' between known military bases is simply the innocent spouse or child of someone who is actually involved.

Eradicating Combat From the Battlefield

With the advent of drones, the nature of territorial integrity and the principles of necessity and last resort have become distorted. According to Chamayou, with the introduction of drones, sovereignty isn't completely territorial but "volumetric and three-dimensional"⁷⁹. This shift in how we denigrate boundaries began with the introduction of combat conducted from the air, but is now even more complicated owing to the removal of humans from the aerial vehicle being used to conduct said combat. "The paradox is that the drone, so highly praised for its great ability to make out the difference between combatants and noncombatants, in practice abolishes the very condition for that differentiation, namely combat."⁸⁰

Drones are huge violators of territorial sovereignty. According to the international humanitarian law of the UN Charter, drone strikes are almost always regarded as an intervention unauthorized by both the state being attacked and by the United Nations Security Council. Drone strikes conducted by the United Kingdom in Syria were not approved by the Syrian government, but the UK insisted that the strikes were undertaken with military necessity and could be justified according to the rules of war that had been reflected in international law. But it wasn't. This flagrant violation of international humanitarian law is made easy by the creation of dronewarfare.

⁷⁸ Ibid., 144.

⁷⁹ Ibid., 54.

⁸⁰ Ibid., 144.

Drones convolute the principles of necessity and last resort. To reiterate, military necessity refers to the need for an action to be undertaken with a specific intended goal in mind and should be conducted with a level of restraint proportionate to the desired ends. Last resort refers to the belief that an offensive action should only be undertaken once all other, more peaceful, less destructive options, have been explored and exhausted. With drone use, these two principles are theoretically more strictly enforced. Since a drone pilot is safe from harm, he should be more confined to rules of engagement. He is free from the incomparable adrenaline, pressure, shock, and terror from being directly on the battlefield. Because he is not fearing for his own life every second he is engaged in combat, he should therefore be less trigger-happy and more conservative with his actions. “Drone operators’ safety makes it possible to subject them to stricter [rules of engagement], which can help to protect civilians and civilian property from being mistakenly attacked or incidentally harmed in attacks on enemy combatants. It likewise facilitates the proportionate use of force against clearly identified enemy combatants as it renders overwhelming attacks and suppressive fire unnecessary under most circumstances.”⁸¹ For this reason, when drones were first introduced on a large scale, they were lauded as more ethical. They would preclude soldiers from endangering themselves and would stop unnecessary death. However, there is evidence to suggest that they don’t actually operate this way. Many argue that drone operators actually exhibit *lower* inhibitions against using force, rather than the desired opposite.⁸² Instead of a drone operator’s safety contributing to his concern for those directly on the battlefield, it’s thought that the very distance that keeps the drone operator safe

⁸¹ Marcus Schulzke, *The Morality of Drone Warfare and the Politics of Regulation*, (London: Palgrave Macmillan, 2017), 16. DOI: 10.1057/978-1-137-53380-7.

⁸² “‘I feel no emotional attachment to the enemy,’ one operator said. ‘I have a duty, and I execute the duty.’” Chamayou, pg. 123.

creates some mental detachment for him that makes him less concerned with the accuracy of who he is targeting.

Another contributing factor to drones' lack of adherence in just war principles is their lack of operative transparency. Current usage of drones by the CIA is notoriously secretive and lack clear rules of engagement, meaning there's no guarantee of adherence to *jus in bello*. "Without transparency, there is no way to know why a specific strike was undertaken, if it was undertaken with discrimination and proportionality in mind, or even whether it reflected military necessity."⁸³ Since technological development and the prevalence of media allow for such secrecy when conducting war operations and there is no way of truly knowing whether an attack was undertaken with necessity in mind, maybe the principle of necessity is now obsolete. There may even be an argument to suggest that dronewarfare isn't even warfare; it's just terrorism under the guise of war. Drones rid the enemy of the chance to defend themselves, while ensuring the safety of those operating the drones. Such a large component of war comes from the element of risk to oneself and allowing the enemy the chance to defend themselves. If we accept these conditions as inherent qualities of warfare, then drones cannot be an acceptable weapon.⁸⁴ This preclusion of allowing the victim to defend themselves, paired with the removal of a human agent in the vehicle that deploys the weapon, is what makes dronewarfare more akin to terrorism or targeted assassination rather than traditional combat.

Conclusion

⁸³ Brunstetter and Braun, "The Implications of Drones," 18.

