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Moral Tragedy Pacifism

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Abstract

Conditional pacifism is the view that war is morally justified if and only if it satisfies the condition of not causing serious harm or death to innocent persons. Modern war cannot satisfy this condition, and is thus always unjustified. The main response to this position is that the moral presumption against harming or killing innocents is overridden in certain cases by the moral presumption against allowing innocents to be harmed or killed. That is, as harmful as modern war is, it can be morally justified as a lesser evil when it alone can prevent great harm to innocents. This paper proposes that extreme cases in which only war can prevent great harm to innocents may be morally tragic. In some cases it may be both wrong to wage war to prevent great harm and wrong to fail to prevent that great harm.

Keywords

pacifism – peace – war – moral tragedy – moral dilemma – just war

1 Introduction

Conditional pacifism holds modern war[1] to be morally justified if and only if it can satisfy the condition of being fought without seriously harming or killing

1 'Modern war' refers to war fought from the late nineteenth century into (at least) the near future. It is characterized by highly destructive weapons and significant harm to non-combatant populations (c.f. pre-modern war, which primarily threatened combatants only). The pacifism discussed in this paper makes no claims about pre-modern war. In this paper the term 'war' refers exclusively to modern war, which is currently the only type of war that exists, unless otherwise stated.

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innocent persons. Since war always fails to satisfy this condition, conditional pacifism holds war to be always unjustified.[2] Pacifists reject war as a means of attaining peace because of the inevitable and widespread harm it does to innocents, even when fought to prevent great harm. This view is predicated on a strong distinction between the moral wrongness of killing and letting die, and a rejection of the relevance of intention to permissibility. Against this view, it has been argued that while we have a very strong duty not to kill innocents, we also have a very strong duty to prevent harm to innocents when the costs of doing so are proportionate to the harm prevented. Hence war can be justified as a lesser evil when the only alternative is some great harm. So, the argument goes, conditional pacifism ignores (or at least significantly undermines) the moral importance of preventing evil, even if the means of prevention are themselves in some sense evil.[3]

The moral problem of war is often framed as a binary issue. War is either morally justified or it is not, and if it is justified then nothing wrong is done, since a justified act is a right act. I think that this view obfuscates the *tragedy* of war, since although it recognizes the harmfulness of justified war, it does not hold that harm to be wrong, but instead justifies it as a lesser evil. But war should be condemned, not lamented. The aim of this paper is to develop and defend a form of pacifism based on the concept of 'moral tragedy.' This position, which I call 'moral tragedy pacifism,' maintains that war is morally unjustifiable because of the inevitable and terrible harm it causes to innocents, but also holds that failing to prevent great evils such as the killing of many innocents can on occasion also be morally unjustifiable, even when war is the *only* means of doing so. That is, in situations in which only war can prevent some great harm, it may be wrong both to wage and not to wage war, owing to our duties to both not harm and prevent harm. There may be no good or justified option available.

Let me be clear – I think that war is simply unjustified in the vast majority of cases, and avoiding war is not only justified but obligatory. In some very

2 See Robert L. Holmes, *On War and Morality* (Princeton: Princeton University Press, 1989). Other forms of anti-war pacifism include contingent pacifism, which concedes that war would be justified if its harms were sufficiently outweighed by its benefits (assuming satisfaction of the other *jus ad bellum* criteria), but maintains that no (or very few) wars meet this criterion, and institutional pacifism, which objects not so much to the fighting of war, but rather to the amassing of military resources and the military itself in the first place.

3 See, e.g., Uwe Steinhoff, *On the Ethics of War and Terrorism* (Oxford: Oxford University Press, 2007), 61–6.

rare circumstances where only war can prevent great harm, however, both war and avoiding war (failing to prevent great harm) may be morally unjustified. I believe moral tragedy pacifism provides a plausible and attractive elucidation of the central moral issues dividing pacifists from just war theorists. In what follows I first establish a theoretical grounding for the rest of the paper by examining the concepts of moral dilemma and moral tragedy. I then explain why I think situations in which only war can prevent great harm are morally tragic. In the final section I argue that my view is indeed a pacifist one, question how we might morally assess leaders faced with morally tragic situations, and address the issue of 'action-guidingness.'

2 Dilemmas and Tragedies

A moral tragedy is a type of moral dilemma, so we must first clarify the latter. A difficult moral decision or moral conflict arises when an agent has compelling moral reasons to perform each of two actions, can perform each action, but cannot perform both. Most instances are unproblematic, since one moral imperative clearly overrides or outweighs the other. For example, my obligation not to lie is overridden or outweighed by my obligation to prevent harm to others, if I must lie to save a life. A moral dilemma arises when the moral imperative of one choice does not override or outweigh that of another, and thus an agent must violate a non-overridden moral requirement.[4] When an agent ought to x and ought to y, but cannot both x and y, she both ought and ought not to x. (This is not logically inconsistent – 'ought' and 'ought not' are not contradictory in the way that 'can' and 'cannot' are. Nor are they contrary to one another – the negation of 'I ought to tell the truth' is not 'I ought not to tell the truth,' but rather 'I do not have to tell the truth.')[5]

Moral dilemmas are best explained by reference to either an incommensurable plurality of values or an irresolvable conflict between singular values.[6]

4 Walter Sinnott-Armstrong, *Moral Dilemmas* (*Philosophical Theory*) (New York: Blackwell, 1988), 50. See also Bernard Williams, 'Conflicts of Values,' in *Moral Luck: Philosophical Papers 1973–1980* (Cambridge: Cambridge University Press, 1996), 71–82, 74; Thomas Nagel, 'The Fragmentation of Value,' in Christopher Gowans (ed.), *Moral Dilemmas* (Oxford: Oxford University Press, 1987), 174–87, 175.

