



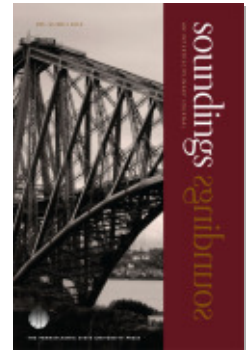
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Just War as Compromise *Rethinking Walzer's Position on Realism*

MARK D. KING

Abstract

In *Just and Unjust Wars*, Michael Walzer draws on the work of classical just war theorists such as Augustine and Vitoria to offer a principled antidote to the moral realism that often dominates popular debate about war ethics. The understanding of role morality on which Walzer bases his modern account of just war theory differs in subtle but significant ways from that of his classical predecessors, however, and because of this he is not entirely successful in challenging the realist positions of Thucydides and Hobbes. While Augustine and Vitoria argue that the innocence of soldiers for *ad bellum* violations is contingent on limited knowledge, Walzer conceives of this innocence as an absolute derived from their occupation of the role of *soldier*. For this reason, Walzer's account of just war theory functions more as a compromise between principles and realism than a true ethical alternative.

Michael Walzer begins his now classic text *Just and Unjust Wars* with a chapter titled "Against Realism," in which he frames his account of just war theory as a principled alternative to realist attitudes toward military conflict (1992, 3–20). The influence of this text has been so great that for years it was accepted as the authoritative account of just war theory and, consequently, the template for any moral critique of political realism. Not only did Walzer's work function as a model for the

application of classical just war theory to modern military problems, but it also represented that classical theory to scholars, lawyers, and politicians of the twentieth century.

As a result, our understanding of the emergence of just war theory is one of general uniformity (Coates 2008, 176). This is not to say, of course, that scholars recognized no variation in thought over the centuries of the theory's development. Rather, the diverse collection of philosophers who make up the just war tradition were all understood to converge on the most essential points of the theory, and to add their unique voices to shaping the shared final product that Walzer's theory represented.

More recently, however, some scholars have challenged this perceived congruence. Perhaps most notably, Jeff McMahan has led scholars to consider more closely whether there is a disconnect between Walzer's work and that of classical theorists. Although McMahan later downplays the difference between the viewpoints of Vitoria and Walzer on the justification of soldiers who fight in unjust wars, he recognizes in his earlier work a divergence between Walzer and classical theorists such as Vitoria and Suárez (Vitoria 1917, 173; Suárez 1944, 2:845–46), who both reject a central tenet of contemporary just war theory: namely, the presumption that killing soldiers who fight for a just cause is always permissible so long as the killings do not violate *jus in bello* (McMahan 2009, 111–12; 2005, 9–10). McMahan draws a distinction between classical and contemporary theory on this point, observing that modern just war theorists—with the notable exception of Elizabeth Anscombe—have rarely followed their classical predecessors in objecting to the killing of just warriors, choosing to focus instead on whether the killings met *in bello* criteria (2005, 9–10).

Anthony Coates strengthens this distinction between classical and modern just war theory, identifying the relationship between *jus in bello* and *jus ad bellum* as a focal point of disagreement. According to Coates, the modern consensus that soldiers are permitted to kill for the wrong reasons without incurring guilt is a relatively recent phenomenon, and is the result of the divorce of *in bello* obligations from the *ad bellum* duties out of which they originated (2008, 176, 181). This suggests that Walzer's division of responsibility for *jus ad bellum* and *jus in bello* along strict lines of role fulfillment, with soldiers bearing only *in bello* obligations, would also be difficult to reconcile with classical theory.

If we are to rethink the relationship between modern just war theory and its classical counterpart, we must also reconsider Walzer's relationship to political realism. Most ethicists have yet to take this step, and continue to follow Walzer in interpreting his treatment of just war theory as fundamentally opposed to the realist position. Although there can be little controversy over Walzer's opposition to realism in principle, the differences between Walzer's arguments and those of classical just war theorists such as Augustine and Vitoria should give us pause. If the disunion of *jus ad bellum* and *jus in bello* that Coates describes has excused soldiers from *ad bellum* obligations once assigned to them by classical theorists, what are the implications for modern just war theory as a bulwark against realism? It may in fact be more accurate to characterize the relationship between Walzer's call for ethical standards in warfare and the realism that he so strongly rejects as one of *compromise*.

Thucydides, Hobbes, and Realist Dualism

Walzer begins *Just and Unjust Wars* with a discussion of realism, which he characterizes in deliberately dualist terms: "War is a world apart, where life is at stake, where human nature is reduced to its elemental forms, where self-interest and necessity prevail. Here men and women do what they must to save themselves and their communities, and morality and law have no place. *Inter arma silent leges*: in time of war the law is silent" (1992, 3). Walzer's choice to directly engage realist dualism from the outset reflects the overall intent of his work, which is to frame his account of just war theory as a challenge to those who attempt to locate warfare in a separate, chaotic realm beyond the jurisdiction of ethics.