⁸⁴ I don't necessarily agree with this chain of thought; I'm merely pointing it out. If we labelled all weapons that precluded the enemy of a chance to defend themselves as unacceptable, then we would have to state that poison or long-range weapons were unacceptable methods of combat. But they have been major parts of warfare for a long time and I believe are generally considered acceptable - although perhaps less honourable - methods of combat.

It may seem like the majority of problems raised in this chapters aren't due specifically to drones, but simply to powerful states - particularly the US - that conduct combat operations with no regard for rules of engagement. This statement may be true and has probably always been true. However, the advent of drones makes this lack of accountability and disregard for just war theory easier and all the more acceptable. Proponents of drone use still feel the need to defend the machine's efficiency and supposed precision. One could also argue that rather than drones complicating just war theory, they are simply just morally deplorable. There's a very good argument for this and I'm not trying to deny it. But if we do attempt to regulate drone usage and apply rules of engagement to them (which may become more necessary as other states begin to use drones more often and more freely), we should also evaluate how their use undermines just war principles.

Introducing drones to the battlefield has resulted in irrevocable changes to the nature of warfare. This chapter has aimed to make two main points: first, to outline the various ways in which the advent of drones has changed numerous aspects of modern warfare. Second, to exacerbate how such changes present complications for just war theory; in particular, the principles of last resort, military necessity, and discrimination. Under the drone, a modern Panopticon, war no longer takes the shape of a level playing field with direct combat. Instead, combatants and non-combatants alike live under a totalitarian-like state of constant surveillance, as Bentham envisioned when designing the Panopticon: "They're always surveying us, they're always over us, and you never know when they're going to strike and attack. Everyone is scared all the time. When we're sitting together to have a meeting, we're scared there might be a strike. When you can hear the drone circling in the sky, you think it might strike you. We're always scared. We always have this fear in our head."⁸⁵

⁸⁵ Chamayou, *A Theory of the Drone*, 44.

CHAPTER V: MORAL PARTICULARISM

“Particularism claims that generalism is the cause of many bad moral decisions, made in the ill-judged and unnecessary attempt to fit what we are to say here to what we have said on another occasion.. It is this sort of looking away that particularists see as the danger in generalism. Reasons function in new ways on new occasions, and if we don’t recognise this fact and adapt our practice to it, we will make bad decisions. Generalism encourages a tendency not to look hard enough at the details of the case before one, quite apart from any over-simplistic tendency to rely on a few rules of dubious provenance.”

- Jonathan Dancy, *Moral Reasons*

Moral particularism is an ethical position broadly arguing that (at its most extreme) there are no universally defensible moral principles. My conception of moral particularism does not assert that there are no morally defensible principles, but rather that there are no moral principles that will always be universally applicable, in every case, without fail. In this chapter, I will explain the position of moral particularism, explain the pitfalls of moral *generalism*, and respond to objections to the particularist position. I will also spend significant time discussing how moral particularism is best suited to evaluate the ethics of war, especially considering the implications of technology and innovation in modern warfare. Moral particularism allows for an open-ended framework that still incorporates ethics into decision-making processes regarding war, but remains malleable enough that it can adapt to the changing nature of modern warfare. This makes it a desirable ethical framework through which we can evaluate situations of such complexity and volatility. Additionally, a just war framework based on particularism allows it to fulfill the three criteria I outlined in Chapter I: defensibility, adaptability, and consistency.

The Particularist View

Particularism can possibly be traced back all the way to Aristotle, who claimed that moral generalisations could only go so far and that the particularities of a case will ultimately prove to determine how we react to it, stating that “judgment depends on perception.”⁸⁶ Since then, few have devoted time to fully articulating a position of particularism, although many have defended it in some form or another⁸⁷. The foremost defender of particularism is Jonathan Dancy, who articulated his position most thoroughly in his book *Moral Reasons*. Like the moral generalist, the moral particularist believes that a moral person is sensitive to moral reason. However, where the two differ is in their approach to how one follows a chain of moral reasoning. Particularists focus on the moral *features* of a situation, which have variable relevance: a moral feature can make a moral difference in one case, less difference in another, and no difference at all in yet another. An example of a moral feature would be the suffering of innocent civilians; the feature bears some kind of moral weight and evokes an ethical response. This is contrasted with a moral principle, which is more of a guiding ethical rule rather than something that can be pinpointed in a situation. Generalists tend to focus more on moral principles, which are theoretically precise but broad enough to be applicable in every case. An example of a moral principle would be “One should never harm innocent civilians.”