5 E.J. Lemmon, 'Moral Dilemmas,' in Gowans (ed.), *Moral Dilemmas*, 101–14, 106–7.

6 There is a third way, which predicates moral dilemmas on moral sentiment, or more accurately, regret or remorse (see Bernard Williams, 'Conflicts of Values'; Williams, 'Ethical Consistency,' *Proceedings of the Aristotelian Society, Supplementary Volumes*, 39 (1965): 103–38;

The incommensurable plurality of values approach is based on the idea that, as E.J. Lemmon suggests, "there are generically different ways in which it can come to be true that we ought to do something or ought not to do something."[7] Moral values might be established from, for example, radically different deontological, consequentialist, or virtue-based principles, and sometimes these values are incommensurate with one another. It is not possible to combine them into a single and coherent moral system, meaning that there are some moral problems that simply have no solution.[8] A conflict of values is unproblematic in most cases, but in certain instances when two actions motivated by different moral values incommensurably conflict with one another, a right course of action cannot be determined by weighing them against each other, precisely because they cannot be weighed against each other. This appears to be an inevitable outcome of ascribing at least some value to different moral systems (or of accepting that the moral landscape is comprised of a range of different kinds of moral principles).

One could argue that there is but one moral value (such as utility) from which all moral precepts derive. But doing so would beg the question – pluralists deny that morality can be reduced to a single value. Another way around this problem would be to order precepts so that irresolvable clashes do not occur. But pluralists deny that certain precepts can be hierarchically ordered, at least non-arbitrarily. Another option would be to deny the incommensurability of different precepts, so that both actions can be weighed against each other. But unless we refuse to assign moral value to different *aspects* of actions (intentions and consequences, say), a plurality of values seems highly plausible, as does the notion that these values might occasionally conflict in irresolvable ways.

The irresolvable conflict between singular values approach suggests that moral dilemmas arise when the *same* moral precept creates irresolvable conflicting imperatives. If so, hierarchical ordering or denial of pluralism cannot

Ruth Barcan Marcus, 'Moral Dilemmas and Consistency,' in Gowans (ed.), *Moral Dilemmas*, 188–204). Bernard Williams describes this as a 'moral remainder' – in a moral dilemma we know that we do wrong even if we choose the option we think is best, as evidenced by our regret. But perhaps that there are other explanations for these feelings of regret, that do not require reference to moral dilemmas. Agents might act justifiably and nevertheless regret doing so, or might regret violating certain morals, not in a critical or reasonable way, but instead because they have been taught to follow them (see Terrance C. McConnell, 'Moral Dilemmas and Consistency in Ethics,' in Gowans (ed.), *Moral Dilemmas*, 154–73; Philippa Foot, 'Moral Realism and Moral Dilemma,' in Gowans (ed.), *Moral Dilemmas*, 250–70).

7 Lemmon, 'Moral Dilemmas,' 105.

8 Nagel, 'War and Massacre,' *Philosophy and Public Affairs*, 1 (1972): 123–44, 143–4.

resolve these dilemmas.[9] Such dilemmas arise when, for example, an agent must kill one of two innocent persons. Whatever the agent does, she violates her basic obligation not to harm the one she kills. The same moral precept – do not harm the innocent – is violated either way. So although (arguably) her choices can be weighed against each other (they are – again arguably – commensurate), neither overrides or outweighs the other.

One might respond that it is nevertheless possible to hierarchically arrange actions that arise from the same moral precept. But how can we choose which of two innocents to kill? We cannot do so non-arbitrarily, in which case the killed innocent has a legitimate and compelling complaint against us that we do wrong by killing her.[10] Another response would be to argue that if an agent is non-culpably unable to fulfill a promise, then she does nothing wrong by not keeping it.[11] This seems plausible but does not decide the matter; those who maintain the existence of moral dilemmas will deny that all wrongdoing ceases at such a point. I discuss these approaches further below.

In this paper, the term 'moral tragedy' is reserved for particularly horrendous moral dilemmas, in which both alternatives are terrible. An agent in a moral tragedy is faced with inescapable wrongdoing; she has no choice but to do wrong, and may reasonably think thus.[12] As Thomas Nagel puts it, "the world can present us with situations in which there is no honorable or moral course for a man to take, no course free of guilt and responsibility for evil."[13] That is, neither action is good enough to be morally justified, even as the lesser evil.

One might respond that although an agent does wrong in failing to perform either action, she may nevertheless justifiably choose one option over the other, since one is bound to be 'better' or preferable, and thus justifiable as the lesser evil (or as Christopher Gowans puts it, "the action that all things considered morally ought to be done, or may be done, nonetheless has one or more tragic-making characteristics"[14]). But such a response conflates two separate yet related 'questions' that moral tragedies pose to agents.[15]

9 Marcus, 'Moral Dilemmas and Consistency.' See also Patricia S. Greenspan, 'Moral Dilemmas and Guilt,' *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition*, 43 (1983): 117–25.

