

Soldiers, Self-Defense, and Killing in War

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(Abstract)

Just-Warists and War-Pacifists disagree on whether soldiers are morally justified in killing each other in wartime combat. Many of their respective arguments, and their contradictory conclusions, are based upon principles of self-defense. In this thesis, I examine the role that principles of self-defense play in the arguments surrounding the moral justification of killing in combat. I do so by critiquing both a Just-Warist argument that relies on self-defense (constructed from the works of Michael Walzer and Judith Jarvis Thomson) and a War-Pacifist argument (developed by Richard Norman) that condemns killing in combat based on the moral requirements of self-defense. I demonstrate that both arguments fail due to their mistaken assumptions that soldiers are not morally responsible for their actions. I conclude by arguing that--once soldiers are recognized as morally responsible agents--killing in combat can be morally justified by principles of self-defense.

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Introduction.

The morality of soldiers' killing each other in wartime combat is a disputed issue.¹ There are two opposite--yet equally reasonable--approaches that are used to evaluate the problem. One approach focuses on the fact that the killing is *wartime*, that it occurs within the context of a war. This perspective recognizes that without a war, soldiers would not kill each other. A second approach focuses on the fact that soldiers *kill* other human beings. This perspective relies on the realization that, without soldiers' active participation, declarations of war alone would not kill anyone. In recognizing these two approaches, however, we see also that any attempt to definitively judge the morality of wartime killing must first decide whether (and if so, how) the context of war affects the moral justification of individual actions.

Adherents to these differing approaches reach contradictory conclusions regarding the morality of killing in combat. Those who treat 'the context of war' as morally significant are Just-Warists.² Just-Warists conclude that individual soldiers are morally justified in killing in combat because, in their contextual role as soldiers, they are acting as mere agents of their respective states. Thus, Just-Warists argue that individual acts of killing in combat are morally justified as long as they are directed at the threatening agents of an enemy state. In contrast, those who deny that war creates a special moral condition that abrogates a soldier's individual moral agency tend to be War-Pacifists.³ War-Pacifists conclude that almost all soldiers who kill in combat are morally unjustified in doing so because their actions do not meet the rigorous conditions for justifiably killing another human being.⁴

¹ I use the term 'soldiers' to refer to all uniformed combatants.

² This term is not common in the literature, but I borrow it from Duane L. Cady, who uses it in *From Warism to Pacifism* (Philadelphia, Temple University Press, 1989). It is simpler than referring to 'just war theorists.'

³ Sometimes also called anti-war pacifists. I borrow my use of the term from David Carroll Cochran's "War-Pacifism", *Social Theory and Practice*, Vol. 22, No.2 (Summer 1996).

⁴ This is not the sole line of argument used by War-Pacifists. Another influential War-Pacifist approach, developed by Robert L. Holmes in *On War and Morality* (Princeton, NJ: Princeton University Press, 1989), is that war is morally unjustified because it foreseeably kills innocent (non-soldier) persons. In this thesis, I address only the War-Pacifist argument that focuses on the claim that the killing of soldiers is not justified by the principle of self-defense.

Remarkably, the Just-Warists and the War-Pacifists base their contradictory approaches and conclusions on the same moral principle--self-defense. The former argue that states enjoy the same right to kill in self-defense that individuals possess. Therefore, agents of states (i.e., soldiers) can justifiably kill, in self-defense, those who threaten their state's rights. The latter contend that the doctrine of self-defense forbids soldiers from killing in combat in nearly all circumstances. They argue that nearly all soldiers are not sufficiently responsible for the threat they pose to be justifiably killed in self-defense for their actions. The 'Principle of Self-Defense', then, serves as the justificatory basis of contradictory conclusions regarding the morality of killing in wartime combat. How can this be?

In this thesis, I will investigate the role that the 'Principle of Self-Defense' plays in the rival arguments. I will consider how the rival approaches employ self-defense--what account they give of it, and how they apply it to soldiers in war. I will identify where, how, and why the respective accounts and applications of self-defense differ in order to explain the contradictory moral conclusions. I will then be in a position to evaluate each of the approaches to determine whether, and if so, why, killing in war is morally justified.

The Just-Warists and the War-Pacifists claim to base their respective approaches on the right of self-defense. Their arguments--and any other argument that purports to make a moral claim about killing in combat based on the individual right to kill in self-defense-- must address both elements of their claims. They must offer an account of why and when killing in individual self-defense is morally justified, and they must apply that account to the circumstances of warfare. To evaluate the relative merits of the Just-Warist and War-Pacifist approaches, then, I will compare both their respective accounts of the individual right of self-defense and their applications of that right to soldiers in combat.

Before proceeding, I must clarify one point of terminology that has great implications for my methodology in this thesis. The term 'Principle of Self-Defense' is a misnomer. In fact, there is

no agreed upon ‘principle’ that outlines why and under what conditions killing in self-defense is morally justified. If there were such a consensus, then the contradictory conclusions of the Just-Warists and War-Pacifists could be explained solely by reference to their respective applications of that unified account to warfare. But, alas, there exists no such consensus.⁵ There are, instead, numerous ‘theories’ of self-defense, many of which utilize their own principles and terms. This, in turn, makes it difficult to compare different accounts of self-defense. In order to create a framework for comparison, then, I reviewed the philosophical literature on self-defense and catalogued all of the morally relevant factors utilized in the arguments. The factors are as follows: the lethality of the threat, the value that is actually threatened, the epistemic limitations of the persons involved, a person’s causal role in the threat, the remoteness (temporal or logical) of a person’s causal role, the intent, responsibility, and moral culpability of an attacker, the viable options available to a victim, the amount of force that a victim can morally employ, and the level of harm or risk of harm that a victim can justifiably impose on a bystander in the course of self-defense. From this ‘laundry list’ of factors, I identified three, more general, features that conceptually incorporate the many particular factors that are morally relevant to the justification of killing in self-defense. The three general features are: the attacker’s causal role in a threatened outcome, the attacker’s moral culpability for his role in that threat, and the constraints on the victim’s exercise of lethal defensive force. Accordingly, I will analyze the Just-Warist and War-Pacifist accounts of self-defense in terms of these three features.

In Chapter I of this thesis, I examine and critique the role that self-defense plays in a Just-Warist justification of killing in combat. Because I have found no single Just-Warist argument that explicitly lays out and articulates the linkage between the individual right of self-defense and the

⁵ For philosophical discussions of the morality of self-defense, see: Cheney C. Ryan, “Self-Defense, Pacifism, and the Possibility of Killing,” *Ethics* 93 (April 1983):508-524; David Wasserman, “Justifying Self-Defense,” *Philosophy and Public Affairs* 16, No. 4 (Fall 1987): 356-378; Phillip Montague, “The Morality of Self-Defense: A Reply to Wasserman,” *Philosophy and Public Affairs* 18, No. 1 (Winter 1989): 81-89; Judith Jarvis Thomson, “Self-Defense,” *Philosophy and Public Affairs* 20, No. 4 (Fall 1991): 283-310; Larry Alexander, “Self-Defense, Justification, and Excuse,” *Philosophy and Public Affairs* 22, No. 1 (Winter 1993): 53-66; Suemas Miller, “Killing in Self-Defense,” *Public Affairs Quarterly*, Vol. 7, No. 4 (October 1993): 325-339; Jeff McMahan, “Self-Defense and the Problem of the Innocent Attacker,” *Ethics* 104 (January 1994):252-290; Michael Otsuka, “Killing the Innocent in Self-Defense,” *Philosophy and Public Affairs* 23, No. 1(Winter 1994): 74-94.

justification of wartime killing, I construct such an account. To do so, I borrow from the arguments of two prominent philosophers, Michael Walzer and Judith Jarvis Thomson. In *Just and Unjust Wars*,⁶ Walzer puts forth a Just-Warist explanation of how the right of self-defense applies to soldiers in combat. In "Self-Defense,"⁷ Judith Jarvis Thomson proposes an account of justified killing in individual self-defense. Although the two rights-based accounts were developed independently, there is good reason to believe that their conceptual consistency is more than coincidental.⁸ In any case, I demonstrate that Thomson's account of individual self-defense and Walzer's application of self-defense to warfare are sufficiently similar to utilize them in constructing a single Just-Warist argument for the moral justification of killing in combat.⁹

In Chapter II, I examine and critique the role that self-defense plays in a War-Pacifist justification of killing in combat. I base my examination on the argument that Richard Norman presents in *Ethics, Killing, and War*,¹⁰ in which Norman articulates both components of the argument--first outlining an account of self-defense and then applying it to soldiers in war. Because, however, Norman does not address all of the morally relevant factors that I am using to compare the approaches, I will augment his argument with selected elements from other accounts of War-Pacifism. My goal in this chapter is not simply to present Norman's argument for the moral impermissibility of killing in combat, but rather to give a complete account of that particular War-Pacifist line of argument.

In Chapter III, I investigate the shortcomings in the Just-Warist and War-Pacifist arguments that have been exposed in the first two chapters. I find that both arguments rely on a common,

⁶ Michael Walzer, *Just and Unjust Wars* (New York, Basic Books, 1977). Hereafter referred to as *JUW*.

⁷ Judith Jarvis Thomson, "Self-Defense," *Philosophy and Public Affairs*, Vol. 20, No. 4 (Fall 1991): 283-310.

⁸ Thomson is the first philosopher that Walzer thanks in *JUW*'s acknowledgments, writing "I am especially grateful to Judith Jarvis Thomson, who read the entire manuscript and made many valuable suggestions." Thomson, in kind, notes Walzer's "very attractive" distinction between combatants and noncombatants ("Self-Defense," fn. 11, p. 297.) Finally, in the course of her argument Thomson takes for granted that wartime strategic bombing can be morally permissible (p. 297-8). This clearly identifies her as a Just-Warist.

⁹ I am not claiming that Thomson's account of self-defense is the *only* account that can support Walzer's argument, but I do think that it provides *an* account that is consistent with Walzer's argument and employs the same rights-based terms and explanations.

¹⁰ Richard Norman, *Ethics, Killing, and War* (NY: Cambridge, 1995)

inaccurate assumption. By correcting their false assumption, I am able to construct an argument for the moral justification of killing in combat that is based on a morally tenable account of self-defense and is applicable to the wartime actions of soldiers.

Interestingly, this thesis is analogous to the phenomenon it addresses. As the sixteenth-century theologian and Just War theorist Francisco de Victoria pointed out, in a war at most one side is morally justified. Never can both sides be right. The same holds true for the ‘war of ideas’ that occurs in this thesis. The Just-Warists and War-Pacifists may both be misguided in their arguments, or one of the rival approaches may be right, but the fact remains that they cannot both be right.

“War is,” as Walzer famously put it, “the hardest place.”¹¹ It is, I suspect, for that reason that we are tempted to content ourselves with the dual conclusions that war is morally justified but killing is morally unjustified. But, as Noam J. Zohar has pointed out, “it is morally obtuse to offer an answer to the question ‘When may we fight the enemy state?’ without also focusing explicitly on the question ‘How can we kill all these (enemy) persons?’”¹² The unavoidable fact is that war can only be justified if the killing that occurs within war is justified. In this thesis, I set out to investigate that justification.

¹¹ Walzer, p. xvii. Walzer was not content. He was determined to show that “comprehensive and consistent moral judgments are possible there” (xvii) in order “to recapture the just war for political and moral theory” (xiv).

¹² Noam J. Zohar, “Collective War and Individualistic Ethics”, *Political Theory* (November 1996) p. 606.

Chapter I: Self-Defense and Just-Warism

Just-Warism is not so much a doctrine as a tradition, an evolving body of individual principles that have as their purpose the justification and limitation of war.¹³ Over the past fifteen hundred years, Just-Warism has undergone constant, almost circular, change. The Christian philosophers Augustine and Aquinas established the building blocks of Just-Warism, emphasizing the Christian's duty to protect the innocent and the King's unique God-given obligation to protect his people. In the sixteenth and seventeenth centuries, theorists such as Victoria, Vattel, and Grotius brought about the secularization of Just-Warism, grounding it in international law. They also changed its emphasis, focusing its principles on justifying offensive wars. By the late nineteenth century, however, the secularized version of Just-Warism had devolved into political realism, and the flag-bearer of Just-Warism was again the Catholic Church. Now, as we approach the end of the twentieth century, Just-Warism is increasingly expressed in secular terms and as a defensive doctrine. Throughout its history, then, the theoretical foundation of Just-Warism has ostensibly changed -- from Christian love, to sovereign duty, to natural rights, to, currently, human rights. Often overlooked, however, is what underlies all of these conceptual foundations -- the individual right of self-defense. Without this right, neither the Christian, the sovereign, nor the fellow human being would have any duty to others. As Jenny Teichman has observed, "If there is no right of self-defense there can be no sound theory of justice in war."¹⁴

In this chapter, I examine and critique the role that self-defense plays in contemporary Just-Warist thinking. I construct an account based on the contemporary Just-Warist principles outlined in Michael Walzer's *Just and Unjust Wars* and on the justification for killing in self-defense developed by Judith Jarvis Thomson. My account demonstrates that the Just-Warist justification for killing in combat does indeed follow from a no-fault, rights-based account of justified killing in

¹³ James Turner Johnson, *Can Modern War Be Just?* (New Haven, CT: Yale, 1984), pp. 12-13.