Walzer's critique of realism focuses primarily on two figures: the Greek historian Thucydides and the philosopher Thomas Hobbes. Despite being separated by two millennia, Walzer considers Thucydides' *History of the Peloponnesian War* and Hobbes's *Leviathan*, which was itself heavily influenced by Hobbes's own translation of the *History*, to represent collectively both the origin and most representative account of realist thought (Walzer 1992, 4). For Walzer, Hobbes's relationship with Thucydides is symbiotic, with Hobbes giving philosophical exposition to the role of ethical discourse in military decision-making that pervades Thucydides's account of history.

Walzer focuses most closely on the Melian Dialogue in his critique of Thucydides. This dialogue takes the form of a meeting between Athenian and Melian generals, during which the Athenian generals attempt and fail to persuade the outnumbered Melian army to surrender and spare the people of Melos unnecessary suffering (Walzer 1992, 5). After the Athenians defeat the Melian army, they mercilessly slaughter all men old enough for military service and enslave the women and children (6).

Although Walzer clearly objects to the injustice of the Athenian generals, Walzer does not take issue with Thucydides's attempt to convey this distasteful history accurately, but rather with the account given by the Athenian generals of their motivation for the invasion and the atrocities that followed. Walzer summarizes their arguments in classic realist terms:

Let us have no fine words about justice, they say. We for our part will not pretend that, having defeated the Persians, our empire is deserved; you must not claim that having done no injury to the Athenian people, you have a right to be let alone. We will talk instead of what is feasible and what is necessary. For this is what war is really like: "they that have odds of power exact as much as they can, and the weak yield to such conditions as they can get." (1992, 5)

This realism could, of course, merely be an extension of the brutal candidness that characterizes Thucydides' portrayal of the Melian conflict. Such an interpretation, however, overlooks an important difference between the Melian Dialogue and other aspects of Thucydides' account of the invasion. As Walzer reminds the reader, "the dialogue between the general and the magistrates is a literary and philosophical construction of Thucydides," since Thucydides could not have had access to accurate accounts of the details of such a meeting (6). While other parts of the *History* may favor accuracy over artistry, the dialogue is a narrative embellishment of Thucydides' own creation. When Thucydides chooses to draw back the curtain on what he believes to be the reality of military ethics in such bold fashion, there must be a purpose beyond the desire to tell dispassionate history.

Walzer rejects the claim by some scholars that this revelation is intended as a criticism of the generals' motives (1992, 6–7).¹ Rather than exposing the

generals' reasons for invasion, he argues that the Melian Dialogue transcends the actions of the Athenian generals and serves primarily to make a more universal philosophical claim about war itself (7). Thucydides is unmasking the truth of the relationship between ethics and war, and in doing so he is rejecting the false veil of morality behind which it has always been forced to hide. On Walzer's account:

The slaughter of the Melians is explained by reference to the circumstances of war and the necessities of nature; and again, there is nothing to say. Or rather, one can say anything, call necessity cruel and war hellish; but while these statements may be true in their own terms, they do not touch the political realities of the case or help us understand the Athenian decision. (7–8)

Walzer maintains that the philosophical purpose of the Melian Dialogue is to free warfare from the language of morality and replace this with the more natural language of necessity. His reading of the dialogue expands on that of the classicist Werner Jaeger, who argues that Thucydides creates a separate realm for military force distinct from the realm of moral law (Walzer 1992, 7).² While one can discuss warfare in moral terms, Thucydides believes that war will always resist this language because it exists in a reality apart from moral discourse. In times of war, Thucydides would argue, necessity forces human beings to focus on basic issues of survival, and in the process, human nature reverts to a more elemental state. According to Walzer, "The defenders of *silent leges* claim to have discovered an awful truth: what we conventionally call inhumanity is simply humanity under pressure. War strips away our civilized adornments and reveals our nakedness" (4). For realists, war exists in the realm of the primal, not the ethical. The stresses created by the pervasive mortal danger of warfare reduce humanity to the state of nature that always hides beneath the edifice of civilization. Moral discourse has nothing valuable to say about this natural state because ethical language is part of the edifice.

Walzer credits Hobbes with developing Thucydides' nascent argument about politics and human nature into a mature philosophical position in his *Leviathan*. Hobbes, however, was willing to push Thucydides' claims about the relationship between freedom and necessity in the Melian Dialogue

even further. Walzer maintains that, for Hobbes, the realism that fueled the arguments of the Athenian generals “is not only a denial of the freedom that makes moral decisions possible; it is a denial also of the meaningfulness of moral argument. . . . If we must act in accordance with our interests, driven by our fears of one another, then talk about justice cannot possibly be anything more than talk” (1992, 10). While Thucydides established that the world of warfare exists apart from the world of ethics, Hobbes makes their separation absolute. If necessity, and not ethical reasoning, drives decision making within the world of warfare, then moral discourse about warfare is not only futile but inappropriate. Not only did the Athenian generals lack a real choice about invading Melos, but they were right to refuse to attempt to justify this act of necessity in moral terms. To do so would be to fundamentally misrepresent the nature of military decision-making.