10 To some it may matter if, say, one of the innocents is a relation or friend.

11 Christopher Gowans, 'Introduction: The Debate on Moral Dilemmas,' in Gowans (ed.), *Moral Dilemmas*, 3–33, 19.

12 Williams, 'Conflicts of Values,' 74; 'Ethical Consistency,' 119.

13 Nagel, 'War and Massacre,' 143.

14 Gowans, *Innocence Lost: An Examination of Inescapable Moral Wrongdoing* (Oxford: Oxford University Press, 1994), 226.

15 Martha C. Nussbaum, 'The Costs of Tragedy: Some Moral Limitations of Cost-Benefit Analysis,' *The Journal of Legal Studies* 29 (2000): 1005–36, 1006–8.

The first question – the 'obvious question' – concerns what an agent ought to do, irrespective of whether she would be morally justified in doing so, and is thus simply a matter of choosing between available options. The obvious question explains Bernard Williams' assertion that even in a moral tragedy, an agent might feel there is one option that, all things considered, she had better take.[16] (While the question may be obvious, the answer to it may not be, especially in the complex and large-scale tragedies that arise at the international level.)

The second question – the 'tragic question' – concerns whether an agent is able to choose a morally justified option. In a moral tragedy, she cannot. As Nussbaum argues, the tragic question registers "the fact that all the possible answers to the obvious question, including the best one, are bad, involving serious wrongdoing. In that sense, there is no 'right answer'."[17] So not only does the agent do wrong whatever she chooses, she also fails to do right. The tragic question must be posed *before* the obvious one, thereby distinguishing genuinely tragic situations from merely very difficult ones, and *prima facie* wrong actions from all-things-considered wrong actions. If both available options are morally unjustified, thus failing the tragic question (because there is no right answer), then a moral tragedy arises. A decision may still be necessary, but the tragedy exists nonetheless.

I think the moral tragedy approach is sensible when conceptually dealing with some of the most troubling human phenomena, such as war. But it is fair to say that many would disagree. Both deontologists and utilitarians have tended to dismiss the possibility of moral dilemmas. According to Immanuel Kant, in cases where duties conflict, one must override the other, causing the overridden duty to lose all moral weight, denying the possibility of inescapable moral wrongdoing.[18] Similarly, utilitarians such as Richard Hare have argued that given a choice between two conflicting actions, a rational calculus determines which should be performed, again causing the other to lose all moral force.[19] Any apparent moral tragedy would merely be symptoms of our epistemic limitations. That is, there is at least in principle a right answer, even if we do not know what it is. Accordingly, one does no wrong by following the 'correct' duty or action.

16 Williams, 'Conflicts of Values,' 74.

17 Nussbaum, 'The Costs of Tragedy,' 1007.

18 Immanuel Kant, *The Metaphysics of Morals*, ed. and trans. Mary Gregor (Cambridge: Cambridge University Press, 1996), 16.

19 Richard M. Hare, *Moral Thinking: Its Levels, Method, and Point* (Oxford: Clarendon Press, 1981), 32.

Another potential issue lies in the fact that moral tragedies threaten two primary principles of deontic logic: the 'ought implies can principle' (an agent ought to do something only if she can), and the 'principle of agglomeration' (if an agent ought to do one thing, and ought to do another, then she ought to do both things).[20] According to these two principles, if an agent ought to x and ought to y, this means that she ought to both x and y, and can both x and y. But an agent in a moral tragedy cannot both x and y, so at least one of the principles must be dropped. As Williams notes, however, the agent does not think "he ought to do *both* of the things. What he thinks is that he ought to do each of them; and this is properly paralleled at the level of 'can' by the fact that while he cannot do both of the things, it is true of each of the things, taken separately, that he can do it."[21] Thus by dropping the agglomeration principle, we may keep the ought implies can principle. Choosing one option over another does not mean that the second one no longer has moral force.

An alternative approach to the moral tragedy problem might be from a virtue ethics perspective. Virtue ethicists can easily admit the possibility of irresolvable dilemmas, since they do not aim to provide a decision procedure. A comprehensive discussion of this view is found in the work of Rosalind Hursthouse, who argues that we can envision a virtuous agent trapped in a moral dilemma (or what she calls an 'irresolvable dilemma') performing either action, and in doing so acting *well*, because they do so thoughtfully, carefully, and with the best of intentions.[22] So they do more than act permissibly, which even a bad person could do. A virtuous agent trapped in a moral tragedy (or what she calls a 'tragic dilemma') can again act well, with thought, care, and a heavy heart. But they still do a terrible thing, and thus cannot emerge from the tragedy unscathed. "What follows from this," Hursthouse argues, "is not the impossibility of virtue but the possibility of some situations from which even a virtuous agent cannot emerge with her life unmarred."[23]

One might argue that the options in a so-called tragedy merely conflict in a *prima facie* sense, that there is nevertheless a correct choice to be made, and that once that correct choice is made, the competing obligation 'falls away,' ceasing its claim. That is, although both options may be 'wrong,' one may be 'less wrong' than the other, and thus ought to be chosen; it is the right choice.[24]

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20 Gowans, 'Introduction,' 20.