¹⁴ Jenny Teichman, *Pacifism and the Just War* (NY: Basil Blackwell, 1986): p. 69.

individual self-defense, but that such an account of self-defense is morally indefensible.¹⁵

Consequently, I conclude that the Just-Warist justification for killing in combat that is based upon a no-fault account of self-defense is morally inadequate.

1.1. Walzer's Account of Justified Wartime Killing

Michael Walzer argues that the individual acts of killing that occur in combat are morally justified by the collective right of self-defense. He dismisses the idea that soldiers require an individual moral justification for killing other soldiers in war. Instead, he holds that all soldiers act merely as constrained agents of their respective warring states. Still, Walzer's collectivization of soldiers' agency does not lead him to dismiss the moral importance of principles of individual self-defense. In fact, his argument is based upon the individual moral right to kill in self-defense.

The way that Walzer relates the right to kill in self-defense to the moral justification for killing in combat is complex. He begins by assuming that all persons possess the rights to life and liberty. He then asserts that communities of people, such as states, possess those same rights in virtue of the rights of their members, and that the collective analogues of those rights for states are territorial integrity and political sovereignty. He therefore concludes that a state is justified in defending its territory and sovereignty in the same way that an individual person is justified in defending her life and liberty. Walzer, however, notes an important distinction between the defense of individual and collective rights. Whereas individuals can use forceful non-lethal measures to resist minor violations of their rights, states often do not have that luxury. When states forcibly defend their rights, their citizen-soldiers usually get killed, which presumably violates those citizens' rights. This, in turn, presents a challenge to the very concept of collective self-defense. For, if states derive their rights from the rights of their citizens, yet their citizens' rights are violated in the course of defending their states' rights, then it appears that the violation of individual rights would undermine the legitimacy of exercising collective rights. Walzer counters this problem by giving an account of why the killing of citizen-soldiers in combat is not a

¹⁵ Walzer's argument could also be supported by a low-threshold fault, rights-based account of self-defense.

violation of their rights. He does this by arguing that individuals' collective roles as soldiers cause them to lose their individual rights to life, so that their deaths are not a violation of rights. In this way, Walzer is able to hold that the right to kill in self-defense directly justifies a nation's recourse to war and indirectly sanctions the killing that occurs within the war.

Walzer begins his argument by deriving states' rights from individual rights. He regards individual "life and liberty as something like absolute values"¹⁶ which, whether natural or invented, are indisputably "a palpable feature of our moral world."¹⁷ He then argues that the common life shared by members of a political community bestows on states the collective form of their rights, so that states possess rights "more or less as individuals do."¹⁸ Moreover, Walzer holds that all rights-holders are justified in resisting violations of their rights. Just as persons have the right to forcefully defend their individual life and liberty, states have the right to wage war to defend their territorial integrity and political sovereignty. Says Walzer, "it makes sense to say that territorial integrity and political sovereignty can be defended in exactly the same way as individual life and liberty."¹⁹

Walzer then develops an account of collective self-defense that addresses each of the three general features of an account of self-defense. Material non-innocence--the attacker's causal role in a threatening outcome--incorporates two particular factors--*what value* is threatened and *who causes* that threat. Walzer is very clear about *what* must be threatened to justify resort to war. "The defense of rights is the only reason for fighting."²⁰ He states that engaging in war is morally justified only in defense against aggression, which he defines as "every violation of the territorial integrity or political sovereignty of an independent state."²¹ He holds that all aggressive acts justify forceful resistance. They need not threaten a war of annihilation or total annexation. Walzer draws the line at the geographical borders of states, because "rights in this world have

¹⁶ Walzer, xvi.

¹⁷ Ibid., p. 54.

¹⁸ Ibid., p. 58.

¹⁹ Ibid., p. 54.

²⁰ Ibid., p. 72.

²¹ Ibid., p. 52.

value only if they also have dimension.”²² Although he acknowledges that this is a somewhat arbitrary distinction, he defends his position by arguing that “the right of a nation or a people not to be invaded derives from the common life its members have made on this piece of land--it had to be made somewhere.”²³ He likens the situation to that of a tenant, who “has certain rights in his home, even if he doesn’t own it, because neither his life nor his liberty is secure unless there exists some physical space within which he is safe from intrusion.”²⁴

The second factor of material non-innocence--‘*who* threatens’--addresses the causal role that a person must play to be liable to self-defensive force. Walzer holds that any state that violates or threatens imminently to violate another state’s rights of territorial integrity or political sovereignty is subject to face justified, forceful resistance. The action must be intended to harm the defending nation in order to constitute a violation of its rights. In international affairs, he suggests that intent is conveyed either by a declaration of war or by actual participation in acts of war. Walzer sets a high threshold for intent by participation. For example, he argues that a self-declared neutral country which continues to provide an aggressor state with pre-war levels of raw materials for war materiel via the normal means of commerce does not thereby become implicated in the aggression, even if the material is critical to the conduct of the aggressive war.²⁵ Because the material had been traded prior to the war, its continued trade cannot be considered to be an act of war. To be ‘materially non-innocent’, a state must be actively involved in the war effort.

Walzer’s account of states’ collective rights to wage war gives little weight to the second general feature--the attacker’s moral culpability. Walzer contends merely that a state that forces a war by either violating or threatening to imminently violate the rights of another state is responsible for causing the war, and is thus a “criminal state.” The account essentially reduces the moral to the material, in two respects. First, Walzer does not consider the possibility of determining an

²² Ibid., p. 58.

²³ Ibid., p. 55.

²⁴ Ibid., p. 55.

²⁵ Walzer uses the trade of iron ore from Sweden to Germany in World War II as an example. Because Sweden declared its neutrality and maintained its pre-war levels of commerce, Walzer argues that the British navy should not have blockaded it.

aggressor state's 'relative criminality' that would be a function of, say, the degree to which its aggression reflected its citizens' will. He asserts that (nearly) all states reflect the political community that their members have chosen, and that therefore outsiders should not pass judgment on their legitimacy.²⁶ In this way, he holds that states should be judged for their actions rather than by the processes that gave rise to their actions. Second, Walzer's argues that states' rights are nearly absolute. He contends that an aggressor state can be resisted such that the losses incurred by its victim can be restored, but he also maintains that an aggressor state's actions do not forfeit its rights. This is significant because the feature of moral culpability in individual accounts of self-defense is usually employed to explain how and why an aggressor forfeits his rights. Because, then, Walzer's account of collective self-defense lacks a way of evaluating relative criminality and rejects the concept of forfeiting rights, it is fair to say that Walzer makes no meaningful use of moral culpability.²⁷

The third general feature of accounts of self-defense involves the options that a victim can justifiably exercise in the course of defending herself, especially in terms of harming bystanders. In justifications of war, this corresponds to a state's treatment of neutral states. Walzer argues that states at war are not justified in attacking neutral states in order to gain an advantage. "The coerciveness of war can never willfully be extended beyond the limits fixed by the material causes of the conflict and the military organization of the states involved."²⁸ Neutral states have not violated any other state's rights, so there is no justification for 'resisting' them with military force.²⁹ Walzer directly links the treatment of neutral states to his account of individual self-defense. He comments that "a man fighting in self-defense...is barred from attacking or injuring

²⁶ Michael Walzer, "The Moral Standing of States," in *International Ethics*, ed. Beitz, et al., (Princeton, NJ: Princeton, 1985), p. 222.

²⁷ Walzer does refer to a state's intentions (e.g., declarations of war or neutrality), and a person's intentions are generally considered to be a factor in her moral culpability. Still, this aspect alone does not demonstrate that state's are morally culpable. Instead, it merely indicates that states, unlike persons, cannot act unintentionally.

²⁸ *Ibid.*, p. 237.

²⁹ Walzer does develop an exception to this rule. Under certain conditions, which he terms a "supreme emergency," Walzer argues that a state can legitimately violate a neutral state's rights. A state faces a supreme emergency when both of the following two conditions apply: 1) Its very existence is at stake, and 2) the violation of a neutral state's rights is militarily necessary to defend its existence. I do not think that Walzer holds that there is a corresponding individual right. If he did, then his account of individual self-defense would be Hobbesian, and

innocent bystanders or third parties.”³⁰ Given Walzer’s description of neutral states, an innocent bystander must be someone who is not materially involved in the threat to the victim.

Walzer’s account of the right of states to defend themselves serves as the conceptual bridge that links the individual right of self-defense and the soldier’s justification for killing in war. Because Walzer holds that collective rights are based upon individual rights, we are able to infer from his account of states’ rights the general features that a Just-Warist account of individual self-defense would endorse. Based on the preceding analysis of states’ rights, then, we can infer a foundational account of self-defense in which an attacker’s active participation in a threat that violates another person’s rights to life or liberty justifies the victim’s lethal resistance. Walzer does not indicate that he considers an attacker’s moral culpability to be a factor in justifying lethal force. Instead, he suggests that it is an attacker’s causal role in a threat to a victim’s rights that justify self-defensive actions. Moreover, Walzer seems to hold that those who are not materially involved in a threat—bystanders—must not be harmed in the course of self-defense.

Walzer, however, applies this account of self-defense only to the actions of warring states, and not to the actions of the soldiers who actually fight the wars. In fact, Walzer does not think that soldiers in war require any moral justification at all for their actions, because he does not consider them to be moral agents independent of their state. He argues that the agency of a person is “nationalized” when he becomes a soldier.³¹ Soldiers, says Walzer, “are political instruments, they obey orders, and the practice of war is shaped at a higher level.”³² Therefore, he holds that “war itself isn’t a relation between persons but between political entities and their human instruments.”³³

that would be inconsistent with the rest of his account.

³⁰ Ibid., p. 137.

³¹ Ibid., p. 35.

³² Ibid., p. 29.

³³ Ibid., p. 36.

Walzer's contention that soldiers are not morally responsible for killing within war does not lead him to adopt a philosophy that justifies total war. Keep in mind that Walzer has argued both that states have a right to conduct wars in self-defense and that states embody their citizens, so it seems that he could plausibly conclude that all citizens of warring states are fair game in the conduct of war. To address this problem, and in keeping with the tradition of Just-Warism, Walzer distinguishes between *jus ad bellum*, the justice of war, and *jus in bello*, justice in war. He argues that principles of self-defense justify *jus ad bellum*, but he limits their extension *in bello* to only those citizens who actually participate in the war by being "actively engaged in the business of war."³⁴ He holds that "a legitimate act of war is one that does not violate the rights of the people against whom it is directed."³⁵

Walzer provides an explanation of why some, but not all, citizens of an enemy state can be justifiably killed in the course of war. In doing so, he relies on the same features of self-defense that we have inferred from his account of states' rights. He argues that only soldiers can be killed in self-defense because they, unlike civilians, are materially involved in threatening the lives and liberties of enemy soldiers. Walzer argues that in virtue of their current occupation, whether or not they volunteered for it or were conscripted under threat of death,³⁶ all soldiers have nonetheless become dangerous people. "Soldiers as a class are set apart from peaceful activity; they are trained to fight, provided with weapons, required to fight on command. No doubt, they do not always fight; nor is war their personal enterprise. But it is the enterprise of their class, and this fact radically distinguishes the individual soldier from the civilians he leaves behind."³⁷ Moral culpability plays no role in Walzer's explanation of why soldiers can be killed. Walzer considers soldiers on both sides of a conflict to be moral equals. He assumes that all fight unwillingly, compelled by the power of the state to become killers.³⁸ For this reason, Walzer claims that every

³⁴ Ibid., p. 43.

³⁵ Ibid., p. 135.

³⁶ Ibid., p. 145.

³⁷ Ibid., p. 144.

³⁸ Walzer's position on this issue is, I think, misunderstood. Many commentators conclude that Walzer holds that soldiers are forced to fight by their own state's judicial power over them, and they therefore deem Walzer's belief in the rights of political communities to be inconsistent. Although Walzer sometimes sounds this way, I interpret

soldier is both an attacker and a victim, someone who is equally liable to kill and be killed, someone who threatens others and is thereby subject to self-defensive attack. Finally, Walzer explains why civilians should not be killed in war by drawing “a line between those who have lost their rights because of their warlike activities and those who have not.”³⁹ He describes civilians as “innocent people, a term of art which means they have done nothing, and are doing nothing, that entails the loss of their rights.”⁴⁰ Walzer recognizes that some civilians, such as propagandists and political leaders, may be more causally responsible for a war than (in some cases) the unwilling conscripts who actually fight the war. Still, he holds that it is only the soldiers who have lost their right relative to the war to not be killed, because only they are threats to actually kill enemy soldiers.