A key feature of moral particularism is an insistence on *variability*. This is in stark contrast to common generalist views, like deontological ethics or utilitarianism. For the particularist, it is the moral features of a situation that matter, rather than any kind of moral principles. Moral agents are able to decide on the best moral choice of a situation by identifying the moral features of the situation and using them to form a decision. Such a decision is still adhering to an ethical framework, but doesn't fall into one of the problems that generalism proposes. Particularists are opposed to the

⁸⁶ Aristotle, *Nicomachean Ethics*, trans. W.D. Ross (The Internet Classics Archive, 2009), 1109b.
<http://classics.mit.edu/Aristotle/nicomachaen.html>.

⁸⁷ e.g. Ewing.

view that applying universal moral principles to situations will always yield the morally desirable solution.⁸⁸ Rather, everything is context-sensitive. As Jonathan Dancy put it, “Our first question is not ‘Which other cases does this one best resemble?’, but rather ‘What is the nature of the case before us?’”⁸⁹ We are able to determine whether a moral feature is relevant in a particular case by evaluating it in terms of the other moral features that accompany it.

In *Moral Reasons*, Jonathan Dancy provides the following example to illustrate a case of a moral principle applying differently due to a moral feature of the situation: “I borrow a book from you, and then discover that you have stolen it from the library. Normally the fact that I have borrowed the book from you would be a reason to return it to you, but in this situation it is not.”⁹⁰ The morally relevant feature of you having borrowed a book is juxtaposed with the relevant moral feature of it having been stolen. To ignore that feature and merely stick to the principle of returning something you have borrowed would not be the most ethical course of action in this case. Thus, Dancy proves that exceptions to moral principles occur often. In most cases, it would be morally preferable to return the book you had borrowed from your friend, simply because it is the courteous thing to do. But there is an overarching reason that supersedes that smaller moral condition. This reason is context-based and changes what the morally preferable thing to do is. Particularists believe that there is usually more than one relevant moral property to a situation, rather than a superseding rule that takes precedence. At first, this may seem confusing. How are we supposed to keep track of all these moral features, when they make a difference, and measure them against the features that accompany them? I want to refrain from painting a view of particularism that argues that there are

⁸⁸ One argument for particularism suggests that since philosophers have been searching for universal moral truths since the dawn of time, perhaps there are none and we should focus our efforts elsewhere instead. I am *not* making this argument.

⁸⁹ Jonathan Dancy, *Moral Reasons*, (Hoboken: Blackwell, 1993), 63.

⁹⁰ Dancy, *Moral Reasons*, 64.

certain actions that could be morally acceptable, in the right context. That argument would lead us down the path to potentially defend actions which are blatantly morally depraved, like rape or genocide, which I cannot see as ever being justifiable, in any context. There is such a thing as general moral knowledge that may manifest differently or emphasize different values based on culture. Rather, the question is how that moral knowledge will come into play in any given situation. This is distinct from a general moral *theory*, which makes assertions about how to act in a given situation, whereas moral knowledge gives us an idea about the ethics of a particular action or factor in the situation.

The Pitfalls of Moral Generalism

Particularists dislike generalism because they believe it leads to bad moral decisions, as a result of attempting to squeeze our reasoning from one case into another and make it work in the same way. Moral generalism relies on the provision of a set of true and coherent moral principles that are universally applicable. This is because without moral principles, we lack standards that we can measure situations against. A moral principle refers to a universal claim asserting something necessarily true or false. Generalists think that if a certain principle applies in one case, it necessarily applies in the same way in a different case, making the same moral difference. This is contrary to the particularist position, which argues that there's no way to guarantee that any moral feature or principle will necessarily make the same moral difference in a different case. But moral generalism exhibits a number of issues that make it less appealing than particularism. The first is that there is always an exception to a moral principle, until you modify it such that it doesn't make sense or isn't even a principle anymore. For example, a simple moral principle is the phrase "Killing people is bad." We are directed by this principle to not kill people. However, we usually think it's okay to kill