21 Williams, 'Ethical Consistency,' 120. Emphasis in original.

22 Rosalind Hursthouse, *On Virtue Ethics* (Oxford: Oxford University Press, 1999), 71.

23 Hursthouse, *On Virtue Ethics*, 74.

24 Daniel Statman, 'Moral Tragedies, Supreme Emergencies and National-Defence,' *Journal of Applied Philosophy* 23 (2006): 311–22, 314.

But if an agent ought to perform two actions, but cannot perform both, it does not necessarily follow from one action being morally weightier than another that it is therefore a justified action; she ought, rather, to do two things.[25] We reach an impasse here, regarding whether the best choice always overrides the competing considerations. I have insufficient space here to go any further, except to repeat that moral tragedy is, at the very least, a plausible concept. In what follows I assume this plausibility.

3 War as Moral Tragedy

I now wish to argue that the special type of tragic choice that characterizes moral tragedy is present in extreme cases in which only war can prevent some great harm. I have suggested elsewhere that 'supreme emergencies' (in which a political community is imminently threatened by some extreme and horrifying evil that only war can prevent) are morally tragic.[26] In that paper I claim that there is no good choice a leader can make when faced with a choice between harming or killing many innocents, and letting many other innocents be harmed or killed. The leader ought to prevent the threat, but she also ought to refrain from doing the only thing she can to prevent it. It is not a case of one 'ought' overriding the other, since both options severely violate many innocents' fundamental rights not to be harmed or killed. The sheer scale of harm combined with the basic nature and importance of those rights means that neither option can be morally justified in spite of those violations. In these extreme situations, then, a leader can choose one option or the other, but she has no choice but to do wrong.

For pacifists, supreme emergency is a natural focal point for the disagreement between pacifism and the just war tradition. (The just war tradition, of course, has approached supreme emergency differently, as a potential challenge or justification of the violation of certain *jus in bello* criteria, especially the principle of discrimination or non-combatant immunity. For some, it is a challenge to the deontological constraints on the conduct of war.)[27] Just war theorists argue that here, at the very least, pacifists must permit war, because of what will happen if they do not. But just war theorists prefer to separate themselves earlier, allowing for just wars to prevent harms that fall

25 See Williams, 'Conflicts of Values,' 73–4; Nussbaum, 'The Costs of Tragedy,' 1010.

26 Nicholas Parkin, 'Pacifism, Supreme Emergency, and Moral Tragedy,' *Social Theory and Practice* 40 (2014): 631–48.

27 See Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 251–68.

well short of supreme emergency. In what follows I do not give up the pacifist presumption against war, but instead address the dispute by arguing that the alternative to war can also on occasion be morally unjustified. That is, in certain circumstances it may be unjustifiable to fail to prevent some great harm (such as harm to or death of many innocents), even when war is the only means of preventing it. This position, if viable, should be more attractive to non-pacifists, who think that pacifism is erroneously dismissive of the wrongness of allowing great harm to occur, while also condemning the wrongness of causing the great harm that inevitably occurs in war.

Imagine that we have very good evidence that some despotic regime will harm and kill many innocents unless something is done to stop them, and we also have very good evidence to suggest that the only effective means of doing so will be to wage a large-scale war against them, in which many innocents will be harmed and killed. Whatever is done, it is clear that many people will suffer. We often hear that we have *no choice* but to fight, because not fighting would violate our obligation to prevent harm where possible. But this cuts both ways – a pacifist can legitimately reply that we instead have no choice but *not* to fight, because fighting would cause so much harm. This dilemma arises, as Richard Norman suggests, due to abhorring the "submission to some intolerable evil" on the one hand, and believing that "the deliberate wholesale destruction of human lives is morally unthinkable" on the other.[28] Both claims are compelling. On this view, one alternative cannot override the other, and both are absolutely terrible; in fact it is difficult to conceive of anything more awful than the large-scale harming and killing that characterize these dilemmas. They are moral tragedies.

In his influential work on moral dilemmas and tragedies, Gowans sets out a number of common characteristics of these phenomena.[29] Cases in which only war can prevent some great harm possess many of these characteristics. First, both possible actions in a moral tragedy seriously harm or allow harm to persons to whom an agent is morally responsible. Leaders have clear moral responsibilities not to harm innocents, which extend to both citizens and non-citizens. But they also have moral responsibilities to help innocents where possible – certainly their own citizens, and most likely others too. Second, both possible actions are irreversible or very difficult to repair. Death is, of course, irreversible. War also causes significant harm to its survivors, not least because it often sows the seeds of future war. Allowing innocents to be harmed and

28 Richard Norman, *Ethics, Killing and* War (Cambridge: Cambridge University Press, 1995), 221–2.

29 Gowans, *Innocence Lost: An Examination of Inescapable Moral Wrongdoing*, 226–7.

killed, of course, has very similar effects. Third, both possible actions have far-reaching consequences. War has few peers when it comes to harming innocents, and looks unlikely to significantly change anytime soon. Failure to prevent great harm to innocents also has severe and far-reaching consequences. Fourth, both possible actions harm or neglect persons who ought not to be harmed. Again, those most affected by war are innocent, who neither start nor prolong the conditions for war. The innocents who suffer the harm we fail to prevent are equally underserving of that harm. Fifth, both possible actions render the agent a tool in the evil projects of others. Engaging in war directly contributes to the harms of that war, and in a real sense validates the enemy's violent actions. And failure to prevent harm to innocents is, in some sense, a mediated contribution to that harm primarily caused by others' evil. Finally, and most importantly here, neither option sufficiently outweighs or overrides the moral importance of the other. Let us now examine how this is the case with situations in which only war can prevent great harm.