Walzer’s explanation of why only soldiers can be killed in collective self-defense does not reduce simply to his account of individual self-defense. If it did, then only those soldiers who were actually ‘attacking’ could be killed. Walzer, in contrast, maintains that even soldiers who are not poised to kill (e.g. cooks, mechanics) have lost their rights. He does this by treating soldiers as a “class” of people whose agency has been nationalized, who act individually yet not as individuals. Thus, the threat that soldiers pose is the collective threat of their army; the aggression they resist is the collective aggression of the enemy army.⁴¹ Each soldier’s individual role in the collective threat that his army poses is what causes the loss of his own right to life relative to his ‘victim’, i.e., any enemy soldier.

In this section, I have demonstrated that Walzer bases his justification of war and of killing in war on a consistent set of features of self-defense. He employs those features in his argument for states’ rights, and he utilizes them again in his explanation of the limitations of *jus in bello*.

his position to be that soldiers are forced to fight by the combination of the enemy state’s aggression and their own allegiance to their country. In this sense, even willing volunteers fight “unwillingly,” because they would prefer that the war had never been forced upon them, and the “power of the state” refers to their identification with its rights.

³⁹ Ibid., p. 145.

⁴⁰ Ibid., p. 146.

⁴¹ Walzer, p. 145.

Walzer, however, does not argue for the moral significance of those features. He merely applies them to warfare, and I have had to infer them. Walzer, it seems, expects his readers to judge their moral relevance by their application to his historical illustrations. One must keep in mind that Walzer is concerned only with making practical moral sense of the rules of war. He admits that, in doing so, he overlooks the moral foundations (i.e., principles of self-defense) of his argument.⁴² In order, then, to assess the merits of Just-Warism's use of self-defense to justify killing in combat, we must evaluate an account of individual self-defense that defends the features that Walzer infers.

1.2. Thomson's Account of Justified Self-Defense

In "Self-Defense", Judith Jarvis Thomson proposes a rights-based justification for killing in self-defense. She intends for it to be a purely civilian account. Thomson herself states that she "will have to bypass as too hard the question how the fact of war affects questions about self-defense."⁴³ For our purposes, though, she has no need of that. Walzer has already applied features of a distinctive account of self-defense to war. What my construction of the Just-Warist approach lacks, however, is just what Thomson provides -- a moral explanation and defense of those features of self-defense. In this section, I will outline how Thomson's account of morally justified interpersonal self-defense provides a foundation for Walzer's theory of war.⁴⁴

Thomson's account revolves around the fundamental rights-based moral claim that "Other things being equal, every person Y has a right against X that X not kill Y."⁴⁵ This simply describes the moral presumption against killing which gives rise to the requirement that killing in self-defense be 'justified.' Thomson then argues that 'other things become unequal'--and thus killing in self-defense becomes justified--when Y threatens to violate X's right not to be killed. To "find out

⁴² Ibid., p. xv. As Walzer puts it, "I am not going to expound morality from the ground up. Were I to begin with the foundations, I would probably never get beyond them...This is a book of practical morality."

⁴³ Thomson, p. 298.

⁴⁴ To re-emphasize, I am not claiming that Thomson's account is the only possible moral foundation for Walzer's argument.

⁴⁵ Ibid., p. 299.

where the shoe pinches”⁴⁶ in the complexity surrounding the right of self-defense, Thomson proposes the following argument:⁴⁷

- 1) In the circumstances, he (anyone other than the deliberating moral agent) has a right that you not kill him.
- 2) In the circumstances, you have a right that he not kill you.
- 3) If he kills you, he will violate your right that he not kill you.
- 4) If you do not kill him, he will kill you.
- 5) If you can only prevent him from violating your right only by killing him, then in those circumstances he no longer has a right that you not kill him. (From 3 and 4)

(1) and (2) outline the basic right to not be killed that each person possesses by default relative to every other person. (4) describes the forced choice of a self-defensive situation, in which a person must choose to either kill or be killed. (5) is the critical jump that relates the latter two to the former two. If (2), (3), and (4) obtain, then (5) makes (1) a false premise, and therefore you can justifiably kill him because he lacks the right that you not kill him. If, however, (2) is a false premise (because you had first threatened his life), then (3) is also false, and (5) does not follow.

Thomson’s account assumes that each person possesses the right to not be killed, and explains how a person can lose that inherent right. A person loses his own right to not be killed when he threatens to violate someone else’s right to not be killed. A person who lacks the right to not be killed is subject to being justifiably killed. A justified act of killing in self-defense, then, is one that kills someone who has lost his right to not be killed by having first threatened a rights-possessing person.

Thomson’s argument claims that a person loses his right to not be killed only by being “not-minimally” causally involved in a threat to someone who possesses the right to not be killed.⁴⁸ She describes one example from each of three particular classes of persons whom she believes to have forfeited their right to not be killed. First, there is the Villainous Aggressor who intentionally and culpably attempts to run you over with his truck. Second, there is the Innocent

⁴⁶ Ibid., p. 300.

⁴⁷ Ibid., pp. 299-300.

Aggressor who intentionally tries to run you over with his truck, but he is not at fault because he has just been injected with a drug that made him go temporarily crazy. Third, there is the Innocent Threat who is a fat man who has been pushed off a cliff above you and whose falling body threatens to crush you. In each of these situations, Thomson believes that the person in question is ‘doing the killing.’ He is more than simply a necessary condition for the threat; he is (or directly controls) the threat itself. So, Thomson argues that even though the Innocent Threat has been acted upon (rather than purposefully acted) in being pushed, it is *his falling* that threatens to kill the victim and thus he threatens to violate the victim’s life. Although all of Thomson’s examples employ a single attacker, in her discussions she indicates that one victim can kill several attackers. “It is because of the entirely impersonal fact that they will otherwise violate your rights that they not kill you that you may proceed.”⁴⁹ Her use of a single attacker in each of her examples, however, leaves open the question of the extent to which a person must be causally involved in the threat to be an attacker.

Thomson argues that neither fault nor intent is required for someone to violate another person’s right to not be killed. “If the aggressor will (certainly) take your life unless you kill him, then his being or not being at fault for his aggression is irrelevant to the question whether you may kill him.”⁵⁰ That is how she can conclude that an Innocent Aggressor and an Innocent Threat, respectively, can be justifiably killed in self-defense. She contends that a person’s right to not be killed is violated regardless of whether or not the person who kills him intended to, or is at fault for doing so. The violation of the right is the life-threatening activity itself. To illustrate this point, Thomson considers a scenario involving a man, Alfred, who wants to kill his sickly wife. Alfred “buys a certain stuff, thinking it a poison and intending to give it to his wife to hasten her death. Unbeknownst to him, that stuff is the only existing cure for what ails his wife. Is it permissible for Alfred to give it to her?”⁵¹ Thomson concludes that it is morally permissible, because--despite Alfred’s evil intention--his action is saving her life. Conversely, Thomson

⁴⁸ Ibid., p. 299.

⁴⁹ Ibid., p. 308.

⁵⁰ Ibid., p. 286.

⁵¹ Ibid., p. 293.

implies that--even if Alfred thought a certain stuff to be an elixir--he would violate his wife's right to not be killed if he were to mistakenly give her a poison. This scenario illustrates what Thomson calls *The Irrelevance-of-Intention-to-Permissibility Thesis*, in which she holds that "it is irrelevant to the question whether X may do alpha what intention X would do alpha with if he or she did it."⁵² And, since she considers intent to be a necessary condition for fault, then this thesis leads logically to an irrelevance of fault in evaluating violations of the right to not be killed.

There is one sense, however, in which Thomson's account incorporates a moral asymmetry between the attacker and victim. This asymmetry is based not on fault or culpability, but on causal responsibility. When an attacker threatens a victim, he loses his right to not be killed. The attacker's lack of rights, and the victim's retention of rights, create a moral asymmetry that morally justifies an attacker in fighting back.

Thomson argues that victims must not kill bystanders in the course of defending themselves.⁵³ She defines a bystander as someone who "is in no way causally involved in the situation" that consists in another person's life being at risk.⁵⁴ Yet, the examples she uses to illustrate bystanders indicate that bystanders can have some limited, passive causal involvement in the threat. She describes these scenarios:

A villain is shooting at you, and your only defense is to run. But your only path to safety lies across a bridge that will hold only one person, and there is already a man on it; if you rush onto the bridge, he will be toppled off it into the valley below.⁵⁵

and

Suppose you are a subway track workman. A subway is headed toward you. There is a small alcove in the wall near you, but there is another workman already in it. You can pull him out into the path of the subway and get in the alcove yourself.⁵⁶

⁵² Ibid., p. 294.

⁵³ Ibid., p. 298. At least in those situations where what is in question is one life for one. Where several lives would be saved by the killing of one bystander, Thomson leans toward accepting a utilitarian justification for killing the one bystander.

⁵⁴ Ibid., pp. 298-299.

⁵⁵ Ibid., p. 290.

⁵⁶ Ibid., p. 291.

In both cases, Thomson argues that “it is plain that you may not proceed” to rush across the bridge or pull the workman from the alcove. Thus, we see that although both men were causally involved as necessary conditions of the lethal threats, Thomson considers each to be a bystander who has not lost his right to not be killed. A plausible explanation for Thomson’s conclusion is that neither man was the threat itself. In the scenarios, the actual lethal threats to the victims were the villain and the train, respectively, not the men who interfered with the victims’ attempts to escape from the threats.

Thomson’s account of justified killing in self-defense can be used to justify Walzer’s explanation of why soldiers are entitled to kill enemy soldiers in combat. Both are rights-based accounts which justify the killing in question by claiming that the person being killed lacks the right to not be killed. Soldiers can be killed because they lost their right to not be killed when they became wartime soldiers, a class of people who threaten the rights of enemy soldiers and civilians. Each wartime soldier poses a lethal threat because he is “trained to fight, provided with weapons, required to fight on command.” Soldiers, then, are like the villain and the train in Thomson’s examples. They threaten to kill. Civilians, on the other hand, do not kill. They may be necessary conditions for soldiers’ wartime threats by their role in, say, producing food or munitions or drumming up popular support for a war, but they themselves do not threaten to kill anyone. Civilians, then, are like the men on the bridge and in the alcove in Thomson’s examples. They are not causally involved in the threat itself. An apparent dissimilarity between Walzer’s and Thomson’s accounts arises on the issue of a rights asymmetry. Walzer holds that all soldiers are moral equals who share equal war rights. Thomson, in contrast, seems to assume that in all self-defensive situations there is an innocent, rights-retaining victim. I, however, do not think that this dissimilarity is morally significant. According to Thomson, what makes killing in self-defense justifiable is that the person killed lacks the right to not be killed. Her account does not require that the victim possess that right in order to act in self-defense. Therefore, Walzer’s contention that all soldiers have forfeited their right to life does not undermine the moral applicability of Thomson’s account to combat.

1.3. Critique of Just-Warism's Justification for Killing in Combat

The value of Thomson's account of self-defense is that it solves the great difficulty in the Just-Warist theory of war. Michael Walzer describes the problem in these terms:

States exist to defend the rights of their members, but it is a difficulty in the theory of war that the collective defense of rights renders them individually problematic. The immediate problem is that the soldiers who do the fighting, though they can rarely be said to have chosen the fight, lose the rights they are supposedly defending ... (and) can now be attacked and killed at will by their enemies. Simply by fighting, whatever their private hopes and intentions, they have lost their title to life and liberty, and they have lost it even though, unlike aggressor states, they have committed no crime.⁵⁷

Thomson's account overcomes this problem by explaining how soldiers who have not chosen the fight and who may not even intend to kill anyone nevertheless lose their rights to life and liberty. They lose their rights "simply by fighting," not through any fault of their own. In this way, the Just-Warist can consider soldiers to be innocent threats, morally equivalent to the falling fat man in Thomson's example. In that case, a fat man had been pushed off a cliff and was falling to crush someone below. Thomson argued that the person below would be morally justified in killing the falling man in self-defense because the fat man, in virtue of the causal threat he posed to his victim, had lost his right to not be killed by her. As applied to the case of a soldier, her argument suggests that a soldier's functional role in his army's enterprise constitutes a threat to enemy soldiers, even if he had been "pushed into it"⁵⁸ by his or his enemy's morally culpable political leadership. Because soldiers are threats, then they lack rights, and thus they can be killed without violating their rights.

If it is true that innocent threats to life lose their own right to life, then Thomson's account does the work that Walzer needs it to do. But is that claim morally defensible? Much depends on what

⁵⁷ Walzer, 136.