people when done so in self-defense. This modifies the principle to read as “Killing people is bad, unless done so in self-defense.” But then, one could object that it’s wrong to kill, even in self-defense, unless you are 100% certain that you are going to be seriously harmed yourself. If you could escape the situation without being harmed, then you should strive to do that instead of killing the attacker. After all, we wouldn’t think it ethical to kill someone because you’re “kind of sure” they’re going to hurt you. So now we have the principle “Killing people is bad, unless done so in self-defense and you’re 100% sure you are going to be seriously harmed if you do not kill the person attacking you.” This is already bordering on too absurdly specific to be considered a principle anymore. But one can take it even further. Consider the fact that your attacker might not be in their right mind. Perhaps they are being blackmailed or are experiencing a psychotic break. If you suspect that any of these might be the case, it would be unethical for you to kill your attacker, since they do not have a normal level of agency in the situation. Now, our principle is “Killing people is bad, unless done so in self-defense, you’re 100% sure you’re going to be seriously harmed if you do not kill the person attacking you, and you’re certain that the person is not attacking you under considerable duress.” We’ve now modified the principle to the point where we can’t really call it a principle anymore. Rather, it’s a very specific rule that involves evaluating all the morally relevant features of the case before it can be followed. We’ve roped ourselves into taking a particularist view: we are forced into considering all these relevant factors before taking action that we would be comfortable with labelling morally desirable.

The second argument against generalism is that immovable consistency is simply irrational. Immanuel Kant’s categorical imperative refers to an unconditional moral obligation that is binding in all circumstances and is not contingent upon the situation. But morality of this sort is simply not

rational or defensible. For example, if one's categorical imperative is to never lie, there are multitudes of situations in which it would be desirable, rational, and probably more objectively ethical to lie than it would be to stick to the principle. If you happen to be strapped to a chair with a gun to your head, threatened with death unless you admit that you enjoy the taste of chicken (for the purposes of this thought experiment, let's say you absolutely detest the taste of chicken) why on earth would you not lie and say that you like chicken? Let's say you have no regard for your own life, and you'd rather die than be untruthful. What if it were the lives of your loved ones that were threatened instead? Or the lives of one thousand innocent people? In those scenarios, it's quite undeniably unethical to tell the truth.

The third argument against generalism arises from the problem of having more than one absolute principle. This might not be a problem for every generalist; if one only believes in a single moral principle, then we don't have this problem. If one subscribes to Kant's categorical imperative, then we are adhering to one single principle that supersedes all others and may be able to avoid this problem. But if one's ethical framework consists in a set of absolute principles (for example, like The Ten Commandments), then we have a potential problem. Absolute principles cannot conflict, so if you have two absolute principles that conflict, you have to abandon one of them. For example, let's say you follow the principle 'don't lie' but also 'be kind.' What if it is more kind to lie? Which principle trumps the other?

Problems for Particularists

Whilst particularism is a very persuasive position, there are a number of objections generalists can (and have) raised. Here, I present a few objections to moral particularism and my responses to them. The first objection comes from a system of vaguely Kantian ethics; it argues that

to think rationally requires thinking consistently. Of course, definitions of rationality are heavily debated, but it ultimately seems desirable to be rational.⁹¹ To think consistently in cases like the ones we're discussing is to take the same moral feature as indicative of the same moral problem, and therefore worthy of the same moral solution, every time. One should be steadfast in their beliefs and principles; this makes us honest, good, rational human beings. It's necessary to have principles so we can have standards to measure ourselves against whenever faced with a new situation, and this is the epitome of rationality. Generally, we consider it admirable to be staunch in one's beliefs, rather than being wishy-washy or weak-willed. But as demonstrated by the above example about being threatened unless you lie about liking chicken, it makes far more sense to claim that thinking rationally requires thinking *adaptively*. To think adaptively in cases like the ones we're discussing is to consider factors that have some impact upon the outcome of the situation, and modify one's thinking appropriately. To think adaptively is an offshoot of learning, which is defined as modifying one's behaviour based on context and experience. Additionally, adopting particularism doesn't mean that we are giving up on thinking consistently in all fashions. As mentioned before, one of my criteria for a coherent just war theory is consistency. However, I'm referring to the application of our moral reasoning as being consistent. This is distinct from thinking consistently in the way of: "This principle 'do not lie' was the best choice yesterday, so it will necessarily also be the best choice today," which is not desirable. Rather, we want consistency in the way of: "The principle 'do not lie' was the best choice yesterday because I evaluated all relevant moral features the situation deemed it best not to lie. Today, I will evaluate all moral features of the situation the same way to determine whether 'do not lie' is also the best choice today."

⁹¹ One could argue this, but people don't like to be called idiots. For the most part, humans enjoy being thought of as reasonable and clear-headed.