Recall the two explanations of moral dilemmas outlined above – an incommensurable clash between a plurality of moral values, and an irresolvable clash between conflicting imperatives based on the same moral precept. In war, an incommensurable clash might arise due to the tension between the dominant deontological norms of both pacifism and the just war tradition on the one hand, and the consequentialist imperatives that arise in extreme situations on the other, causing an irreconcilable clash between two sets of moral responsibilities.[30] This is not to say that these different imperatives are never commensurable, but instead that they are incommensurable in certain extreme situations. One of the main challenges facing the just war tradition is to explain the 'moral exceptionalism' that arises in the translation from domestic to political rights, and thus to resolve this clash. Pacifists doubt their success in doing so. But the problem of numbers – the compelling claim that we cannot stand idly by while innocents are killed (and must sometimes fight to save them) – causes a problem for pacifists. The moral tragedy view approaches this problem by suggesting that when deontological and consequentialist claims clash, and are each very morally compelling because of the harms each option will cause, we cannot simply choose the lesser evil and be done with it. This is for two reasons: one, our ability to identify the lesser evil is precluded by the aforementioned incommensurability of our options; and two, even if we could do so, the lesser evil is not morally *justified* simply by virtue of it being the lesser evil, for being a lesser evil is an insufficient criterion for moral justification in these cases.

30 Norman, *Ethics, Killing and War*, 225.

The obligation to prevent harm to innocents need not be consequentialist, of course. Perhaps the clash of values is instead caused by an irreconcilable clash of deontological imperatives. A situation in which only war can prevent some great harm causes a clash between duties not to kill innocents and duties to prevent harm to innocents where possible. Conditional pacifists, of course, claim that the duty to prevent harm cannot override the duty not to kill. The moral tragedy view also argues that war's harm to innocents cannot be morally justified by way of the harm that it prevents, because war violates those innocents' fundamental rights not to be harmed or killed (and they *are* violated, not 'infringed,' as has been suggested).[31] Contrary to standard conditional pacifism, however, the moral tragedy view also acknowledges the wrongness of allowing great harms to occur. It thus need not rely on a strong distinction between doing and allowing, or killing and letting die, as standard conditional pacifism does.

An explanation of situations in which only war can prevent some great harm could be predicated on either of these two versions of moral tragedy. If the imperative to prevent harm to innocents that provides a moral justification of war is a consequentialist one, then the incommensurability of values view is preferable, owing to the apparent clash between deontological and consequentialist concerns. But if, as I think is more likely, the imperative to prevent harm to innocents that causes a moral justification of war is based on the agglomerative rights of those innocents, which are in turn based on a deontological imperative, then the irreconcilable clash of duties view is preferable. The arguments that follow should apply to either view, and I shall thus move on, noting that there is more that could be said here.

One might claim that even in a moral tragedy, war's intrinsic badness does not preclude the possibility of its justification, meaning that even in tragic situations in which there is no good option, there is still one that can be morally justified as the lesser evil, and one may, indeed should, choose that option.[32] But while a leader in a moral tragedy might elect one course of action over another, she cannot do so with good *moral* reason. She cannot be morally justified in doing what she does, since she acts wrongfully either way. The tragedy is not resolved simply because one option results in, for example, fewer deaths than the other. Although she must choose one option or another, the chosen option, as Nagel puts it, "does not become *all right.*"[33] One must choose, but cannot choose well; one does evil either way.

31 See Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2009), 10.

32 See e.g. Statman, 'Moral Tragedies, Supreme Emergencies and National-Defence,' 314.

33 Nagel, 'War and Massacre,' 137. Emphasis in original.

A few commentators have recognized, in varying ways, the tragic aspect of war or particular situations in war. To my knowledge, however, no one has done so in defense of a genuinely pacifist position. Brian Orend has argued that supreme emergencies are morally tragic, since a leader in a supreme emergency is faced with "a moral blind alley: there is no way to turn and still be morally justified."[34] But his position relates to the just war question of whether the standard *jus in bello* criteria can be morally justifiably violated in supreme emergencies, not to the waging of war itself (as a just war theorist, he thinks that war can be morally justified in circumstances short of supreme emergency).

Uwe Steinhoff takes a stronger stance against war, claiming that "no modern war can ever be *just,*" and thus our attitude should be "appropriate to the tragedy that is war."[35] But he also states that this fact does not "preclude the possibility that a modern war can be *justified* – namely as the lesser evil."[36] So according to Steinhoff, unjust wars can be morally satisfactory. He thus denies the full tragedy of war, as well as the soundness of conditional pacifism.