⁵⁸ By what Walzer calls "the coercive power of the state," e.g. a citizen's attachment to his community reinforced and compounded by propaganda, conscription without conscientious objection, honors and benefits for veterans,

a right is. According to Thomson, a person's having a right just is for certain others to be morally constrained in certain ways.⁵⁹ It is hard to understand, however, how an innocent threat, such as a falling body, can be subject to a moral constraint. Moral constraints can apply only to the choices and actions of morally responsible agents. In the words of Zohar, "'Rights' belong to discourse on moral relationships and can be held only against moral agents."⁶⁰ Things--such as falling rocks, falling fat people, and soldiers who fight without intent--are not acting as responsible moral agents, and cannot therefore be said to violate rights. When Thomson argues that anything that threatens someone can be justifiably killed, she goes outside the moral constraints of rights. Her guiding principle is more akin to an absolutist, Hobbesian line, such as 'Everyone can do anything to save his or her own skin.' This is too permissive an account of self-defense.⁶¹ It would, for example, justify an aggressor in 'fighting back' against a just defender's self-defensive actions.

A second shortcoming in Thomson's account of self-defense is that it makes no use of the beliefs of the victim, making it difficult to see how it could provide the inter-subjectivity that justification demands. She treats causal connections as objective facts, when in fact causal connections are necessarily normative judgments.⁶² In her paradigm examples, she never explains how the victims know that the truck driver, falling body, villain, or train will in fact kill them. I would assume that her victims "reasonably believe" that they are threatened, but Thomson's account makes no use of such beliefs. "She argues that rights are reducible to what we ought to do, and that what we ought to do does not turn at all on our beliefs."⁶³ By Thomson's account, victims are justified in killing in self-defense because their attackers would otherwise kill them, regardless of whether or

etc.

⁵⁹ Thomson, *The Realm of Rights* (Cambridge MA: Harvard University Press, 1990), p. 77.

⁶⁰ Zohar, p. 608.

⁶¹ The closest account to this that I have found in the literature is that of Jenny Teichman, who consider the right of self-defense to be narrow yet *absolute*, defining it as "those acts of self-preservation which presuppose an immediate threat from an agent who *intends* (for good reasons or bad) to kill or seriously injure you, and which themselves consist of immediate counter-attacks directed at that *agent* and at no-one else," p. 84 (my emphases).

⁶² Zohar, p. 612.

⁶³ Quoted from a personal correspondence from Thomson to Alexander in "Self-Defense, Justification, and Excuse," fn. 11.

not the victims believed that they faced threats. This excludes the “reasonable belief”⁶⁴ standard that allows individual claims of justified killing in self-defense to be assessed and shared by the moral community. The very concept of justification is inter-subjective. For an action to be morally justified is just for it to be morally acceptable to the moral community. By divorcing justification from the victim’s beliefs, Thomson’s account ignores the epistemic limitations that are inherent to human experience. As a result, her account does not justify the actions of those who are generally considered to have justifiably acted in good faith.⁶⁵ Consider a convenience store clerk who kills an ‘armed’ robber whose gun, she later discovers, was not loaded. In this case, the robber did not in fact threaten the life of the clerk, although the clerk reasonably believed herself to be threatened. Still, by Thomson’s account, the robber retained his rights (because the gun was unloaded) and therefore the clerk’s action was morally unjustified. This conclusion is, quite simply, morally outrageous. It highlights the fact that moral assessments must take account of moral agents’ epistemic limitations.

A third objection to Thomson’s account of self-defense concerns her theory of rights. Thomson’s account is based on rights, the rights that she claims all persons possess and are entitled to defend unless they lose them. She lacks, however, “any independent theory of forfeiture (e.g., one that makes forfeiture a function of culpability, or culpability that would result in wrongful harm).”⁶⁶ Thomson argues that a victim can kill in self-defense only if she has no other options to avoid being killed. This indicates that an attacker’s forfeiture of rights is a function of both his threat and his victim’s options. Effectively, then, Thomson’s argument is that killing in self-defense is justified because an attacker has forfeited his right to not be killed. How do we know he has forfeited this right? Because it is necessary for him to have forfeited it for the victim to defend herself. In other words, Thomson’s account holds that attackers lose whatever rights their victims

⁶⁴ This standard is so ingrained in discussions of self-defense that it is usually assumed and not argued for. One philosopher who argues for the “reasonable victim” standard is Jeffrie G. Murphy, “The Killing of the Innocent,” in *War, Morality, and the Military Profession*, ed. Malcolm Wakin (Boulder, CO: Westview Press, 1987), p. 350.

⁶⁵ The opinion of the moral community, as expressed in the legal systems of at least the Western Democracies, Israel, and the former Soviet Union.

⁶⁶ McMahan, p. 278.

need them to lose in order to justifiably kill them. Her account of self-defense, then, “is an ingenious exercise in begging the question.”⁶⁷

These objections make clear that Thomson’s account of self-defense is not morally defensible. This, in turn, undermines the justification for Walzer’s Just-Warist approach to killing in combat. For the Just-Warist approach to killing in combat to be morally justifiable, it needs to be based upon a foundational account of self-defense that is morally acceptable. Although Thomson’s account is consistent with Walzer’s account of collective self-defense, it is itself morally problematic. Lacking a foundation, it cannot serve as the moral foundation that Walzer’s argument requires. Walzer acknowledges that justified killing in war must be “what is due” to those who are killed, and not “only what is necessary for the battle.”⁶⁸ He implies that a no-fault, rights-based account of individual self-defense can justifiably give “what is due” to its attackers. My analysis of Thomson’s account indicates the shortcoming of such an approach. By her account, the man who has been pushed off the cliff somehow ‘gets his due’ when he is killed, whereas the armed robber with a malfunctioning or unloaded gun is ‘due’ no such harm. This goes beyond being morally counterintuitive; it borders on the morally offensive.

In Chapter III, I will investigate how and why this construction of Just-Warism strays so far from the common-sense notion of justice. For now, let us move on to consider a War-Pacifist argument against killing in war that is based on self-defense.

⁶⁷ McMahan, p. 278.

⁶⁸ Walzer, p. 137.

Chapter II: Self-Defense and War-Pacifism

War-Pacifists accept the moral permissibility of violence under certain conditions, but they oppose all war because they hold that the killing that occurs in war does not meet those conditions. Compared to Just-Warism, War-Pacifism is a relatively recent phenomenon.⁶⁹ The emergence of secular War-Pacifism in the twentieth century has corresponded to the rise of moral individualism. As persons have become less likely to uncritically accept the moral authority of their state or religion, they have demanded moral explanations that address their own agency and the personal agency of others.⁷⁰ Whereas Just-Warism subsumes individual soldiers into the class of soldiers, War-Pacifism rejects that loss of moral autonomy. As David Carroll Cochran put it, “Moral agency rests with a person qua person, and a person can only be killed if the justifying conditions are present and apply to him or her as an individual, not as a member of some class.”⁷¹ The “justifying conditions” of which Cochran speaks are the conditions that permit someone to kill in self-defense.

In this chapter, I examine and critique the role that self-defense plays in a War-Pacifist justification of killing in combat. I base my examination on the argument that Richard Norman presents in *Ethics, Killing, and War*,⁷² in which Norman articulates both components of an argument--first outlining an account of self-defense and then applying it to soldiers in war. Norman’s argument is typical of War-Pacifist accounts. He bases his rejection of wartime killing on the inapplicability of a fault-based account of self-defense to soldiers in combat.⁷³ In this chapter, I demonstrate that Norman’s agency-based account of self-defense is conceptually

⁶⁹ I am referring to the secular War-Pacifism that is based upon arguments of self-defense. War-Pacifism based on religious beliefs has been practiced by Anabaptists and Mennonites for several hundred years and by the Seventh Day Adventists and Jehovah’s Witnesses for the past century. I limit my discussion to secular War-Pacifism.

⁷⁰ Charles C. Moskos and John Whitclay Chambers II, “The Secularization of Conscience Reconsidered,” in *The New Conscientious Objection: From Sacred to Secular Resistance*, edited by Moskos and Chambers. (NY: Oxford, 1993): p. 197.

⁷¹ David Carroll Cochran, “War-Pacifism,” *Social Theory and Practice*, Vol. , No. 3 (Summer 1996): p. 173.

⁷² Richard Norman, *Ethics, Killing, and War* (NY: Cambridge, 1995).

⁷³ For similar arguments, see Eric Reitan, “A Response to Sterba (1992),” *Social Theory and Practice*, Vol. 20, No. 2 (Summer 1994), as well as previously cited works by Cochran and Zohar.

superior to Thomson's rights-based account, but that his application of that account to soldiers in war is inconsistent with his overall argument.

2.1. Norman's Account of Justified Self-Defense

In *Ethics, Killing, and War*, Richard Norman puts forth an account of self-defense that is grounded in what he calls the primitive, pre-theoretical morality that he thinks is shared by all human beings. He rejects the claims by Walzer and Thomson that there exist self-evident rights. Instead, Norman argues that "rights claims always need some further justification, they need to be defended by appeal to some moral concept more basic than that of rights."⁷⁴ He contends that it is not enough to say that a right is possessed, or forfeited, or violated, etc. without giving an account of how or why that right exists at all. He holds that for principles to have moral force, they must be derived from some basic human attitude.⁷⁵

In Norman's view, moral judgments are assessments of our actions and relations to one another. These assessments do not require a formal moral theory to express them. They are authentically grounded in the "primitive responses" which we share as human beings.⁷⁶ Norman proposes that the three basic sets of responses which underpin our moral understanding are "sympathy and respect", "love and loyalty", and "considerations of power and autonomy". He describes sympathy and respect as those general responses that we have toward other human beings. Sympathy is our capacity to be affected by, and to identify with, the experiences of others. It leads us to assist others and to promote their well-being. Respect, on the other hand, is our recognition that each person (like ourselves) has his or her own life to lead. It involves seeing persons as agents in their own right rather than as recipients of our own actions. Love and loyalty, for their part, are specific responses that derive from our particular human relationships. They may alter the way in which it is appropriate for us to relate to others in sympathy and respect. Finally, considerations of power and autonomy reflect our recognition of the

⁷⁴ Richard Norman, *Ethics, Killing, and War* (NY: Cambridge, 1995) p. 121.

⁷⁵ *Ibid.*, p. 32.

interpersonal nature of morality and of the tension between sympathy and respect. We realize that when one person acts in a relation, it characteristically closes off certain options for the other person. According to Norman, moral actions are those that strike the proper balance between exercising power over others, even for sympathetic reasons, and respecting others' autonomous right to live their own lives.

Given these foundations of our moral understanding, Norman argues that killing another person is an inherently wrong act. Killing is inherently wrong because it violates the basic elements of moral relations, causing an irreplaceable loss.

The bringing about of another's death, whether by active intervention or by intentional refraining, is the ultimate case of exercising power and control over another, of violating that person's autonomy and withholding the respect appropriate to him or her as a separate and unique individual with his or her own life to lead.⁷⁷

Still, Norman does not contend that killing is *absolutely*, always wrong. He allows for at least one situation in which killing another person is justified by the same moral responses that generally prohibit killing. That situation is one in which a person kills in justified self-defense.

Norman argues that killing in self-defense is morally justified only when three conditions are met.⁷⁸ First, the attacker must be 'forcing a choice' between lives. Second, the attacker must be morally responsible for that choice. And, third, the attacker's threat must be so immediate that the victim has no option to save his or her life other than killing the attacker. When these three conditions obtain, the victim's killing of her attacker creates a moral outcome that is preferable to her being killed by him.

The first condition is that the attacker must be forcing a choice between lives. Because killing is such a gross violation of autonomy, its prohibition trumps most other moral concerns. A person cannot justifiably kill in self-defense, for example, if she faces merely the 'forced choice' between

⁷⁶ Ibid., p. 14

⁷⁷ Ibid., p. 109.

killing or losing her property. What is being defended must be of sufficient importance to justify killing. Norman argues that this holds even when an attacker's threat to liberty or property is backed by a lethal threat.

If someone approaches me in the street and asks for money to buy a cup of coffee, and then, when I refuse, whips out a knife and demands the money, it would be absurd to suppose that I am then justified in killing him to defend my property...The choice facing me at that point is not 'his life or mine', it is 'taking his life or parting with 50 pence'. When we are considering whether killing is justified in defence of something other than one's life, we cannot avoid the question of what is being defended, and whether it is of sufficient importance to justify killing.⁷⁹

Having said this, Norman does grant that the justification for killing in self-defense can be extended beyond threats of death, but only to certain cases where the threatened harm --like death-- is similarly final and irreversible to the victim's exercise of autonomy, such as in threats of rape, kidnapping, or enslavement.⁸⁰

Norman's second condition for justified self-defense is that the attacker must be morally responsible for creating the forced choice between lives. He argues that the attacker's responsibility for forcing the choice creates a morally relevant asymmetry in the situation between the attacker and victim. Due to this asymmetry, moral relations are less violated if the victim kills her attacker than if the attacker kills his victim. Thus, in the situation, the victim's actions are morally justified. This moral asymmetry results from the attacker's responsibility for the forced choice. In a self-defense situation, the attacker determines, by his own choices, that someone will be killed. By his disrespectful and unsympathetic exercise of power, he violates his victim's autonomy by limiting her choices to 'kill or be killed'. By so doing, Norman believes that the attacker must assume responsibility for the outcome of the choice that he has imposed on his victim. Thus, when a victim kills an attacker in self-defense, the attacker is largely responsible for

⁷⁸ Ibid., p. 127.