The second objection is that particularism implies we cannot learn from moral experiences. The argument here is that if every ethical decision is a matter of context, we can never use our previous experiences to inform our decisions, since any new situation brings with it an entirely new context that needs to be re-evaluated. But particularism isn't meant to imply that we can't learn from moral experience. We most definitely can. Our moral experiences form part of the context that we are provided with, that we use to make decisions. If an ethical decision is based on context, as I'm arguing it should be, that context incorporates past experiences that may have exhibited similar moral features as a present experience. Context necessarily includes historical precedent; for example, if we were to evaluate an international conflict involving the U.S. and the U.K., we would take into consideration the fact that the two countries have been allies in the past, and see whether that fact has any moral bearing on the situation. This means that we are learning from moral experiences; we are simply using them to help situate new events within a broader context.

Applying Particularism to War and Technology

Moral particularism is particularly pertinent to cases of war due to the overwhelmingly complex nature of inter-state conflict. There are countless nuances to an inter-state conflict, all of which should be evaluated individually. Using blanket rules based on certain features of a conflict results in gross oversimplification. As such a delicate matter, there needs to be utmost clarity in decision-making processes regarding war. Moral particularism allows for an open-ended framework, wherein it can be adapted as technology progresses and new factors confound the nature of modern warfare. In matters of conflict, context is everything. Yes, one can easily argue that this makes things a whole lot harder; isn't the point of coming up with ethical principles so that we don't have to evaluate every factor in a decision-making process? Perhaps, and there may be some cases where

moral generalism is in fact, a productive and reasonable decision-making process. However, in matters of conflict, especially inter-state conflict, where countless lives are at stake, we ought to sacrifice the 'easy' solution in favour of the more accurate one. I cannot stress enough how important it is that we evaluate situations of war as carefully and completely as possible, but I recognise that doing so whilst adhering to any kind of morals is exceedingly difficult, simply due to the random, context-sensitive nature of conflict. In such large-scale altercations, minute details can have massive influences on how we view the situation. However, in any case, there exist factors that we can pinpoint that guide us to a moral conclusion. For example, the presence of genocide is a moral feature we can observe and quite definitively label as 'bad,' although I will concede that someone may be able to come up with an extremely niche case where wouldn't be so sure (however, I cannot think of one). Logic would tell us that - at the very least - there's a decent chance the perpetrator of said genocide is behaving immorally. One would then evaluate other moral features of the situation, like the fact that the perpetrator of the genocide has a history of implementing policies that harm low-income populations - another indicator that this individual, whoever he is, is bad.

The following is an example to see how moral particularism would help guide our decision-making processes, while moral generalism would fail us.

King Mara is plotting to attack King Gabrielle's state in a coup, and has been planning to do so for a while. This is because King Gabrielle's monarchy is performing ethnic cleansing on select populations in the state. King Gabrielle's monarchy has exhibited no aggression towards King Mara's state; they have historically maintained an amicable relationship. There is no precedent of animosity between these two states. The only reason King Mara is aware of the crimes being committed in King Gabrielle's state is because King Mara has been sending drones into King

Gabrielle's state for six months for surveillance purposes, unbeknownst to King Gabrielle. Now, we are faced with a number of moral questions, and it's unclear what the moral cause is here.

Obviously, King Gabrielle is morally culpable; ethnic cleansing is probably⁹² never acceptable. We must ask ourselves, is King Mara adhering to just war principles? The only reason we are aware of the fact that King Gabrielle is performing ethnic cleansing is due to King Mara violating the principle of territorial integrity and sending in surveillance drones. If we were not privy to that fact, it would appear that King Mara was launching an undue act of aggression and violating territorial integrity for no good reason, violating the principle of just cause. The knowledge that absolves King Mara of being labelled as unduly aggressive is built on the fact that Mara launched unauthorized surveillance drones that *did* violate territorial integrity. If we were to apply the absolute principle of just cause to this situation, Mara would be completely in the wrong. But context changes that completely. Furthermore, that context was derived as a result of the violation of another absolute principle. But because of the nature of the crimes being committed, we are probably willing to forgive Mara for violating territorial integrity. Taking a particularist view, as opposed to a generalist view, stops us from drawing a conclusion that conflicts with absolute principles. We can take the particularist position and outline the morally salient features in this case, leading us to make a decision that doesn't directly contradict any previously stipulated absolute principles. So if we were to conclude that King Mara acted in a morally acceptable way in this case, we could cite the morally relevant feature of King Gabrielle performing ethnic cleansing as a way to circumvent the fact that King Mara had acted unjustly in launching what appears to be an undue act of aggression. But this doesn't ignore what Mara did. Rather, it acknowledges it but disregards it in favour of the more

⁹²Again, I say probably because I'm sure there's someone out there who can come up with some obscure example in which ethnic cleansing would exhibit some shade of moral acceptance. But not in this case.

important morally relevant feature. Whereas, if we were maintaining a generalist view, we would have to morally implicate King Mara, because regardless of what Gabrielle was doing, Mara *did* violate territorial integrity and didn't have any apparent just cause. We are left to make the conclusion that in this case, territorial integrity is less morally relevant than the genocide taking place, and Mara's supposedly unprompted act of aggression is in fact, prompted and perhaps necessary.