Mark Evans views war as morally tragic, but only in the sense that, following St. Augustine, war is (at best) the lesser of two evils. Hence although the rightness of war is "severely tempered by the tragic character of the situation," just war is nevertheless possible, owing to the claim that there are "just and unjust ways of dealing with tragedy, informed by a conception of how we might move a little further towards what would pertain in the ideal world."[37] This may answer Nussbaum's obvious question, but not the tragic one, and thus Evans' position does not really subscribe to the moral tragedy view.

Similarly, Norman mounts what he calls "a strong, rationally grounded case against war" based on the serious wrongdoing it involves, but then seems resigned to the idea that he "cannot show it to be conclusive."[38] He claims that moral tragedy plays a great part in creating what often manifest as irreconcilable differences in moral reasoning in extreme situations of international conflict.[39] In other words, being trapped between having to allow a great disaster

34 Orend, 'Is There a Supreme Emergency Exemption?' in Mark Evans (ed.), *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 134–53, 148. See also Orend, 'Just and Lawful Conduct in War: Reflections on Michael Walzer,' *Law and Philosophy* 20 (2001): 1–30, 28–9.

35 Steinhoff, *On the Ethics of War and Terrorism*, 57–8. Emphasis in original.

36 Steinhoff, *On the Ethics of War and Terrorism*, 58. Emphasis in original.

37 Mark Evans, 'Moral Theory and the Idea of a Just War,' in Evans (ed.), *Just War Theory: A Reappraisal*, 1–21, 10.

38 Norman, *Ethics, Killing and War*, 230.

39 Norman, *Ethics, Killing and War*, 222–30.

or create one is a moral tragedy. His arguments certainly head for a time towards pacifism, but he instead opts for a pacificist stance, allowing for justified defensive war and the development of what he calls 'defensive deterrence.'[40] Norman's view is that war can be the right decision in a moral tragedy, as a practical solution to the problem.

Michael Neu has developed a detailed and impressive tragic view of war. He claims that situations in which only war can prevent some great harm may be morally tragic since they involve inescapable moral wronging, but denies that the tragic view necessarily leads to pacifism, since refusing to wage war "may sometimes lead to a moral disaster *as well*, with that disaster perhaps being *even more morally unacceptable.*"[41] He sees standard just war theory as similarly limited, due to "its denial that any morally justified war – should there be such a thing – would be fundamentally tragic."[42]

Neu leaves open the question of whether war can be justified and proportionate: "While I am sympathetic to the view that action-guiding moral philosophy may sometimes reach its limits (in the sense of having run out of permissible options to suggest), I am not going to pursue this line of thought here."[43] Elsewhere he edges towards the possibility of justified war, but then backs away: "In some exceptional circumstances, one may perhaps come to judge that waging a war that foreseeably kills tens of thousands of innocents is proportionate. However, if this is a moral truth, as just war theorists insist it is, it is fragile and tainted."[44] Latterly, Neu moves away from his previous view, suggesting that modern war cannot be justified: "whatever else might have been implied by my previous writings, I do *not* think that wars that kill innocents can be, or ought to be attempted to be, morally justified."[45] As such, my work here is complimentary to Neu's; it is a further exploration of the dilemmatic and tragic view of war that he progresses so well. My view differs, however, when it insists that there are situations in which there is no right thing to do

40 Norman, *Ethics, Killing and War*, 237–51.

41 Michael Neu, 'The Tragedy of Justified War,' *International Relations* 27 (2013): 461–80, 466. Emphasis in original. See also Neu, 'Why There is No Such Thing as Just War Pacifism and Why Just War Theorists and Pacifists Can Talk Nonetheless,' *Social Theory and Practice* 37 (2011): 413–33.

42 Neu, 'The Tragedy of Justified War,' 462. In the attendant footnote, Neu states "I assume this, with a considerable degree of unease, for the sake of the argument."

43 Neu, 'The Fragility of Justified War: A Comment on Steinhoff,' *Theoretical and Applied Ethics* 1 (2012): 45–53, 47.

44 Neu, 'The Tragedy of Justified War,' 471.

45 Neu, *Just Liberal Violence: Sweatshops, Torture, War* (London: Rowman and Littlefield, 2017), 124 n.3.

(not even in the sense that it is *both* right and wrong). But my above claim that in a moral tragedy 'one must choose, but cannot choose well' is one with which, I believe, Neu would agree.

David Chan also applies the tragic dilemma of supreme emergencies to the problem of war. He argues that war is evil, and thus cannot be justified merely by satisfying the various just war requirements. War produces many "foreseeable intolerable harms," evils that "cannot be rendered morally acceptable merely by the satisfaction of a set of conditions that have nothing to do with the status or actions of the persons who are victims of the evils."[46] Hence "the decision to fight a war is the choice to unjustifiably do or allow great evil."[47] Nevertheless, Chan, a virtue ethicist, argues that in very rare cases, specifically supreme emergencies, there are enemies that threaten such evil that war against them would be the morally right *choice*, as the lesser evil, even when considering the evil of war. He states that "wars should be fought only in supreme emergencies and never otherwise."[48]

As mentioned above, the virtue ethics approach to moral tragedies focuses on the distinction between right *decision* and right *action*. That is, while there may be no obviously justifiable action available in a moral tragedy, a virtuous agent can still make the right decision within those parameters (hence Chan's assertion that war is sometimes the right choice). So Chan thinks that both options in a supreme emergency are evil, but also that war can be the morally right choice, as the lesser evil. But he does not believe that war need be a *difficult* choice. Take World War II: "It is the clarity of this case that leads me to use it to differentiate my view from a pacifism that cannot permit war even to stop Hitler."[49] Chan thus allows for "the rightness of going to war against Hitler-like enemies now and in the future."[50] He still subscribes to something of a moral tragedy view, however, since although he thinks that war can be chosen by a virtuous leader, and thus can be the morally right choice, it cannot be *justified* as such.