⁷⁹ Ibid., p. 130-131.

⁸⁰ Ibid., p. 129.

his own death.⁸¹ His death is thus ‘internally connected’ to his agency, which--given the forced choice--makes it an outcome which is morally preferable to the victim’s death, which would be an unmitigated violation of her autonomy.

The third factor necessary for justified self-defense is the immediacy, or urgency, of the threat. Norman acknowledges that “in most cases where one’s life is threatened, there are possible ways of trying to save one’s life other than by killing the person who is a threat to it.”⁸² When other options are available, the first condition does not obtain (there is no forced choice) and killing in self-defense is unjustified. Even when other options are not apparent, the victim cannot justifiably resort to lethal defense as long as the threat is not immediate. Since killing always involves the irreparable loss of an autonomous life, Norman considers killing in self-defense to be an act of necessity, not of justice.⁸³ The victim must truly have ‘no other option,’ the choice must be between lives (or the equivalent values discussed above). This condition is Norman’s only recognition of causality. Whereas he holds that only a morally responsible person should be harmed in self-defense, the ‘immediacy’ condition opens the possibility that someone who poses an immediate threat, even if he is not fully responsible for the threat, may be justifiably acted against in self-defense.

Norman’s three conditions of justified self-defense do not correspond directly to the three general features that I am using for comparison. He splits the first feature--the attacker’s causal role in a threatened outcome-- into two separate conditions. Norman’s ‘forced choice between lives’ condition concerns the value that must be threatened, and his ‘immediacy’ condition accounts for a person’s causal role in a threat. The ‘responsibility’ condition, though, does correspond directly to the feature of moral culpability. Not surprisingly, Norman does not even consider the third feature--the protections that must be afforded bystanders. His account justifies killing in self-defense only in response to an attacker’s agency. It goes without saying, apparently, that the only options available to a victim are those that harm only the responsible attacker.

⁸¹ Ibid., p. 124.

⁸² Ibid., p. 127.

Norman contends that killing in self-defense is morally justified only when all three conditions combine. He describes 'a classic case of self-defense' as follows:

I am walking along a quiet street. It is closing time. A man tumbles out of a pub, obviously the worse for drink and spoiling for a fight, and comes at me with a knife. We struggle, and it is obvious that he is too strong for me. He stabs me once and makes to do so again. In desperation I grab a brick lying on the ground and bring it down hard on his head-- thereby killing him.⁸⁴

In this case, the forced choice and immediacy of the situation are obvious. The victim had to kill or be killed, and his only available option was to use the (potentially lethal force of the) brick. The immediate threat was the responsible threat. And, although I have concerns about the attacker's being "the worse for drink," Norman thinks that the attacker's responsibility for the forced choice is just as obvious. He comments that the attacker unquestionably acts with "the deliberate intention of killing."⁸⁵

Although each of the three factors must obtain to justify killing in self-defense, it is the attacker's responsibility that does the work of justification. "If, in the extreme case, someone is faced with an immediate threat which forces her to choose between her life and that of her attacker, then the fact that the attacker is responsible for the situation is what justifies her in taking his life in order to save her own."⁸⁶ To a large extent, the factors of necessity--the forced choice among lives and the immediacy of the threat--create a situation where killing must occur. The asymmetry of the situation, brought about by the factor of the attacker's responsibility, justifies the killing that occurs. And, since responsibility is a matter of degree, Norman evaluates the justification of killing in self-defense on a continuum.⁸⁷ The degree of justification corresponds to the extent of

⁸³ Ibid., p. 128.

⁸⁴ Ibid., p. 124.

⁸⁵ Ibid., p. 124.

⁸⁶ Ibid., p. 171.

⁸⁷ Ibid., p. 178.

asymmetry between the attacker and victim. The more that an attacker is responsible for the forced choice among lives, the more justified is his victim in killing him.

Norman does not lay out a criterion that establishes the requisite level of responsibility for justifiably killing an attacker in self-defense. This is because the justification relies on an asymmetry created by a particular relation and situation. Norman's discussion of an example of an 'innocent aggressor' indicates, however, that the attacker must be significantly morally responsible, not just causally responsible, for the forced choice.

A criminal gang wants to kill me (perhaps I'm a shopkeeper who refuses to pay protection money). Rather than do it themselves, they force one of their other 'clients' to do it. They kidnap his wife and children and tell him that if he wants to see them alive again, he has to assassinate me. Am I justified in killing him in self-defense?⁸⁸

About this example, Norman argues that the 'attacker' is no more responsible for the situation than is his victim. His agency is coerced by the criminal gang's threat to his family members' lives. Norman doubts⁸⁹ that the victim could justifiably kill his attacker because the 'client' is not sufficiently responsible for his actions. The client's actions are not sufficiently *his*. In contrast, Norman asserts that the victim would be morally justified in killing the criminal gang, who is sufficiently responsible for forcing the immediate choice among lives.

Norman expresses no such doubts in the case of an 'innocent threat':

Again, the gang is out to get me. I am hiding from them. A passer-by is about to stumble on my hiding-place, thereby exposing me and making it inevitable that I shall be killed. Only by killing him can I prevent this. Should I kill him?⁹⁰

⁸⁸ Ibid., p. 125.

⁸⁹ Norman hedges on this critical issue. He says that "perhaps" the victim would be justified in killing the shopkeeper, but that would depend on the "precise detail" of the particular situation. This suggests that Norman accepts a certain trade-off between responsibility and immediacy, in which absolute immediacy lowers the justificatory threshold of responsibility.

⁹⁰ Ibid., p. 125.

Norman's concludes without qualification that the victim cannot justifiably kill the passer-by in self-defense. The passer-by is responsible for forcing the choice "only in a limited causal sense."⁹¹ While Norman admits that the passer-by's action does threaten the victim, he counters that it is *his* action in only the most minimal sense of the word. If the victim were to kill him, she would not be responding to him as a responsible agent. Therefore, she would unjustifiably violate his autonomy (much less show any sympathy for his predicament) if she were to kill him.

To summarize Norman's account of self-defense, he explains that killing in self-defense is not an exception to morality, but rather is a consistent manifestation of it. He holds that the inherent wrongness of killing is grounded in the attitude of respect for human beings as persons with their own lives to lead. He then argues that the permissibility of killing in self-defense is grounded on that same respect. For, when a victim kills her attacker, she is responding to the attacker's own choices for his life. She is treating him as a person. So, despite the fact that "all killing is, to a degree, a violation of the respect for people,"⁹² a victim's necessary killing of an attacker is morally preferable and, given the circumstances, morally justifiable, because it is internally connected to the attacker's own agency.

2.2. Norman's Account of Unjustified Wartime Killing

Norman argues that, in almost all circumstances of war, soldiers are not morally justified by principles of self-defense when they kill enemy soldiers. He believes that most wartime killing fails to meet all three conditions for justified killing in self-defense. First, he asserts that most soldiers do not face a 'forced choice' among lives, but instead face the choice between killing and suffering political-social harms. Second, he argues that most enemy soldiers are not sufficiently responsible for their actions to justify responding to them with lethal force. Third, he holds that where there is not a forced choice, the concept of immediacy is irrelevant. Even so, Norman

⁹¹ Ibid., p. 126.

⁹² Ibid., p. 178.

contends that soldiers do not normally wait until a threat is ‘immediate’ before using lethal force, but instead put great emphasis on initiating attacks themselves.

In most conflicts, Norman argues that soldiers simply do not face a forced choice between lives and that consequently they are not justified in killing enemy soldiers in self-defense. Norman points out that “military aggression is not necessarily a threat to the lives of those who are attacked.” Most aggressing armed forces are intent on seizing terrain, toppling a political structure, or on some other similarly economic or political end. The aggressors kill only if they perceive that doing so is a necessary means to accomplishing their unjustified ends. Consequently, if defending soldiers do not resist the aggressors, then the aggressors are unlikely to kill them. Thus, defending soldiers do not face a forced choice among lives. Moreover, Norman rejects the notion that soldiers can justifiably put themselves in harm’s way to force a choice between lives. Just as in the example of the 50 pence thief, “the fact that unjust demands are backed up by lethal threats does not by itself justify killing in response; it depends on the importance of what is being defended.”⁹³

The relevant question, then, is whether what is actually being defended in a war is comparable to the defense of an individual’s life. Norman thinks it is not, in most cases. He contends that the “conquest of a community is...importantly different from the death of a person.”⁹⁴ A person, once dead, is forever gone. The death of a person is final and irreversible. The ‘death’ of a community, however, does not at all have this character of finality. Norman argues that “most likely, an indigenous community’s political, social, and cultural life will persist after the conquest, but in an attenuated form.”⁹⁵ The autonomy of the community members will likely change and be more constrained, especially in their exercise of political rights, but it will not be extinguished. In short, Norman holds that, in most cases, the expected harms suffered by a conquered people are not sufficiently final and irreversible to justify killing aggressor soldiers to defend them.

⁹³ Ibid., p. 135.

⁹⁴ Ibid., p. 138.

⁹⁵ Ibid., p. 137-138.

Norman does not preclude the possibility that the integrity of a community could be comparable in value to its members to that of their individual lives. A circumstance could exist in which a person's individual identity is inextricably linked with that of his community, and in which an aggressor's actions are reasonably expected to destroy that community. In such a circumstance, the expected harm may be sufficiently great to constitute a 'forced choice' comparable to one among lives. Still, Norman notes that such a determination must be based on the particular circumstances of a particular community. "In deciding whether a community ought to be defended, we cannot escape the need to make *qualitative* judgements about its cultural and political life."⁹⁶ He thinks that most communities facing most wars do not meet this high standard.

Norman's application of his account of self-defense to war also concludes that nearly all soldiers are not sufficiently responsible for their wartime actions to justify killing them. He recognizes that all soldiers are minimally responsible for their actions. "Combatants must presumably always bear some responsibility for the prosecution of the war, but the extent of their responsibility can vary considerably."⁹⁷ The extent of their responsibility depends upon both their motives for placing themselves in harm's way and their understanding of the situation. Norman holds that soldiers who enthusiastically volunteered or were willingly drafted bear a greater burden of responsibility than those who, say, volunteered due to limited employment opportunities or who were conscripted without the option of conscientious objection. Another factor that impacts on soldiers' responsibility is their access to true information. Norman contends that soldiers who have been duped by propaganda and misinformation bear less responsibility than those who are well-informed on the issues involved in the war. Still, Norman finds that no soldiers are sufficiently responsible to justify killing them because none of them are responsible for the prosecution of the war. The forced choice among lives is not the product of soldiers' agency, for they are individually responsible for neither the war nor any particular attack within the war. For

⁹⁶ Ibid., p. 153.

⁹⁷ Ibid., p. 172.

this reason, Norman concludes that “it is therefore debatable whether the responsibility of even volunteer combatants is ever comparable to that of the individual attacker who can be killed in self-defense.”⁹⁸

A typical soldier in combat, then, cannot be justifiably killed in self-defense because his death would not be sufficiently internally connected to his agency. “The majority of the combatants who are killed in war are killed not because of what they have done, not because of actions for which they are in any strong sense responsible, but because they are the enemy.”⁹⁹ This degree of depersonalization is the antithesis of Norman’s account of moral relations. Soldiers killed in combat are treated not as persons who have a right to act as agents in relation to others, but rather as objects who belong to a certain category of people. “The killing of combatants in war is most often a depersonalized killing which reduces individual human lives to the status of ‘the enemy’.” They are killed not “because of what they are doing, then and there, to the person who kills them. They are killed because they are ‘the enemy’.”¹⁰⁰

Finally, Norman claims that contemporary military tactics emphasize the use of offensive actions against an unsuspecting enemy. Such actions violate Norman’s ‘immediacy’ condition, because those who participate in them unjustifiably ‘force a choice’ between lives rather than justifiably respond to a choice forced upon them.

Although Norman argues that most killing that occurs in wars is morally unjustified by self-defense, he does not reject the possibility of justified killing in combat. Norman describes himself as a war-pacifist, not as a pacifist.¹⁰¹ He does not rule out the possibility of a morally justified war. He believes that certain circumstances of war, rare as they are, could express

⁹⁸ Ibid., p. 172.

⁹⁹ Ibid., p. 187.

¹⁰⁰ Ibid., p. 179.