Adopting a particularist view in this case allows us to fulfill the three criteria I mentioned back in Chapter I: adaptability, defensibility, and consistency. Using particularism, we were able to *adapt* our thinking to the complexities of the situation, acknowledging the espionage that took place. We have noted how the morally relevant feature of Mara violating territorial integrity was modified in terms of its importance when juxtaposed with the morally relevant feature of Gabrielle committing ethnic cleansing. We were able to make a *defensible* moral conclusion, by not ignoring the moral breach that King Mara committed, but rather by acknowledging its existence but disregarding it in favour of more important morally relevant features of the case, but are still factored into the moral equation. We simply have measured all these features and determined which ones are more important in this case. And our decision is *consistent* if we have been applying our reasoning in the same way in other cases of this type. Let's say the situation is a little bit different and Gabrielle wasn't doing anything wrong. Instead, Mara was trying to find out how she could exploit Gabrielle's natural resources. Now, the moral feature of drones violating territorial integrity makes a much bigger difference, because it is not outweighed by the feature of genocide.

Particularism is particularly suited to evaluating ethical decisions that involve technology, owing to technology's explosive growth that shows no signs of stopping. Especially in the 21st

century, new technology is being rolled out at unprecedented speeds. Therefore, it is vital that we have an ethical framework capable of molding and accommodating innovations that have no moral precedent. This is where the key criteria of adaptability and consistency are of utmost importance. While they may seem inherently at odds, incorporating both of these qualities is the best way to sure that we are reasonably accommodating technological innovation.

Conclusion

This chapter has aimed to prove that moral particularism is the best moral framework through which we can evaluate principles of war. It fulfills the three criteria I have previously outlined: defensibility, adaptability, and consistency. Particularism is defensible because it doesn't operate under any illusions about the intent of state actors, but can use factors such as the intent of state actors to guide a more accurate moral view. It's adaptable as it demonstrates its ability to change depending on the uniqueness of the situation. And it's consistent because it doesn't require us to abandon moral principles in favour of others, but rather we use the same process of reasoning - evaluating all relevant moral features of the situation and weighing them against each other. This is the best way to evaluate war an account for technological developments in war.

THE FUTURE

There's so much more to talk about. The prospect of what the future holds technologically is both incredibly exciting and absolutely terrifying. Humans have long been fascinated by the notion of both dystopian and utopian futures where technology forms the crux of human development. As artificial intelligence continues to progress, will we see the introduction of AIs to the battlefield? If so, in what form? As sentient, killer robots a la *Blade Runner*, or simply as drones that evaluate and deploy missiles without any input from a human operator? Perhaps George Lucas' visions will soon become a reality and we'll take the fight into space, especially as space travel continues along the trajectory of commercialisation. We've barely scratched the surface of all that technology has contributed to the nature of modern warfare. Social media as a cyberweapon could have had an entire chapter to itself, and I didn't even mention the possibility of biowarfare. Maybe at some point I'll have the time and opportunity to discuss those topics too. But the important thing is that we have at least a vague idea of how to deal with the moral curveballs thrown at us by technological progress. Hopefully, you have that.

We started this thesis with an introduction to just war theory, from its earliest forms to its current shape today, and I outlined three criteria - defensibility, adaptability, and consistency - explaining how just war theory doesn't yet fulfill them because it focuses on absolute principles and generalism. Then, we discussed the domestic analogy and its shortcomings. Trying to force global conflicts into the domestic analogy results in ignoring many important confounding factors of the situation, resulting in an inaccurate view that does nothing to help us make moral judgments. The next two chapters discussed cyberwarfare and drones. Cyberwarfare introduces an entirely new realm of combat to the sphere of international conflict. I mentioned a number of problems it poses,