Walzer challenges this rejection of the legitimacy of ethical discourse by focusing squarely on the question of language and its validity. Although Hobbes believes that ethical debate is meaningless when applied to warfare, Walzer grounds his defense of this discourse in the efficacy of that same language:

Whether or not people speak in good faith, they cannot say just anything they please. Moral talk is coercive; one thing leads to another. Perhaps that’s why the Athenian generals did not want to begin. A war called unjust is not, to paraphrase Hobbes, a war disliked; it is a war disliked for particular reasons, and anyone making the charge is required to provide particular sorts of evidence. (1992, 12)

For Walzer, the fact that people can argue about the ethics of warfare is itself proof that the language of ethics is relevant. Such debate is not chaotic and unintelligible; the arguments that are put forth have a logical, rational flow that can be followed and understood even by those who disagree, and can be critiqued by others for their consistency and structure. They are not merely emotive expressions of dislike directed at particular military actions, but compelling arguments grounded in reason and supported with evidence. Walzer believes that this logical coherence indicates a correspondence between ethical language and reality, writing, “I must say this or that, and at many points in a long argument this or that will be true or false. We don’t have to

translate moral talk into interest talk in order to understand it; morality refers in its own way to the real world” (12). According to Walzer, the intelligibility of this discourse is evidence enough that moral language is at least as natural as the language of interest for questions of warfare.

Walzer offers an alternative reason that the Athenian generals and, by extension, other realists, are eager to avoid the language of ethics: the Athenian generals refuse to engage in moral discourse because they know they will lose. Ethical discourse concerning warfare is no less persuasive than other ethical arguments, which belies the suggestion that warfare enjoys a special status when it comes to such language. If warfare exists in a world apart from ethics, the effectiveness of ethical language to address military questions absolutely fails to support this reality. Despite their claims that the language of necessity is more natural for warfare, the generals know that these arguments will be less compelling than the ethical objections raised by the Melians, to which they will have nothing to say. By establishing a false dualism between the world of warfare and the world of morality, the Athenian generals hope to create a separate reality for warfare to protect themselves from censure.

Dualism of the Self in Walzer

Insofar as ethics is concerned, however, Walzer’s theory also presumes war to be a “world apart,” even if this runs contrary to his intention. Despite his rejection of realist dualism, Walzer retains in his account of just war theory a less obvious form of dualism that is equally as strong but far more limited in scope. Unlike that of Hobbes and other realists, Walzer’s dualism makes no claims about the moral status of warfare itself but only the warriors who fight it.

This new dualism is wholly internal to the identity of the soldier, and addresses the culpability of the agent for actions taken on the battlefield. Walzer’s interpretation of the responsibilities and rights of the soldier presupposes a sharp division within the self between the moral agent as *soldier* and the agent as *civilian* (or, for that matter, as *person*). Consider the terms in which Walzer characterizes the limits of the soldier’s responsibility for the justice of war:

The level of hatred is high in the trenches. That is why enemy wounded are often left to die and prisoners are killed—like murderers lynched by vigilantes—as if the soldiers on the other side were

personally responsible for the war. At the same time, however, we know that they are not responsible. Hatred is interrupted or overridden by a more reflective understanding, which one finds expressed again and again in letters and war memoirs. It is in this sense that the enemy soldier, though his war may well be criminal, is nevertheless as blameless as oneself. (1992, 36)

Walzer argues that the soldier cannot be “personally responsible” for the overall justice of the conflict for which he or she fights because such decisions are beyond the responsibilities concomitant with the role of *soldier*. Although anger may lead to atrocities in the heat of battle, on a deeper level the shared experience of warfare creates a strange sense of kinship among soldiers, who recognize in the faces of their enemies their own innocence and helplessness over against the overwhelming circumstances that brought them together on the battlefield.

Walzer turns to the case of the German general Erwin Rommel to illustrate this distinction of role responsibilities. The injustice of the war in which Rommel served is without question, and his position as general locates Rommel among the highest in Hitler’s chain of command. Nevertheless, Walzer notes that most do not condemn Rommel as they do others serving under Hitler since Rommel did not participate in Nazi atrocities, even going so far as to tear up orders from Hitler to execute enemy soldiers who crossed into German territory (1992, 38).³ Walzer argues that Rommel was only accountable for his conduct *within* the war, which is the limit of responsibility for those fulfilling the role of *soldier*. He writes, “[Rommel] concentrated, *like the professional he was*, on ‘the soldier’s task of fighting.’ And when he fought, he maintained the rules of war. He fought a bad war well, not only militarily but also morally” (38, emphasis added). Note Walzer’s emphasis here on the professionalism of Rommel. Rommel kept his *self* out of the war and performed his duties in a manner befitting the uniform, and as a result he did not assume culpability for the evil of Nazi aggression that was the broader context of his actions. This separation of the role self from the whole self is what allows Walzer to hold Rommel accountable only for the actions tied to role performance and to ignore the goals of Nazi Germany that his actions ultimately served. As an individual Rommel would have been condemned for actions that furthered

the Nazi cause, but as a soldier Rommel was responsible only for the manner in which he performed the duties assigned by his role.