¹⁰¹ I think that Norman makes too much of this. War-Pacifists are distinct from general Pacifists because they allow that violence is justified in some circumstances. Any War-Pacifist can, then, admit the logical possibility of justified circumstances of war. Even Robert L. Holmes, whose *On War and Morality* (Princeton: Princeton University Press, 1989) was the first systematic book-length philosophical defense of war-pacifism in the analytic

morally justified relations. A soldier, for example, could justifiably kill an aggressing enemy soldier who was part of a force that is determined to genocidally kill large portions of the defending soldier's community population, or who threatened to irreparably destroy a community that was integral to the defending soldier's identity, provided that: the enemy soldier is a willing and knowledgeable participant in the aggression, and the defending soldier has no available non-lethal means to prevent the genocide. Norman, then, does believe that the doctrine of self-defense can justify killing in combat, but only under circumstances that are much more constrained than those that most modern soldiers face. As a war-pacifist, Norman is dedicated to rejecting the acceptability of wars that do not meet his conditions of justified killing in self-defense.

2.3. Critique of Norman's War-Pacifist Condemnation of Wartime Killing

Norman's account of self-defense avoids the pitfalls of Thomson's. It is grounded on the attacker's responsibility, which gives it a morally relevant explanation of why it is morally preferable for one person to kill rather than be killed, and which allows moral judgments to be expressed inter-subjectively. As a result, Norman's account affirms our moral intuitions in the cases that exposed the shortcomings of Thomson's account. Norman's account would not sanction the killing of the innocent fat man--to do so would be to treat him as a mere mass of falling flesh, not as a person. Likewise, Norman's account would justify the well-intentioned convenience store clerk for killing the armed robber--the robber's freely chosen actions had 'forced' the apparent choice between lives, so his subsequent death would in some sense respect his dignity as a person.

Although Norman's account is conceptually strong, it has several weaknesses of varying significance. First, Norman's use of a drunken attacker in his 'classic' case of self-defense needlessly confuses the issue of responsibility. As we shall discuss later in this section, the attacker's relevant 'responsibility' is for having created the situation rather than for his specific actions within the situation. Therefore, the defender's justification for killing in Norman's

tradition, concedes that such scenarios are possible, if unlikely. (p. 212)

‘classic’ case of self-defense is independent of the sobriety of the attacker. The man would have been just as justified had his attacker been a premeditated assassin. Second, Norman’s use of the “50 pence” example was weaker than it needed to be. Since people don’t usually risk their lives over such trivial matters, his reader may be tempted to conclude that Norman deems all values other than life to be similarly trivial. This is not so, as his discussion of the potential value of political communities attests. Rather than a “50 pence” example, Norman could have used a “family house” example to make the same point. In both cases, then, Norman’s use of weak examples may be misleading, but they do not undermine the actual significance of his conceptual points.

A third example leads to more serious questions. In his description of an ‘innocent attacker,’ Norman is ambiguous at a point where clarity is most important in the application of self-defense to warfare. In the philosophical literature, an attacker is ‘innocent’ if he is not morally culpable for the threat he poses. There are several types of innocent attackers. There are those who lack the capacity to make moral judgments, such as *insane* and *juvenile* attackers. There are those who act upon reasonably mistaken beliefs, called *mistaken* attackers. An example of a mistaken attacker is a police officer who shoots at a violent suspect’s twin brother. Finally, there are *compelled* attackers, whose unjustified action is the result of irresistible coercion. An example of a compelled attacker is someone who is being slowly and gruesomely tortured, and will continue to be tortured unless he kills a person immediately next to him. (Maybe the torturers wanted to videotape the killing for political purposes.) Compelled attackers are unique among the types of innocent attacker because they intentionally choose the outcome of their threatening action. Unlike insane and juvenile attackers, they have the capacity to act responsibly; unlike mistaken attackers, they intend the killing that their actions produce. Compelled attackers are ‘innocent’ only if the coercion they face is irresistible. Attackers who act under duress that is reasonably considered to be resistible may be mitigated in their culpability, but not fully excused as innocent.

A weakness in Norman’s account of self-defense is that he gives just one example of an innocent attacker, and it involves a compelled attacker whose threat would appear to be resistible. He

describes a man who “was forced” by the kidnapping of his wife and children to try to assassinate an innocent shopkeeper. Even though the attempted ‘assassination’ would be intentional, Norman argues that the man cannot be killed in self-defense because, even if he is responsible for the action itself, he is no more responsible for the situation than is his shopkeeper victim.

This example indicates that Norman views moral responsibility in terms of situations rather than particular actions. It also explains why Norman would use a random attack from a drunk man as his ‘classic case.’ Given the facts described, the drunk was solely ‘responsible’ for forcing the choice between lives. What Norman does not seem to consider are the possible situations within which the drunk man was acting. Perhaps the drunk man had discovered earlier that evening that his wife was cheating on him, and the bartender had exploited his despondent condition to sell him too many drinks. Who would be responsible for the situation then? Or, taken further, perhaps the drunk had developed violent tendencies from childhood abuse, or his wife had decided to have an affair after reading a romance novel.

As these hypothetical details indicate, there is no obvious logical end-point to an infinite regress of responsibility for ‘situations.’ For responsibility, and consequently for moral agency, to be meaningful, it must rest with the person performing an action. It must be evaluated independent of the causal chain of events that led up to the point at which the person decided to act. It makes no sense to say that persons have agency yet are not responsible for their actions within their own sphere of control. All actions occur within a context, and many times the agents acting are responding to, not controlling, that context. That is what responsibility (response-ability) is--the ability to respond to a constrained situation.¹⁰² A being which existed without constraints could not be said to act responsibly. The concept of responsibility implies both choice and limitations. Given the emphasis that Norman places on responsibility and agency, it is oddly inconsistent that his account of responsibility undermines the significance of agency in people’s actions.

¹⁰² I owe this point to Steven Covey, *Seven Habits of Highly Effective People*, (NY: Simon and Schuster, 1989), p. 71.

Norman's account of self-defense is not fatally flawed. In fact, the account itself is sound. It is only Norman's overemphasis on situational responsibility--and consequent disregard for personal act responsibility--that distorts his examples. I suggest, however, that his account works much better when moral responsibility is attributed to persons for their choices, even when those choices are constrained (as all of them are anyway in the real world) by a situation.

Now I will consider the way in which Norman applies his foundational account of self-defense to soldiers. The manner in which Norman 'applies' his account of self-defense to wartime killing is very different from Walzer's approach. Whereas Walzer applies morality to war, Norman applies war to morality. Whereas Walzer takes for granted "the moral reality of war" and tries to make moral sense of it, Norman begins with an account of moral interpersonal relations and considers whether killing in combat is consistent with it. Norman does not grant soldiers in war any special "permissiveness" based on the "moral condition of war."¹⁰³ Rather, he demands that any act of killing meet the conditions of justified self-defense.

Norman argues that wartime killing does not meet his first condition for justified self-defense--that there be a forced choice between lives. He acknowledges the possibility that a political community could mean so much to its members that they would be justified in killing and dying of its behalf, but he suggests that such 'authentic' communities are rare. More often, he says, the attachment that members of a society feel towards their nation is 'inauthentic,' based on psychological "illusion rather than any real participation in and appreciation of a common life."¹⁰⁴ It is, however, difficult to see how Norman can support this claim. He never even hints at how someone becomes qualified to make the necessary "qualitative judgement" about a state's cultural and political life. Moreover, this whole approach seems to be at odds with Norman's view of human nature and morality. Norman's basic moral claim is that all persons are due the respect appropriate to persons who live their own lives. How, then, can he claim that most persons are incapable of determining the value of their own political communities? This belies a paternalism

¹⁰³ Walzer, *JUW*, p. 41.

¹⁰⁴ Norman, p. 139.

in Norman's application of morality to warfare that is inconsistent with his baseline account of morality.

It may be useful to compare Norman's treatment of this subject to Walzer's. Like Norman, Walzer recognized that not all states may be worth fighting for.

The moral standing of any particular state depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile. If no common life exists, [the state's] own defense may have no moral justification.¹⁰⁵

Norman and Walzer, then, both recognize that not all communities are worth defending with human life, but only Walzer provides an answer as to how to make this judgment. Walzer argues that "action is the crucial language of moral commitment."¹⁰⁶ In other words, a citizen's values will be reflected in his actions. If a citizen becomes a soldier and fights, then Walzer contends that his actions should be assumed to reflect his agency. Walzer explains citizens' historical willingness to defend their state as an outgrowth of citizens' natural attachment to their political community. He argues that the shared experiences and cooperative activity in a political community shape a common life that is very valuable to its members. For this reason, he assumes that most states are authentically valuable to their citizens, unless circumstances --such as citizens' refusal to defend their state-- indicate otherwise.

A second objection to Norman's application of self-defense to soldiers concerns his assertion that soldiers are not sufficiently responsible for their threatening actions to be justifiably killed in response to them. This objection follows from Norman's emphasis on 'responsibility for a situation' rather than particular actions. I will briefly revisit that oddity, because I think that Norman is driven to it by his desire to condemn killing in war. If you remember, Norman's 'classic case' of justified killing in self-defense involved defending against the random attack of a drunk man. Norman declared that drunk man to be sufficiently responsible to be killed in self-

¹⁰⁵ Walzer, p. 54.

¹⁰⁶ Michael Walzer, *Obligations: Essays on Disobedience, War, and Citizenship* (Cambridge, MA: Harvard, 1970) p. 98.

defense, yet he argues that soldiers in war are not sufficiently responsible. Apparently, then, Norman considers professional, volunteer soldiers who are well-informed about the nature of a conflict to be less responsible for their actions than is a drunk person. Norman's positions in these examples cannot withstand scrutiny if he holds people responsible for their actions. Therefore, he is driven to evaluate responsibility at the level of situations.

Norman's denial of soldier responsibility is especially disappointing because Norman's is an agency-based account. The foundation of his account is that all persons have the right to live and shape their own lives, by making their own choices, and that moral actions are those that respect others' life choices. Norman's application of morality to war, however, does not extend this basic level of respect to an entire class of persons -- soldiers. Ironically, Norman prefaces his application of morality to warfare by denying that war is a 'special context,' yet he makes war just that by robbing all soldiers, and only soldiers, of their individual agency.

My final criticism of Norman's argument concerns again its consistency. Norman argues that morality does apply to soldiers in war, because morality is a function of interpersonal actions and people do interact in war. He then argues that soldiers are morally unjustified in killing enemy soldiers because enemy soldiers are not morally responsible for the threat that they pose. But, if indeed morality does apply in warfare and soldiers are morally unjustified when they kill, then why are 'enemy' soldiers not equally responsible for their actions? Norman can't have it both ways. As it is, his rejection of killing in war relies on the assumption that (the deliberating) soldiers are morally responsible for what they do yet the enemy soldiers are not responsible for what they do. This distinction has no objective foundation. Soldiers on both sides of the front are engaged in the same behavior, and 'friendly' and 'enemy' are mere relational terms.

In conclusion, Norman's argument that the actions of soldiers in war cannot be justified in terms of self-defense relies on two assumptions that are inconsistent with his overall account of human nature and morality. First, he assumes that citizens are unable to assess their own 'authentic' level of allegiance to their own political community. Second, he contends that persons who are

(enemy) soldiers are not responsible for their actions within a wartime situation. These assumptions violate the spirit of Norman's larger project--to argue that all persons are worthy and due the respect of making their own choices and living their own lives. Moreover, Norman fails to explain why soldiers are morally responsible but enemy soldiers are not. Therefore, Norman's War-Pacifist argument fails due to its internal incoherence in its application of morality to war. If Walzer is (as Norman claims) guilty of conforming morality to justify killing in combat, then Norman is equally guilty of distorting the nature of warfare to condemn killing in combat.

Chapter III: Soldiers, Self-Defense, and Killing in Combat

In Chapters I and II, I have focused on the distinctions between Just-Warism and War-Pacifism. In terms of their foundational accounts of self-defense, we have seen that Just-Warism relies on a no-fault justification, whereas War-Pacifism uses a responsibility-based account. Moreover, we have seen that the two approaches apply self-defense to war differently. Just-Warists give a collective account in which self-defense is applied to nations and armies, whereas War-Pacifists evaluate soldiers' actions in war as if they were acts of individual self-defense. We have also discovered that the two approaches do have at least one feature in common. They both fail to provide compelling moral arguments. Having dissected the rival arguments, we have discovered that our construction of Just-Warism is based on a morally indefensible account of self-defense and that Norman's approach of War-Pacifism applies its account of self-defense to soldiers in a manner inconsistent with its moral foundations.

In this chapter, I present a three-part argument. First, I demonstrate that the respective flaws in the Just-Warist and War-Pacifist arguments are based on what is essentially the same assumption. Then I argue that their shared assumption is false. Finally, I indicate how a moral argument on the justification of killing in combat would proceed once the correct assumption is made about soldiers and warfare.