including the difficulty to distinguish between combatants and non-combatants, the difficulty in determining the source of cyberattacks, and the equalizing property that cyberwarfare creates as the internet is accessible to almost anyone. In Chapter IV, I discussed how the introduction of drones to the battlefield has resulted in irrevocable changes to the nature of warfare and our judgments about it. In particular, drones convolute and perhaps even destroy the principle of necessity, since there is no clear way of knowing whether drones are being operated ethically. I also mentioned The Drone Myth - the belief that technologically advanced drones increase the probability of success while decreasing the risk to our soldiers and of collateral damage. We have since realised that what aspects of drone theory actually translate to the battlefield. Finally, I elaborated upon the concept of moral particularism as the best moral framework to evaluate war in Chapter V. Moral particularism is a framework that emphasises situational analysis and embraces the variability of highly complex situations, such as war. It evaluates the moral features of a situation, rather than attempting to apply moral principles. This framework allows us to maintain an ethical viewpoint while avoiding the pitfalls of generalism.

Very few things are ever universally agreed upon, especially in the realm of ethics. We will never finish the chapter on ethics, because there's always more to talk about. I know many people who love to argue that ethics are irrelevant or unnecessary, because there's simply no point - no one follows them anyway. But this view doesn't give humanity enough credit. Yes, the world can seem incredibly bleak and it can be difficult to place faith in almost anything these days. But humankind is capable of so many wonderful things - generosity, creativity, innovation. As I said at the beginning of this thesis, we owe it to each other to keep the faith, because there's still something left at the core of humankind that implores us to act honourably, care deeply, and think ethically. It may seem

romantic, but when else does the time call for a little optimism, if not when the world seems so cruelly unforgiving?

BIBLIOGRAPHY

Ackerman, Spencer. "Inside Obama's drone panopticon: a secret machine with no accountability."

The Guardian, April 25, 2015.

<https://www.theguardian.com/us-news/2015/apr/25/us-drone-program-secrecy-scrutiny-signature-strikes>.

Aquinas, Saint Thomas. *Summa Theologica*. Translated by Fathers of the English Dominican Province.

Cincinnati: Benziger Bros., 1947.

Aristotle, *Nicomachean Ethics*. Translated by W. D. Ross. *The Internet Classics Archive*, 2009.

<http://classics.mit.edu//Aristotle/nicomachaen.html>.

Aristotle, *Politics*. Translated by Benjamin Jowett. Kitchener: Batoche Books, 1999.

Bentham, Jeremy. "Proposal for a New and Less Expensive Mode of Employing and Reforming

Convicts." *The Works of Jeremy Bentham*. New York: Russell & Russell, 1962.

Bull, Hedley. "Society and Anarchy in International Relations." In *International Theory: Critical*

Investigations, edited by James Der Derian, 75-93. London: Palgrave Macmillan, 1995.

Brunstetter, Daniel and Megan Braun. "The Implications of Drones on the Just War Tradition."

Ethics & International Affairs 25, no. 3 (2011): 337-358. DOI: 10.1017/S089267941100281.

Chamayou, Gregoire. *A Theory of the Drone*. Translated by Janet Lloyd. New York: The New Press,

2015.

Clayton, Mark. "The new cyber arms race." *The Christian Science Monitor*, March 7, 2011.

<https://www.csmonitor.com/USA/Military/2011/0307/The-new-cyber-arms-race>.

"Cybercrime Legislation Worldwide." *United Nations Conference on Trade and Development*, 27 March,

2019.

https://unctad.org/en/Pages/DTL/STI_and_ICTs/ICT4D-Legislation/eCom-Cybercrime-Laws.aspx.

Dancy, Jonathan. *Moral Reasons*. Hoboken: Blackwell, 1993.

Dipert, Randall R. "The Ethics of Cyberwarfare." *Journal of Military Ethics* 9, no. 4 (2010): 384-410.

DOI: <http://dx.doi.org/10.1080/15027570.2010.536404>.

Finlay, Christopher K. "Just War, Cyber War, and the Concept of Violence." *Philosophy & Technology*

31, no. 3 (2018): 357-377. DOI: <https://doi.org/10.1007/s13347-017-0299-6>.

Gates, Guilbert. "How a Secret Cyberwar Program Worked." *The New York Times*, 2012.

<https://archive.nytimes.com/www.nytimes.com/interactive/2012/06/01/world/middleeast/how-a-secret-cyberwar-program-worked.html?module=inline>.

Godehardt, Nadine. "The Chinese Meaning of Just War and Its Impact on the Foreign Policy of the

People's Republic of China." *German Institute of Global and Area Studies*, no. 88 (2008).