There seem to be certain presumptions at work in Walzer's view of role morality that lead him to take for granted that fighting and killing for an evil cause could ever be considered good or even morally neutral, because it is not at all self-evident that the role can protect the self from the larger purpose that role duties serve. McMahan argues that when rightly understood, *jus in bello* never permits this kind of killing as long as those who fight for the just cause fight justly (2009, 18). He bases this interpretation of *jus in bello* on an analysis of the principles of discrimination and proportionality. Discrimination requires that soldiers attack only legitimate targets, but as McMahan correctly contests, "if just combatants were always to fight according to the moral constraints that govern their conduct in war, they would never be liable to attack and unjust combatants would never have legitimate targets at all and thus would never be able to satisfy the requirements of discrimination" (17–18). Rather than focus on the *role status* of the target as *soldier*, which is sufficient to establish legitimacy in Walzer's account, McMahan focuses on the *moral status* of the soldier vis-à-vis his assessment of the criteria of just cause. On this account it would not have been enough to vindicate Rommel that he followed the rules of war while under pressure from Hitler to commit war crimes, even if taking such a stand was indeed laudable. Rather, Rommel could have been innocent only if he refused to participate in the war at all, since there were no legitimate targets for his forces.

In his assessment of proportionality, McMahan considers both proportionality in the narrow sense—when those harmed are liable to harm—and in the wide sense, in which individuals are harmed who are not liable (2009, 20–21). McMahan argues that the killing of just warriors for an unjust cause cannot satisfy proportionality in the narrow sense, because just warriors are never liable to harm if they fight justly (24–25). Since just warriors are not liable to attack, harm done to them would weigh negatively in an assessment of wide proportionality, and the absence of a just cause would mean there are few to no positive factors to counterbalance the harm done (24–30). Just as with discrimination, McMahan's argument here focuses on liability, and the question of whether soldiers can properly be considered targets if they are fighting for a just cause. As a consequence, the disagreement between Walzer

and McMahan is once again a question of whether role status or moral status should be used to determine the legitimacy of targets.

This highlights a foundational problem with the separation of self from role that informs Walzer's theory: such a separation presumes that it is feasible to ethically evaluate actions taken within war apart from their broader moral context. The problem with limiting the responsibilities of soldiers in this way, however, is that it changes our understanding of *jus in bello*, such that *jus ad bellum* can have no impact on *in bello* obligations. This significance of such a separation is made clear when we look at McMahan's and Walzer's criteria for legitimate targets side by side. McMahan depends on the traditional *ad bellum* criteria of just cause as a starting point for determining legitimacy. He presumes, unlike Walzer, that the unethical purpose behind the actions of unjust warriors renders it impossible to act ethically even if they otherwise follow the rules of combat. Walzer, on the other hand, approaches legitimacy in a much more technical sense, by focusing primarily on the question of what it means to occupy the role of *soldier* and at what point that status is relinquished (1992, 138–51).

This is why, according to Walzer, most people do not view Rommel as merely a killer with scruples: "But we don't view Rommel that way: why not? The reason has to do with the distinction of *jus ad bellum* and *jus in bello*. We draw a line between the war itself, for which soldiers are not responsible, and the conduct of war, for which they are responsible, at least within their own sphere of activity" (1992, 38–39). The classical just war distinction of *jus ad bellum* and *jus in bello* becomes, for Walzer, something more than categories to set apart the justice *of* war from the justice *in* war. Walzer understands this distinction also as the division between spheres of role responsibility in war. Rulers responsible for the waging of wars may be morally accountable for both categories,⁴ but the concern of the soldier is strictly for the *in bello* sphere (39, 316–22).

One possible objection to my account of Walzer's position would be to point out that a soldier's lack of personal responsibility for *ad bellum* determinations can be explained in a variety of ways that do not depend on a dualist view of identity. Francisco de Vitoria, for example, makes a cogent case for setting limitations on the requirement (and permission) to dissent without resorting to such divisions of the self, and Walzer himself cites Vitoria in his

defense of delimiting soldiers' responsibilities to *in bello* concerns (Walzer 1992, 39). Vitoria argues,

There is no doubt that in a defensive war subjects may, even though the matter be doubtful, follow their prince to the war; nay, that they are bound to follow him, and also in an offensive war. The first proof is in the fact that, as has been said, a prince is not able, and ought not, always to render reasons for the war to his subjects, and if the subjects can not serve in the war except they are first satisfied of its justice, the State would fall into grave peril and the door would be opened to wrongdoing. Also, in doubtful matters the safer course ought to be adopted. Now, if subjects in a case of doubt do not follow their prince to the war, they expose themselves to the risk of betraying their State to the enemy, and this is a much more serious thing than fighting against the enemy despite a doubt. Therefore they ought rather to fight. (1917, 176)

Vitoria's case for limiting a soldier's responsibility is twofold. His first point centers on the difficulty of disseminating the knowledge necessary for *ad bellum* decision-making to the populace at large. Soldiers cannot be expected to know, Vitoria believes, all that must be known in order to make an informed determination concerning the justice of going to war. A soldier may know enough to have doubts but is not likely privy to information sufficient to reach a definitive conclusion.