The just war tradition has generally ignored the tragic point. The discussion of proportionality in war, especially regarding innocents, bears this out: so

46 David K. Chan, 'Just War, Noncombatant Immunity, and the Concept of Supreme Emergency,' *Journal of Military Ethics* 11 (2012): 273–86, 278. See also Chan, *Beyond Just War: A Virtue Ethics Approach* (New York: Palgrave Macmillan, 2012).

47 Chan, 'Just War, Noncombatant Immunity, and the Concept of Supreme Emergency,' 278.

48 Chan, 'Just War, Noncombatant Immunity, and the Concept of Supreme Emergency,' 279. Emphasis removed.

49 Chan, 'Just War, Noncombatant Immunity, and the Concept of Supreme Emergency,' 279.

50 Chan, 'Just War, Noncombatant Immunity, and the Concept of Supreme Emergency,' 283.

long as innocent deaths are 'proportionate' to war's benefits, the tradition has tended not only to accept those deaths, but also justify them.[51] Some even suggest that innocents who are foreseeably (but not intentionally) killed in war are not wronged if their deaths are somehow proportionate to the goals of that war.[52] This is both incorrect, since those innocents most certainly are wronged (their basic right not to be harmed is violated) and unnecessary, since an action can theoretically be justified even if it wrongs a person or persons. This way of thinking misses the fundamental wrongness of both intentionally and foreseeably killing the innocent. It also oversimplifies the very complicated. Just war theorists who frame war in this way have certainly played their part in obscuring the tragic nature of war.

Discussion of extreme cases such as supreme emergencies has often been reduced to a quasi-cost-benefit analysis, assigning weightings to each alternative to achieve a 'value' for each. Such analysis may help to answer the obvious question, but not the tragic one, for which such notions as 'the lesser evil' are no help if both options are sufficiently bad.[53] Nor is 'the lesser evil' relevant if the options are incommensurate. Focusing on the obvious question conceals the tragic question by suggesting that a morally decent alternative can always be found, provided the right calculation is made. Forcing a calculation of incommensurate values ignores the central tragic problem (and begs the tragic question) – a choice can be made, but it will not be a justified choice.

Just war theorists claim to be acutely aware of the harms of war. But when innocent deaths are justified in such sharp terms, with little acknowledgement of the moral wrongness of what those deaths constitute, simply because the alternative is 'worse,' they oversimplify a complicated issue, based on the assumption that innocents can be justifiably killed at all. This represents a serious failure to recognize the tragic nature of war. Just war theorists claim war to be regrettable, horrible, tragic, and so on, but they do not really mean it in this most important sense. For there is no good that comes of these situations, and military successes are not just morally tainted, but morally ruined by what must be done to secure them. Pacifists are often criticized for supposedly failing to acknowledge the wrongness of not waging war in certain circumstances. But according to my arguments here,[54] they may confidently reply that many

51 Evans, 'Moral Theory and the Idea of a Just War,' 9–11.

52 C. A. J. Coady, *Messy Morality: The Challenge of Politics* (Oxford: Oxford University Press, 2009), 84.

53 Nussbaum, 'The Costs of Tragedy,' 1028–30.

54 As well as the arguments of, in particular, Nagel, Norman, Neu, and Chan in the articles and books referenced in this paper.

others fail to acknowledge the full and inevitable wrongness of modern war, even when fought to prevent some great evil. There are few things in the world quite as uniquely and directly harmful as war. It is one of the great scourges of the modern world. But genocide, ethnic cleansing, mass torture, and so on are also great evils, and are the only things perhaps as harmful as war. So situations in which only war can prevent great evil are morally tragic.

4 Anti-Warism, Culpability, and Completeness

I would like to briefly address three points before concluding: first, whether the position developed here is actually a pacifist one; second, how we ought to judge leaders caught in morally tragic situations in which only war can prevent great harm; and third, how much 'action-guidingness' matters. Is moral tragedy pacifism, a view that admits the wrongness of failing to prevent great harm in certain instances, really pacifism? My answer is that it is, for the simple reason that it also maintains the moral unjustifiability of war, even when it is the only means of preventing some great harm, and certainly when it is not. It is a form of conditional pacifism, as strongly opposed to war as, say, Robert Holmes' conditional pacifism is.[55] In most cases it holds war to be clearly and unproblematically wrong – the tragic element only kicks in at a certain extreme and uncommon threshold. The deontological presumption against killing is absolute. While moral tragedy pacifism holds that war is morally unjustified in all cases, it certainly does not suggest that failing to prevent harm is morally unjustified in all cases. Quite the contrary, in fact – not preventing harm when war is the only means of doing so is held to be morally obligatory (being the correlate of war's moral unjustifiability) in almost all cases. It sets the moral presumption firmly against war, and does not justify it in any way, while also attempting to account for the strong obligations that we have to prevent great harm in very rare cases.