<https://core.ac.uk/download/pdf/6862967.pdf>.

Hersh, Seymour M. "Torture at Abu Ghraib." *The New Yorker*, April 30, 2004.

<https://www.newyorker.com/magazine/2004/05/10/torture-at-abu-ghraib>.

Kaspersky, Eugene. "The Man Who Found Stuxnet - Sergey Ulasen in the Spotlight." *Nota Bene:*

Eugene Kaspersky's Official Blog. November 2, 2011.

<https://eugene.kaspersky.com/2011/11/02/the-man-who-found-stuxnet-sergey-ulasen-in-the-spotlight>.

Lindsay, Jon R. "Stuxnet and the Limits of Cyber Warfare." *Security Studies*, no. 22 (2013): 365-404.

DOI: 10.1080/09636412.2013.816122.

Lo, Ping-cheung. "The 'Art of War' Corpus and Chinese Just War Ethics Past and Present." *The Journal of Religious Ethics* 40, no. 3 (2012): 404-446. DOI: 10.1111/j.1467-9795.2012.00530.x.

Luban, David. "Just War and Human Rights." *Philosophy & Public Affairs* 9, no. 2 (1980): 160-181.
https://www.jstor.org/stable/2265110#metadata_info_tab_contents.

Mackenzie, Heather. "Shamoon Malware and SCADA Security - What are the Impacts?" *Tofino Security*, October 25, 2012.
<https://www.tofinosecurity.com/blog/shamoon-malware-and-scada-security-%E2%80%93-what-are-impacts>.

McMahan, Jeff. "The Ethics of Killing In War." *Ethics* 114, no. 4 (2004): 693-733. DOI: 10.1086/422400.

Mellow, David. "Iraq: A Morally Justified Resort to War." *Journal of Applied Philosophy* 23, no. 3 (2006): 293-310.
https://www.jstor.org/stable/24355178?seq=1#metadata_info_tab_contents.

Moseley, Alexander. "Just War Theory." *Internet Encyclopedia of Philosophy*, n.d.
<https://www.iep.utm.edu/justwar>.

"The Mystery of Duqu 2.0: a sophisticated cyberespionage actor returns." *Kaspersky Lab*, June 10, 2015.
<https://securelist.com/the-mystery-of-duqu-2-0-a-sophisticated-cyberespionage-actor-returns/70504/>.

Rynne, Terrence. "Why is the Catholic church moving away from just war theory?" *National Catholic Reporter*, April 9, 2016.

<https://www.ncronline.org/news/world/why-catholic-church-moving-away-just-war-theory>

Sanger, David E. "Obama Order Sped Up Wave of Cyberattacks Against Iran." *The New York Times*, June 1, 2012.

<https://www.nytimes.com/2012/06/01/world/middleeast/obama-ordered-wave-of-cyberattacks-against-iran.html>.

Schulze, Elizabeth. "History shows the US-UK special relationship is increasingly one-sided."

CNBC, July 13, 2018.

<https://www.cNBC.com/2018/07/12/trump-in-uk-history-shows-the-us-uk-special-relationship-is-increasing.html>.

Schulzke, Marcus. *The Morality of Dronewarfare and the Politics of Regulation*. London: Palgrave

Macmillan, 2017. DOI: 10.1057/978-1-137-53380-7.

Shane, Scott and Mark Mazzetti. "The Plot to Subvert an Election: Unraveling the Russia Story So Far." *The New York Times*, September 20, 2018.

<https://www.nytimes.com/interactive/2018/09/20/us/politics/russia-interference-election-trump-clinton.html>.

Thomson, Judith Jarvis. "A defense of abortion." *Philosophy and Public Affairs* 1, no. 1 (1971): 47-66.

<https://www.jstor.org/stable/2265091>.

Walzer, Michael. *Just and Unjust Wars: A Moral Argument With Historical Illustrations*, 3rd ed. New York: Basic Books, 2000.

Zenko, Micah. "Do Not Believe the U.S. Government's Official Numbers on Drone Strike Civilian Casualties." *Foreign Policy*, July 5, 2016.

<https://foreignpolicy.com/2016/07/05/do-not-believe-the-u-s-governments-official-numbers-on-drone-strike-civilian-casualties>.

Zetter, Kim. "Meet 'Flame', The Massive Spy Malware Infiltrating Iranian Computers." *Wired*, May 28, 2012. <https://www.wired.com/2012/05/flame>.