His second point follows from the first: a soldier cannot refuse to fight simply on the basis of doubt, for this permission would put the state at risk. This does not mean that a soldier is relieved of responsibility for *ad bellum* concerns, however. As a moral agent, the soldier retains the obligation to refuse to fight in such cases when the injustice of the war is clear. Doing otherwise would make the soldier a murderer. Vitoria instead depends on a distinction found in Augustine, which Vitoria restates as follows: "If a righteous person be in the military service of a sacrilegious king, he may consistently go to war at his command, provided that it is certain that the command laid on him is not contrary to the Divine precepts *or that it is not certain whether it be so*" (1917, 176, emphasis added).⁵ Augustine requires the soldier to refuse combat if

the injustice of the war is without question, but he does not require the soldier to seek out such information. Because Vitoria believes that the likelihood of the soldier being able to make this judgment is small, the soldier is in practice obligated to follow orders to fight even in a war that may appear unethical.

Although Walzer cites this argument in support of his own, the connection between the position of Walzer and that of Vitoria and Augustine is not as strong as it appears. Walzer suggests that the limited knowledge of the soldiers in Vitoria's example supports his own position that soldiers are not responsible for *ad bellum* considerations (1992, 39–41), but knowledge of the justice of war is not actually a factor in Walzer's determination of the morality of soldiers. Otherwise, it would be difficult to justify his defense of Rommel, whose status as general should certainly have offered access to sufficient information to create an obligation to refuse military service. As Coady observes, "Walzer's reference to the case of Rommel is significant because we cannot think of Rommel as either too ignorant or too coerced to have any responsibility for the war he fought in, over and above responsibility for the way he fought it" (2008, 160). Regardless of the extent that Rommel knew of the worst Nazi atrocities, there can be no doubt that Rommel's awareness was sufficient enough that the argument of limited knowledge fails to hold.

Instead, the wall that Walzer erects between soldiers and *ad bellum* concerns is an absolute one, and is a function of a dualism of the self that reduces the individual to the role of *soldier*. This role determines the person's identity completely within the context of warfare, so that the person is little more than a tool of the political regime for which he or she fights:

Armed, he is an enemy; but he isn't my enemy in any specific sense; *the war itself isn't a relation between persons but between political entities and their human instruments*. These human instruments are not comrades-in-arms in the old style, members of the fellowship of warriors; they are "poor sods, just like me," trapped in a war they didn't make. I find in them my moral equals. (1992, 36, emphasis added)

Walzer understands the person-as-soldier not as a whole person with full moral agency, but as an instrument of a larger entity in which *ad bellum* agency resides. The agency of the individual, on the other hand, is limited by definition to those functions related directly to role fulfillment. The responsibility of

the role of *citizen* for the actions of government plays no part in the ethical evaluation of the person-as-soldier. Also, the prohibition against unjust killing that generally holds for persons is not a factor, because the full agency of personhood is borne only by the entity of the state, and hence by those few powerbrokers who determine its actions.

Walzer's focus on identity is indicative of a major conceptual shift in the relationship of *jus ad bellum* and *jus in bello* between classical and modern representations of just war theory. According to Coates,

[Walzer's] concept of just war belongs to a post-Grotian ('modern') school of thought that deliberately distances itself in several key ways from earlier ('traditional') forms of just war thinking. In particular, the main ideas of the independence-symmetry thesis—that the just war category of *jus in bello* is independent of the category of *jus ad bellum* and that combatants in war have equal rights and obligations—contradicts the basic tenets of traditional just war theory. (2008, 176)

The decision to tie the identity of the soldier exclusively to the category of *jus in bello* reflects a dualism that was far from the norm in classical theories of just war. Until the eighteenth century most just war theorists assumed that *jus in bello* duties and permissions were simply extensions of *jus ad bellum* (Reichberg 2008, 193). *Ad bellum* duties shaped *in bello* obligations to such a degree that the moral equality of which Coates writes—including both rights and duties—was an impossibility. Aquinas did not believe, for example, that unjust warriors could claim the right of self-defense as a justification for violence, since even their defensive acts were defined by the sinfulness of the cause that their actions served (196).⁶ This does not mean that unjust warriors did not possess rights and obligations, but rather that they did not mirror those of the just warrior.

The significance of the shift toward dualism in just war theory extends beyond questions of applicability to meaning. As Coates explains,

In the earlier phase of the just war tradition, *right intention* was seen as the key to the moral restraint of war. "Cherish the spirit of the peacemaker," urged Augustine. Curb the consuming hatred of the enemy and the compulsive lust for war that so often leads to the gross

moral disfigurement of war. Instead, cultivate a sense of common humanity or solidarity with the enemy, a disposition capable of uniting adversaries even in the midst of conflict, encouraging mutual respect and moderate (or, at least, proportionate) treatment. (2008, 191)

The seamless integration of *in bello* with *ad bellum* duties is clear in Augustine's account of right intention. Although an *ad bellum* obligation, Augustine's appeal for soldiers to cultivate a peacemaking spirit says at least as much about *how* a war should be fought as *why*. Even if, by isolating *jus in bello*, Walzer and other contemporary theorists purport to defend this same notion of a common humanity—of the “poor sods just like me” on the battlefield who are trapped in a war not of their making, or at least not of their responsibility—they cannot help but distort both these duties and the *ad bellum* obligation of right intention from which they originated.