3.1 The Shared Assumption

In the previous two chapters, I argued *that* both rival arguments about killing in combat are inadequate. Now, in order to gain insight into *why* they fail, I will reconstruct the respective arguments to determine *what* assumption or move causes their respective problems.

First, the Just-Warist argument. Just-Warists begin their argument with the conventions of war as they exist and then try to justify the killing that soldiers do. One of the great challenges for Just-Warists is that, by their own terms of *jus ad bellum*, at most one side in a war is morally justified.

It follows then that approximately one-half of the killing (all done on behalf of unjustly warring states) that occurs in war is morally unjustified. Were this to be the case, then it would be very difficult to justify war. To avoid this conclusion, Just-Warism makes use of the distinction between *jus in bello* and *jus ad bellum*, creating a logical independence between the morality of a war and the morality of the actions within that war. Historically, the basis for this distinction has been ‘invincible ignorance,’ a religious doctrine that, when applied to warfare, holds that soldiers who are fighting in an unjust war cannot be held morally responsible because they are incapable of judging the morality of their sovereign’s conduct. The Just-Warist holds that all soldiers fight for noble purposes, such as patriotism and loyalty, and are not in a position to be held responsible if their loyalty is misplaced. This invincible ignorance gives rise to a moral equality on the battlefield. This moral equality, in turn, demands that the justification for killing enemy soldiers cannot depend on the enemy being morally culpable. To justify killing moral equals, then, my construction of Just-Warism relies on a no-fault account of killing in self-defense. As my analysis of Thomson’s account of self-defense indicated, however, no-fault accounts of self-defense are morally untenable. The failing in this Just-Warist argument, then, is the no-fault account of self-defense. The reason that Just-Warism relies on such an account is its contention that all soldiers are moral equals. This moral equality, in turn, is based on the assumption that soldiers are invincibly ignorant and therefore not morally responsible for their actions. Therefore, the fundamental reason that my construction of the Just-Warist justification for killing in combat fails is the assumption that soldiers cannot be held morally responsible for their actions.

War-Pacifists¹⁰⁷, for their part, begin their argument with a certain conception of morality and then try to demonstrate that killing in war is not consistent with that morality. They base morality on a respect for human agency. For an act of killing to be morally justified, War-Pacifists require (among other conditions we’ve discussed) that it be a response to the agency of the person being killed. War-Pacifists, however, assume that soldiers are not responsible as moral agents for the threat they pose in war because wars in which they fight are not *their* wars. The soldiers themselves are not responsible for starting or even shaping them. War-Pacifists conclude, then,

that killing soldiers in war is not a response to soldiers' agency, and is therefore morally unjustified. The problem with this argument is that it denies to soldiers what Norman asserts is morally most important to any persons--their moral agency. This problem develops out of the War-Pacifist assumption that enemy soldiers are not responsible for their actions in war.

We see, then, that the assumptions that lead to problems in both the Just-Warist and War-Pacifist arguments are judgments on the moral responsibility of soldiers. Just-Warists argue that killing in war is morally justified because the soldiers who kill are not responsible for what they do. War-Pacifists transpose that argument, countering that, because enemy soldiers are not responsible for what they do, killing them in war is not morally justified. Both assumptions address the moral responsibility of soldiers, but both do so from different perspectives. Just-Warists focus on the responsibility of the killing soldier, whereas War-Pacifists are concerned with the responsibility of the soldier who is killed. Nonetheless, the respective 'non-responsibility' assumptions can be treated as a single assumption, because all soldiers are both friendly and enemy. In this way, it is essentially a single assumption--that soldiers are not morally responsible for their actions in combat--that leads both arguments to fail. It forces the Just-Warists to adopt a no-fault account of self-defense, and it leads the War-Pacifists to absurdly deny moral agency for the sake of respecting agency.

3.2 Assessing the Assumption

In this section, I evaluate the assumption that persons who are soldiers are not morally responsible for their actions. As I argued in the previous section, the assumption is critical both to the respective arguments and to their criticisms. If, in fact, soldiers cannot be held morally responsible, then my criticisms of the rival arguments are misguided. If, however, we conclude that soldiers are responsible for their actions, then both the Just-Warists and War-Pacifists will have to reconsider their respective arguments.

¹⁰⁷ Who follow Norman's line of argument.

My task is complicated by the fact that there is no agreement in philosophy on what it means for a person to be ‘morally responsible,’ and it is beyond the scope of this thesis to enter that fray. For our purposes, however, I will use a concept of moral responsibility that I believe is consistent with both Walzer’s and Norman’s approaches.¹⁰⁸ In the discussion that follows, a person is morally responsible for an action if the moral community would express moral judgments on that person’s character for performing the action.¹⁰⁹

The issue at hand is whether or not the Just-Warists and War-Pacifists are correct in assuming that soldiers on the battlefield cannot be killed in self-defense by other soldiers because they are not morally responsible for the threats they pose by their actions. There are several possible ways by which this assumption would be true. First, soldiers would not be morally responsible if the responsibility for killing rests only with the political leaders who decided to wage the war. Second, soldiers would not be responsible if they are ‘innocent threats’ who are unaware of their threatening role in the situation. Or, finally, soldiers would not be morally responsible if they are ‘innocent aggressors’ who act intentionally yet are not deemed responsible by the moral community. Let us examine each possibility in turn.

It would be absurd to suggest that only political leaders are morally responsible for the killing that occurs in war. As I discussed in Section 2.3, responsibility just is the ability to respond to a given situation. Although it may very well be true that political leaders share in the responsibility for killing in war, it does not follow from that that the soldiers who kill are not themselves responsible for their own, chosen actions. Therefore, the fact that political leaders are responsible for their actions does not mean that soldiers are not responsible for their own ones.

¹⁰⁸ Walzer assumes “that language reflects the moral world and gives us access to it...and that our understanding of the moral vocabulary is sufficiently common and stable so that shared judgments are common.” (*JUW*, p. 20.) Norman, too, talks of the “evaluative standards embedded in ‘our’ language” that makes “it appropriate to talk about the human community, the community of potential communicators, as a moral community.” (p.21-22).

¹⁰⁹ I leave myself liable to charges to ‘moral intuitionism,’ but, with neither the time nor space to delve into the issues surrounding moral responsibility, I go forward with a practical (but not theoretically justified) definition of moral responsibility.

A second way to justify the assumption that soldiers are not responsible for the threats they pose would be to argue that they, like Norman's passer-by 'innocent threat,' are unaware of the threatening role they play in a situation. This would be a difficult case to make. As Mark Vorobej comments, "Typically, in a wartime scenario of increased political tensions, combatants cannot reasonably plead ignorance of the fact that what they are doing can reasonably be perceived as a threat to the lives of others."¹¹⁰ Soldiers are uniformed, trained, armed, and -- especially when tensions are high -- briefed on their wartime missions. At a minimum, soldiers know that they are soldiers and that a war is taking place. Therefore, the 'innocent threat' argument does not support the 'non-responsible' assumption.

The third, and most plausible, way in which soldiers would not be held responsible for their threatening actions is to treat them as 'innocent aggressors.' As discussed earlier, there are several types of innocent attackers, some of which clearly do not apply to soldiers. Soldiers are not *insane*, and in nearly all cases are not *juveniles*, so it cannot be said that soldiers are innocent because they lack the capacity to exercise moral agency. Soldiers may, however, be innocent in the sense of being *mistaken* attackers. They may, for example, think that they are fighting a defensive war when in fact they are the aggressors, in which case their exercise of agency is intentional but misguided. It is, however, morally justified to kill a mistaken attacker, by both Thomson's and Norman's accounts of self-defense, so this must not be the sense that the rival approaches claim that soldiers are not responsible. And, finally, soldiers could be innocent for being *compelled* attackers, driven to kill by irresistible coercion. I suspect that Norman's choice of a compelled attacker as his example of an innocent attacker reveals that he considers soldiers to be compelled attackers.

The argument that soldiers are compelled to fight really begins with the argument that persons are compelled to become soldiers. To some, like Norman, the mere fact that persons have been

¹¹⁰ Mark Vorobej, "Pacifism and Wartime Innocence," *Social Theory and Practice*, Vol.20, No.2 (Summer 1994): p. 190, n. 18.

compelled to become soldiers and have been introduced into a situation (war) created by others (political leaders) relieves those persons of their responsibility for actions done in the situation. As we discussed above, however, moral responsibility is an assessment of personal actions, even those within constrained situations. Consequently, if soldiers are to be judged 'innocent' due to compulsion, there must be something more than the mere fact that they entered a situation. This "more," argues Cochran, is the way that a person's agency is destroyed in the process of becoming a soldier. He asserts that the last responsible decision a person makes as a moral agent is the (compelled) decision to enter the military. From that moment forward, his agency is undermined, he becomes an automaton of his superiors, and he cannot be held morally responsible for his actions as a soldier. For those who reject the automaton argument, a third way to argue that a soldier is compelled to fight is due to direct compulsion at the moment of action. To determine whether it is reasonable to judge soldiers to be non-responsible due to compulsion, I will examine the three main premises of the argument, which are: that persons are compelled into becoming soldiers; that persons, *qua* soldiers, are not moral agents; and, finally, that soldiers are compelled to act on the battlefield.

The premise that citizens are compelled into becoming soldiers is defended in three ways. First, it is said that citizens are coerced through the misinformation of their state, so that they perceive a threat to their society that does not actually exist and subsequently volunteer for service based on false information. This argument, however, is incorrectly diagnosed as compulsion. A compelled attacker is aware of the choices available to him, but is forced to choose one of the particular choices. A misinformed citizen is better described as a mistaken attacker, not a compelled one.

A second way that citizens are allegedly compelled to become soldiers is through the attractive offers made by the state. Types of offers include such things as prospects of economic security, uniforms, medals, parades, veterans benefits, and other honors and privileges bestowed on soldiers and former soldiers. It is, however, difficult to believe that these offers are sufficiently irresistible. For example, a shoplifter is no less responsible for her crime if she was enticed by an

appealing showroom display, and an employee is no less a moral agent if he is 'enticed' by higher wages. Clearly, a citizen must face more than attractive offers for his moral agency to be negated.

A third way in which citizens might be compelled to become soldiers is if they are threatened with imprisonment or death for refusing conscription. In such circumstances, it is more than reasonable for citizens to choose to become soldiers.

The second premise of the 'innocence by compulsion' argument is the charge that military service inherently destroys individual moral agency. This line of thinking holds that soldiers lose their moral agency through the effects of military training. It presumes that through manipulation and indoctrination, soldiers are inevitably led to compartmentalize their moral concerns in order to kill other human beings at the whim of a superior's order.¹¹¹ The image produced is soldiers as automata, responsive to orders but unresponsive to the humanity of those they kill, instruments rather than agents. Cochran articulates the War-Pacifist position in this way:

War turns human beings into weapons themselves; each soldier is a weapon wielded by his or her commander who decides where each will go and what each will do. Soldiers are the instruments of war as much as planes and guns.¹¹²

This charge -- that the process of soldierization transforms persons from moral agents into instruments of the wills of others -- is used to support the assumption that soldiers are not responsible for their actions. For, if this is true, then soldiers are compelled by their training to (eventually) do things (like try to kill people) that they otherwise would not do. Another implication of this 'soldierization' assumption is that civilians would have a greater burden to resist becoming soldiers, because to become a soldier would mean to submit to compulsion.¹¹³

¹¹¹ Jeff McMahan, "Innocence, Self-Defense, and Killing in War," *The Journal of Political Philosophy*, Vol.2, No.3, 1994, p. 214.

¹¹² Cochran, p. 166.

¹¹³ A person's refusal to submit to losing her autonomy is referred to as a "pacifism of scruple" in Barrie Paskins' and Michael Dockrill's *The Ethics of War* (London: Duckworth, 1979) p. 115.

The notion that soldiers are automata is, however, absolutely false, a sign of the estrangement that has developed in an age when peace and security are taken for granted throughout most of the world. It is only the uninformed who think that military effectiveness demands mindless adherence to orders. Those familiar with the military, and especially those within the military, recognize that the initiative of individual soldiers is the key to victory, for “no plan survives the first shot.”¹¹⁴ If nothing else, though, the mere existence (and widespread compliance with) of the *jus in bello* Rules of War indicates that soldiers consider themselves, and each other, to be individually morally responsible for their actions. All soldiers know that they are duty-bound to disobey any illegal or immoral orders. In the American military, Rules of War instruction is an annual requirement for each soldier. And, while it is true that soldiers are indoctrinated, the substance of that indoctrination emphasizes individual responsibility. For example, in the American military, all soldiers are required to memorize the Code of Conduct, the last article of which states:

I will never forget that I am an American, fighting for freedom, *responsible for my actions*, and dedicated to the principles that made my country free.” (emphasis added)¹¹⁵

The Rules of War are endorsed by Just-Warists, and criticized by War-Pacifists, for putting a moral veneer on war ‘the way it is,’ for allowing soldiers themselves to make their own rules. If so, (and since this is so), the Rules of War indicate that individual soldiers are deemed to be responsible moral agents, for it would make no sense to hold ‘automata’ legally responsible for their actions.