The duty of right intention, which was for Augustine an obligation with serious implications for the practice of warfare by individual soldiers, consequently becomes little more than a corollary of just cause. The loss of the *in bello* implications of right intention, which were a large part of what originally made the principle so distinct, may account for the apparent similarity between right intention and just cause to those new to the study of just war theory, as well as our tendency to define the former in terms of the latter. Such definitions usually present right intention as a measure of how closely the actual intentions of military and political leaders align with the just cause that they claim as their motivation for war. This might in fact act to limit behaviors within war in a broad sense by prohibiting strategies that merely take advantage of the just cause to achieve ignoble goals, but it is largely a requirement of the internal world.

This is markedly different from the sort of right intention that Augustine has in mind, however, which seemed much more immediate to the battlefield. Frederick Russell characterizes Augustine's focus on intention in both internal and external terms:

The real danger in being a soldier was not military service itself but the malice and lust for revenge that often accompanied it. When done without taking pleasure in it, punishment of evil-doers to prevent them from doing further wrong became an act

of love. The command to turn the other cheek referred to the intention rather than the act. (1987, 111)

Internally, Augustine was concerned that soldiers on the battlefield remained pure in motivation even while engaged in killing. Focusing on love for the enemy reframed combat in moral terms by transforming an act of wrath into a form of moral reprimand.

It is in the external manifestations of this internal transformation that *jus in bello* emerges from *jus ad bellum* for Augustine. He argues that guilt in war does not come from merely killing, but from “love of violence, revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power, and such like” (1887, 301). Augustine’s language makes it clear that his concern is not simply with maintaining the inner purity of soldiers against the violent external actions required by their role. The inner discipline that Augustine calls for is intended to achieve a discipline of action that mirrors the justification of the internal world. Augustine’s purity is, therefore, far from dualistic in the manner of modern just war theory. Augustine does not attempt to build a wall between the potentially unjust actions of soldiers and their inner selves, but to establish rules for the internal in a way that sanctifies and shapes external behavior.

Thus, even though Augustine, Vitoria, and Walzer have similar aims—to argue that soldiers who fight in unjust wars should be presumed innocent, at least in practice, for the war itself—their means of justification diverge significantly. Augustine and Vitoria must base their arguments on a lack of knowledge of the politics behind war because they understand *in bello* obligations within the context of *jus ad bellum* and lack the conceptual framework to relieve soldiers of these duties. They accept the reality that few soldiers during their respective historical ages have access to the information necessary to make this judgment, but they also affirm that if this were not the case, then there could be no excuse for killing on behalf of an unjust cause. Hence, justification is contingent epistemically (Estlund 2007, 222–23). It is only ignorance that allows a soldier to be justified morally solely on the basis of *in bello* concerns.

For Walzer, however, it is not limited knowledge that serves as a barrier between the soldier and *ad bellum* obligations, but the dualism that results when a person dons the mask of the role. Walzer grounds his position in the division between role and self, which categorically separates soldiers from

ad bellum obligations. Instead, they are free to focus only on the limited cache of obligations that come with the role. It is for this reason that Walzer understands the permission to kill other soldiers as a *right* that is not contingent on any *ad bellum* concern: “Though there is no license for war-makers, there is a license for soldiers, and they hold it without regard to which side they are on; it is the first and most important of their war rights” (1992, 36). Through occupation of the role of *soldier*, an individual possesses an inherent “right” to kill enemy combatants, even if, paradoxically, those who authorize such killings do not share that right. The shift from Vitoria’s justification to that of Walzer and the ensuing paradox of culpability is indicative of the dualism that informs Walzer’s understanding of the role of *soldier* and the compromise between realism and ethics that it signifies. Neither Vitoria nor Augustine accepts that a general obligation may be overridden and replaced by a role-specific one. Hence, they must find a way to address this general obligation—in this case the prohibition against unjust killing—which leaves the obligation in place but also recognizes mitigating circumstances that leave the individual blameless. That this killing could be conceived as a *right* despite a general prohibition to the contrary would have seemed irrational according to their understanding of the relationship between role and identity.

Walzer: Just War Theory as Compromise

When Walzer collapses Hobbes’s dualism, his intention is to undermine the realist contention that warfare is somehow isolated from the principles that govern the rest of human behavior. Walzer’s aim is to reunify the ethical world that is fragmented by realism by bringing warfare back under the tent of morality. This is not to say that Walzer believes that all moral principles are universal, but rather that morality itself is universal—that it extends to all aspects of human experience.

Walzer encounters a problem, however, when he attempts to preserve a limited form of ethical immunity for soldiers on the battlefield. Walzer does an effective job of convincing the reader that the language of ethics extends to warfare, only to argue that it does not always apply to the actions of individual soldiers; or, more accurately, that it always applies to those actions, but that others sometimes bear exclusive responsibility for them. The problem

with this argument is that it fails the same language-based test that Walzer applies to Hobbes's realist position. The reader can easily create a hypothetical critique of a soldier's choice to fight in an unjust war that is both coherent and convincing. Possible positions range from pacifist rejections of all war as unjust to critiques of the justice of a particular conflict. In either case, the arguments are not irrational, and those who disagree feel compelled to offer counter-arguments to defend their own positions. Even if they ultimately find reasons to reject these critiques, the fact that ethical language allows a rational dialogue about a soldier's role in an unjust war should be evidence enough that the question is legitimate.