I have now argued that citizens are not compelled to become soldiers and that soldiers are not compelled to lose their moral agency. The third and final sense in which soldiers could be judged innocent of their actions due to compulsion would be if they were compelled at their moment of decision on the battlefield. The image this argument conjures up is of pre-modern soldiers,

¹¹⁴ A commonly-referred to military axiom.

¹¹⁵ MQS I S4-9103.03-0004 TSP 9004 (Code of Conduct) dated 15 April 1990, p. A-15.

marching on-line at each other, with an armed non-commissioned officer behind them, ready to kill the first ‘coward’ who breaks from the line. In such a situation, it is said, the soldier is compelled to kill one person (an enemy) by the threat of being killed (by his superior).

This is the strongest case for the argument that soldiers are compelled, and therefore innocent, attackers. In terms of self-defense, the scenario could be described as such:

Person X has a gun to the head of person Y. Person X threatens to kill person Y unless person Y kills person Z. Is person Y morally justified in killing person Z in self-defense?

I do not think so. Afterwards, if person Y were being punished for his crime, the duress of having his own life threatened would likely be a factor in *mitigation*, but his action would not be *justified*. Y has a choice, albeit a constrained one, and he is responsible for how he chooses. Y has the options of killing or being killed. Admittedly, he is in an unfortunate situation, but still there is no justification for him to kill Z.¹¹⁶ Y’s mitigated crime would be an unmitigated offense to Z.

This example, which illustrates the strongest case for compulsion, reveals its limits. If person Y has a choice even when his life is literally on the line, then any and every soldier has a choice, regardless of the pressure applied by the offers and threats of his state. States may constrain their citizens’ choices, but as long as options remain then the citizens must take responsibility for their choices. Ultimately the power and responsibility of choice, agency, remains with the individual moral agents.

The debate on the level of autonomy that soldiers exercise is not one that will be settled anytime soon. History provides too many examples of each kind of behavior, and while soldiers will vehemently deny that they are automata, their protests will only convince others that they suffer from a false consciousness. There is one example, though, that ironically serves as a powerful defense of soldiers’ autonomy and as evidence to support holding soldiers’ morally responsible.

¹¹⁶ As Zohar expresses it, “Killing can never be justified by the result alone—that a life is saved, for just as surely a

On March 16, 1968, members of an American Army unit massacred villagers in the area of My Lai, South Vietnam. On that day, the leader of an exhausted, frustrated American unit ordered his soldiers to kill the civilians living there. Although the event has become synonymous with the image of the inhuman soldier who obeys any order to kill, an overlooked fact of the tragedy is that many low-ranking soldiers refused to obey the repeated illegal orders of their superiors. Some even put themselves in the line of fire to protect the unarmed Vietnamese. Mostly conscripted soldiers, trained as infantrymen and helicopter crewmen, urged by their superiors to kill, they nevertheless followed their consciences.¹¹⁷ This clearly shows us that -- in the middle of what is arguably the low-point in American military history, when all of the relevant factors weighed in against the agency of soldiers -- many soldiers recognized and exercised their moral agency. If soldiers at My Lai can do what is right, then soldiers anywhere can.

3.3 Responsible Soldiers and Justified Killing in Combat

If I have demonstrated that soldiers should not be characterized as morally non-responsible for their actions, I hope that it has become equally clear that soldiers do act in morally challenging environments. To say that soldiers are not non-responsible is not to say that they should be held fully responsible. This, I think, is an aspect of the issue that is missed by both the Just-Warists and War-Pacifists, whose arguments suffer from a binary sense of responsibility--either someone is or is not responsible. The problem is that their arguments rely on at least some soldiers being morally responsible. Just-Warists hold that soldiers are not responsible for participating in the war, but are responsible for how they act within the war. War-Pacifists, for their part, hold that deliberating soldiers are responsible for their actions, but that enemy soldiers are not. A more accurate description of the moral reality of war (and more generally, the human race) is that soldiers are morally responsible agents who act in varying circumstances that merit corresponding degrees of mitigation.

life is lost," p. 609.

¹¹⁷ Michael Bilton and Kevin Sim, *Four Hours in My Lai* (NY: Viking, 1992), pp. 102-141.

In this section, I will consider the implications of recognizing that soldiers are responsible, mitigated, moral agents. I will build on the work done throughout this thesis, making use of Norman's agent-centered account of self-defense (with act-responsibility) and Walzer's conception of the citizen-state-soldier relationship. I do not intend for this approach to definitively resolve the issue of the moral justification of killing in combat, but I do hope that it sketches an outline of how any 'responsible' argument would proceed.

The first condition that must be met for soldiers to justifiably kill in self-defense is that they face a forced choice between lives. Soldiers, when first faced with the prospect of war, do not face a direct choice between lives. Rather, they are confronted with "the choice: your rights or (some of) your lives!"¹¹⁸, and they fight to protect the rights of their political community. If they fight, we can assume that they value their community as much or more than their own lives. Since we are assuming that these citizen-soldiers are responsible moral agents, we can dismiss Norman's uncharacteristic concern that their attachment to their community is inauthentic.

A second element of this condition is that soldiers have a responsibility to refrain from participating in an unjust war. Even in the information age, however, it is often difficult to judge the justice of a state's war. Wars have so many factors, many of which cannot be publicly disclosed without undermining longer-term security interests, that citizens may often feel--and be--unable to make an informed judgment. Citizens, then, have a right and perhaps even a duty to be skeptical about war plans. This will likely encourage their state to be as forthcoming as possible. Nevertheless, in the end citizens are justified in giving the benefit of the doubt to their own state. It would, I think, be unnatural to ask anything more of them.

In an ideal world, a healthy skepticism among the citizenry would greatly decrease the likelihood of war. In the real world, however, we must recognize that there may be conflicts in which both sides honestly think that their actions are just. In such cases, all of the killing that occurs within the war could be justified in self-defense. Soldiers who believe that their cause is just fight for

values that they believe in; their actions are freely chosen (within the constraints of the geopolitical situation) and their death would be meaningfully connected to their agency.

The second condition that must be met is that the soldiers are sufficiently responsible for the forced choice that they create. Soldiers do not choose their wars, it is true, but they do choose whether to fight in their country's wars. Throughout history, soldiers who do not wish to fight have found ways not to. In nearly all Western nations today, conscientious objection (C.O.) is an option. In the 1991 Gulf War alone, over 1,000 American soldiers claimed C.O. status and were discharged from the service.¹¹⁹ Soldiers without recourse to C.O. can accept the consequences of their convictions, or they can simply injure themselves or refuse to fight. In this century, psychological casualties have outnumbered physical ones. Soldiers who can't or won't fight, simply don't fight. The 80,000 Iraqis who surrendered in the Gulf War serve as a powerful testament that even soldiers who have been forced to take up arms still retain the choice of whether to fight. Although exceptions surely exist, soldiers on a contemporary battlefield have chosen to fight. They may not have had any other pleasant options, but the fact remains that no one can force another person to kill. In a very real sense, the soldier makes his choices and lives (or dies) with them.

Since the justified killing of another human being must be internally connected to his agency, it may seem that only front-line soldiers should be killed. It is more difficult to construe rear-echelon soldiers, such as cooks and mechanics, as forcing a choice among lives. There are two aspects that impact on this issue, attacks on non-combat soldiers. On the one hand, all soldiers can be meaningfully classified as a group. As Walzer said, "Soldiers as a class are set apart from the world of peaceful activity."¹²⁰ The soldier-cook and the soldier-infantryman have more in common than nearly any two civilians of the same occupation. Whereas civilians focus on their jobs and tend to move among different employers, soldiers' loyalty is to their organization and its mission. Most citizens join the army to defend their country, not to perform any particular duty.

¹¹⁸ Walzer, *JUW*, p. 53.

¹¹⁹ Moskos and Chambers, pp. 204-5.

Therefore, the job distinctions in the army are contingent. The most telling indicator of a soldier's intent is his uniform, not his task. These considerations tend to indicate that the killing of any wartime soldier is a meaningful response to his agency.

On the other hand, the third necessary condition in our adopted account of self-defense is 'immediacy.' A person can be justifiably killed not only because the killing responds to his agency, but also because there exists an immediate 'forced choice' between lives. The concept of immediacy can be extended to combat soldiers because it is only a matter of time before the threat that they pose becomes imminent. The same cannot be said of support soldiers. It is, in fact, unlikely that non-combat soldiers would ever pose a threat to enemy soldiers. For this reason, I am inclined to say that every reasonable effort should be made to limit the killing in war to combat soldiers. This is not the kind of rule that could be enshrined in the War Convention. It would be very hard to enforce and could easily lead to abuse. Nevertheless, I do think that it addresses the moral issues of killing in war.

Our ambiguity about the justification of killing non-combat troops is not a case of confused moral intuitionism. There is, I think, a good reason for our ambiguity, and the reason is grounded on the moral foundation for killing in combat--the right of self-defense. The truth is that no act of killing in self-defense is *completely* justified. It is always based on the reasonable beliefs of the victim, which may, of course, be wrong. Recall that one of my criticisms of Thomson's account of self-defense is that it presumed an objective knowledge of causality, which simply does not exist. No potential victim knows that she will be killed. The best she can do is act on her reasonable beliefs. Moreover, the justification of self-defense relies on external factors, such as the options that a victim has. A victim is only justified in killing an attacker if she *must* do so to defend herself. As these points indicate, no acts of self-defense are *completely* justified, but we can and do say that they can be *sufficiently* justified, based on reasonable beliefs and necessity.

¹²⁰ Walzer, p. 144.

These same factors explain our moral concerns about which soldiers can be justifiably killed in self-defense. Combat soldiers can be killed because it is very reasonable to believe that they pose a threat. But they can be killed only if that is required by self-defense. When, say, a peace treaty is about to go into effect, it would be morally unjustified to launch a last-minute artillery barrage on enemy combat troops, assuming that that action was unnecessary to secure the common defense. By the same logic, non-combat troops should only be killed when it is necessary to do so, especially since it is less reasonable to believe that they do or will pose a threat.

In combat, the concept of necessity operates at two levels. Battles may or may not be necessary in the course of collective self-defense, and killing within those battles may or may not be necessary in the course of winning the battle. In combat, soldiers are unlikely to have access to the information to determine whether their battles are necessary; that responsibility lies with the military planners who are adequately informed. Still, soldiers are able to assess whether the killing that they do in the course of accomplishing their missions is necessary. They may not be responsible for their missions, but they do remain individually responsible for how they go about accomplishing them. If soldiers must kill in order to accomplish their missions, then they are morally justified in doing so. If and when, however, the killing is not necessary for mission accomplishment, then it is not morally justified.

War is remarkable for its complexity. It would be impossible for me to “apply” an account of self-defense to every possible scenario. It is, however, possible and morally plausible to relate these two factors of self-defense --reasonable belief of a threat and necessity-- to the justification of soldiers killing each other in wartime combat. We can, I think, reasonably believe that all soldiers, some more than others, are somewhat responsible for threatening lives. Combat soldiers are more threatening than combat support soldiers, who in turn are reasonably believed to be more threatening than combat service support soldiers, etc. We are also capable of assessing situations in order to meaningfully determine what is necessary to achieve just wartime objectives. So, when soldiers have the option to avoid killing non-combat soldiers, then they should. When, however, they are constrained by circumstances to defend themselves by killing soldiers who are

less likely to be threats, then they are justified in doing so. Self-defense is, at bottom, a justification based on beliefs and necessity. The killing that soldiers do in war can be justified by the same baseline factors.

Conclusions.

I set out to examine the moral justification of killing in combat, giving particular attention to the role that principles of self-defense play in moral arguments used by both Just-Warists and War-Pacifists. By investigating their respective foundational accounts of self-defense and their applications of those accounts to warfare, I have found problems in both arguments. I have demonstrated that one Just-Warist justification for killing in combat is based on a morally indefensible account of self-defense, and that a prominent War-Pacifist condemnation of killing in combat relies on an inconsistent application of self-defense to warfare. Moreover, I have shown that the flaws in both arguments can be traced to a single, false assumption--that individual soldiers are not responsible for their actions in combat. By incorporating a realistic view of soldiers--that they are responsible moral agents who often act under mitigating circumstances--I have been able to outline an approach that justifies killing in combat based on principles of self-defense.

In more general terms, this work has laid a groundwork for continued study into the personal moral dimensions of war. It has illustrated the significance that various issues--such as an account of self-defense, how that account is applied to soldiers in war, and assumptions about soldiers' responsibility and their citizen-state relationship-- play in the moral justification of killing in combat. Most importantly, it has argued for a new and more realistic way of attributing responsibility to soldiers. It is, I hope, a start to finding answers that have been too long ignored.

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