Walzer's only recourse is in a position grounded in circumstances and necessity that echoes that of Thucydides and Hobbes: soldiers are simply not accountable for *ad bellum* decisions because the conditions of warfare require this to be so. Because soldiers fight as instruments of the state and lack *ad bellum* agency, they are really victims fighting other victims, and it is this "shared servitude" on which the rules for soldiers rest (Walzer 1992, 36–37). Since soldiers did not start the war it is unfair for them to be held accountable for killing even as instruments of unjust aggression, because it is *someone else's* aggression of which they are also victims. Add to this the more pragmatic concern that "without the equal right to kill, war as a rule-governed activity would disappear and be replaced by crime and punishment, by evil conspiracies and military law enforcement" (41). If the right of soldiers to kill were lost, then soldiers who are already victims would face at worst retribution and at best moral censure for actions beyond their agency.

It is in the distinction between *jus ad bellum* and *jus in bello* that Walzer stakes out a position of compromise between ethics and realism to protect soldiers from both moral and legal censure. The nature of Walzer's compromise with realism is to separate combatants from the category of *jus ad bellum* by reducing their identities to the role of *soldier*, thereby limiting their cache of obligations to those that pertain to that role. From an *ad bellum* perspective, this dualism of soldier and self allows soldiers to act *as if* they are realists by insulating them from *ad bellum* obligations, all the while preserving those *ad bellum* obligations by transferring them to political leaders. By relegating the responsibility for *ad bellum* injustice solely to those whose roles directly involve such decision making, Walzer relieves soldiers of responsibility for the

broader moral dimensions of their actions, leaving them to focus exclusively on the *in bello* concerns that are more immediate to the role of *soldier*. Walzer is therefore able to embrace a degree of realism while also avoiding the realist stigma by narrowing the scope of moral obligations that pertain to the soldier. He retains the language of ethical condemnation for the war itself while creating a pocket of protection for those on the battlefield.

This bilateral concern for preserving *ad bellum* considerations and protecting soldiers from *ad bellum* criticism highlights the fundamental difference between Walzer's dualism and that of Hobbes: While Hobbes seeks to undermine ethical discourse in wartime, Walzer aims to defend the integrity of the ethical conversation. It is also crucial to Walzer, however, that soldiers in the trenches do not have to agonize over the decision to go to war, which they did not make, but only on *in bello* decisions that they can more immediately control, such as whether they follow orders to execute prisoners or fire indiscriminately on civilians. This means that the Hobbesian argument for necessity is not an option for Walzer, but neither is the Vitorian claim of limited knowledge. Soldiers may believe that those in power know more, but twentieth- and twenty-first-century soldiers in democratic nations have had access to far more information than those in Vitoria's time, even before the information explosion of twenty-four-hour news and the Internet. The potential for informed doubt is more real than ever, and Vitoria's hypothetical scenario of the soldier who knows enough to bear guilt for war has become at least plausible.

Rather than recognize this plausibility and the moral risk that accompanies it, Walzer shifts from an epistemic defense to a role-based defense. In doing so, Walzer effectively changes the conversation so that the suspension of certain obligations that might normally fall on soldiers is no longer a recognition of the *limits of the reach of ethical language* as it is with Hobbes. Instead, it becomes a conversation about the *limits of the reach of responsibility* for crimes fully acknowledged by ethical discourse.

Conclusion: Moral and Legal Risk

The comparison of Augustine, Vitoria, and Walzer on the culpability of soldiers for the wars they wage serves to illustrate the impact of Walzer's dualistic view of the role of *soldier* on the evolution of just war theory. All three theorists

recognize (rightly, I believe) that soldiers who fight justly in unjust wars are not necessarily culpable for the evil of the war itself. Their means of absolving soldiers of the guilt of the war in question, however, deviate on crucial points.

Because Vitoria's and Augustine's soldiers do not lose their status as citizens or as complete persons even in the act of role fulfillment, they retain their obligation to refuse to fight in a clearly unjust conflict. Both make it intentionally difficult for these obligations to pertain to the soldier in practice, but presume that their outright suspension is impossible. Walzer, however, builds his justification on the presumption that these aspects of identity *can* be separated from the role-self, and takes for granted that this separation relieves the soldier of responsibility for the justice of the war in all cases.

What we are reminded of by this deviation between classical just war theory and Walzer's modern interpretation is that one need not separate soldier from self to recognize that a soldier may not be responsible for justice of the war that he or she fights. Even with the greater knowledge that is available to modern soldiers, substantial room exists for the moral uncertainty that Vitoria believed would protect soldiers from *ad bellum* condemnation. It could even be argued that the combination of speed and access to information makes it easier than ever for politicians and pundits to distort the truth in favor of unjust military action. The same media channels that offer citizens such historically unprecedented access to information also provide governments with a forum to defend their actions. As Walzer himself acknowledges,

Today . . . most princes work hard to satisfy their subjects of the justice of their wars; they "render reasons," though not always honest ones. It takes courage to doubt these reasons, or to doubt them in public; and so long as they are only doubted, most men will be persuaded (by arguments something like Vitoria's) to fight. Their routine habits of law-abidingness, their fear, their patriotism, their moral investment in the state, all favor that course. (1992, 39)⁷

Whether the press is free or state controlled, governments will always find ways to use the medium to make a case for the justice of the wars they fight. Their arguments may be genuine or intentionally manipulative, but they are often compelling, if only because they are crafted to be so. Add to this the various motivations citizens feel to believe these justifications, including a

soldier's own fear of condemnation for participating in an unjust war, and it is easy to understand how significant doubt can persist even in the face of overwhelming evidence against the justice of a particular war.

Still, the potential for guilt remains in Vitoria's model, and this is what troubles Walzer. I would counter that the acceptance of this moral risk may actually prove to be very positive for democracy by counteracting the fatalistic sense of detachment that Walzer associates with modern warfare. Recall Walzer's earlier characterization of the modern role of *soldier*: "These human instruments are not comrades-in-arms in the old style, members of the fellowship of warriors; they are 'poor sods, just like me,' trapped in a war they didn't make" (1992, 36). From this perspective, warriors in the distant past may have shared in the authorship of the wars that they fought, but modern soldiers are merely playing roles in a drama written by those in power. For Walzer, this is a consequence of changes in the nature of warfare since the Middle Ages, in which aristocratic warriors freely fought wars of mutual consent according to a strict code of military honor (34).⁸ Part of the equality of the *poor sods* of modern warfare is a lack of ownership of the war itself, which is a game of politicians and princes, not soldiers. Even those who choose freely to fight the war do not choose to make the war.

What Walzer fails to recognize is that democracies do offer currently enlisted and potentially conscripted soldiers an opportunity to influence decisions to engage in warfare. Recognizing a moral risk for soldiers, even if only a small one, encourages soldiers to claim a political stake in the conflict and restores the *citizen* role to the soldier in the trenches. The dualism of modern just war theory resists this recognition by reducing a person to the role of *soldier*—to the *poor sod* of which Walzer speaks—and robbing the soldier of an awareness of agency that comes with citizenship in a democracy. This agency does not always translate into change, since the citizen-soldier must share this agency with every other citizen, but it does create a mandate for active participation in government.

Part of Walzer's case for the moral equality of soldiers, however, was that this moral risk carries with it a legal risk as well. He argued that recognizing the possibility of moral guilt for *ad bellum* violations means that, from a judicial standpoint, soldiers will be at the mercy of the victor, who will likely view them as criminal by default. Even if the international community does not see

the need to convene tribunals for war crimes, this could embolden the victor to administer justice on its own for wrongs real or perceived.

The problem with this argument is that it conflates *jus in bello* as a traditional component of just war theory with the *jus in bello* provisions of international humanitarian law (IHL) (McMahan 2009, 104–5). The former is purely a moral matter, while the latter is a legal one. Walzer's concern about victor's justice is in fact shared by McMahan, and for this reason McMahan and others have agreed that for *in bello* matters, the “deep morality” of war as represented by just war theory should remain distinct from the law of war as established in IHL (see Lichtenberg 2008, 124–30; McMahan 2004, 730).

By dispensing with the guarantee of blanket moral equality for soldiers but retaining juridical equality, proponents of just war theory can avoid Walzer's compromise with realism while also acknowledging the reality of war that makes it at least somewhat desirable. This shift serves ends similar to those of Walzer's compromise: it defends the application of ethical discourse to questions of warfare while also protecting soldiers who do not commit war crimes from reprisal. At the same time, this protection does not overreach itself by claiming immunity from moral censure. Such a protection ultimately does soldiers a greater harm by robbing them of an awareness of the full moral agency that they possess as citizens and as persons.

Notes

1. As an example of this position, Walzer suggests Cornford 1907, chap. 13.
2. Walzer cites Jaeger 1939, 1:402.
3. Walzer cites some of this information from Lewin 1968, 294, 311.
4. Walzer (1992, 316–22) discusses the responsibility of commanders for the violation of *in bello* rules, even when they have clearly lost control of their subordinates.
5. Vitoria paraphrases Augustine's *Contra Faustum Manichaeum* 22.75. A closer rendering of Augustine's text reads as follows: “A righteous man, serving it may be under an ungodly king, may do the duty belonging to his position in the State in fighting by the order of his sovereign,—for, in some cases it is plainly the will of God that he should fight, and in others, *where this is not so plain*, it may be an unrighteous command on the part of the king, while the soldier is innocent, because his position makes obedience a duty” (Augustine 1887, 301, emphasis added). Note that Vitoria clearly grasps the essence of Augustine's point, which is that the duty of obedience requires a soldier to fight even when the justice of the

war is “not so plain.” Augustine requires the soldier to fight in cases of doubt, but does not extend this obligation to cases of clear injustice.

6. Reichberg references *Summa Theologiae* II-II, q. 41, a. 1.
7. It is interesting to consider the increase in speed and access to information since Walzer made these observations in the late 1970s.
8. Walzer does recognize the presence of “peasant soldiers” in these conflicts, but focuses on the experience of the aristocratic soldiers as definitive.

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