With that in mind, how should the obvious question be answered in situations in which only war can prevent some great harm? The harm of war is both terrible and inevitable. The presumption should be set firmly against war because of the terrible and inevitable harm that it does to innocents, as has been convincingly argued by many in the pacifist and just war traditions.[56] But we must also admit that we do wrong in morally tragic circumstances, because

55 Holmes, *On War and Morality*.

56 See e.g. Holmes, *On War and Morality* and Coady, *Morality and Political Violence* (Cambridge: Cambridge University Press, 2007).

of the negative answer to the tragic question. And we must thus be judged accordingly, depending on our type and level of responsibility for the tragedy. Perhaps the answer to the obvious question is that sometimes moral philosophy simply runs out of meaningful things to say. In any case, the answer to the obvious question does not affect my main argument.

How should we judge leaders caught in morally tragic situations? Whether or not an agent is responsible for her moral tragedy does not affect the moral status of the tragedy, but does affect how we ought to judge her involvement in it. This relates to a deeper distinction between justifications and excuses.[57] There are broadly three ways a leader can find herself in a moral tragedy: she could have (a) caused the tragedy, (b) failed to prevent the tragedy, or (c) ended up in the tragedy through no fault of her own. Leaders often cause or significantly contribute to tragedies, or could prevent them by more careful decision-making. (Other people besides leaders can also be held accountable, of course, depending on their level of responsibility for the wrongdoing. While I focus on leaders here, similar issues face many others further down the food chain.)

Regarding (c), I have argued elsewhere that leaders caught in morally tragic supreme emergencies through no fault of their own might be excused from wrongdoing for their actions, since they lack the requisite choice not to do wrong.[58] Let us say that a leader must either wage war (x) or allow some great harm (y). Now it makes sense to say that she can choose between x-ing and y-ing. But if neither x nor y can be morally justified by virtue of being less wrong than the other, then it is true both that she should not x and should not y. And if she has no choice but to either x or y, we can coherently say that she does something wrong by x-ing or y-ing, but not that she is bad for having done so, since she could not have done otherwise, if she did not create the tragedy in the first place. (That said, note that genuine 'blamelessness' in this context is far less likely than is often presumed.)

Regarding (a), leaders could either intentionally or foreseeably cause the tragedy. It seems clear that leaders who intentionally cause moral tragedies (such as those who threaten the great harm that only war can prevent) should be held accountable for doing so, and thus for their role in causing whichever

57 See Suzanne Uniacke, Permissible Killing: The Self-Defence Justification of Homicide (Cambridge: Cambridge University Press, 1994).

58 Parkin, 'Pacifism, Supreme Emergency, and Moral Tragedy,' 638–44. This fills in what Neu refers to when he states in parentheses "or whatever adjective we might choose to describe wars in case we subscribe to the dilemmatic war conception" ('The Tragedy of Justified War,' 466). Neu's political discussion of what he terms 'inauthentic tragedies' is also relevant here, and precedes my development of it ('The Tragedy of Justified War,' 465).

tragic option is chosen, whether they or someone else does the choosing. They should have chosen not to cause the dilemma in the first place, and are culpable for doing so. But leaders might also act in ways that foreseeably but not intentionally cause moral tragedies. In this sense, leaders can be judged according to their role in creating the tragedy, if, say, they create conditions that they foresee or should foresee will lead to tragedy. For example, empirical evidence tells us that violence begets violence, and war begets war. So leaders should know that recourse to political violence often leads to more violence, and potentially to moral tragedy. One need only look at recent events in the Middle East to see that (and how) war has sown the seeds of war there. Leaders should be held accountable for their role, if any, in creating the conditions for future tragedy.

And regarding (b), leaders could either fail to prevent the tragedy itself, or fail to prevent the conditions that foreseeably lead to the tragedy. As Nussbaum states: "Tragedy is rarely just tragedy. Most often, behind the gloom is stupidity, or selfishness, or laziness, or malice."[59] In general, leaders could certainly do more to prevent the conditions that might lead to tragedy, including poverty, conflict, displacement, resentment, and so on. Leaders (and those who can influence them, including the public) have both negative and positive duties to reduce these harmful conditions, both internally and externally.

But a leader might also fail to prevent a certain tangible tragedy by failing to properly consider alternative means short of war of preventing some great harm. Or she could fail to prevent the tragedy by failing to sufficiently prepare those alternative means. Less harmful alternatives to war must be properly considered for war to even have a chance of being morally justified. They must also be properly considered (and perhaps tried) before a moral tragedy can be said to exist. If the dilemma can be solved by less harmful means, then the tragedy may not arise. We have been discussing situations in which only war can prevent some great evil. But leaders (and those who can influence them) must work to develop alternative means of preventing great harm, so that war can be avoided. If it is within their capabilities to develop those means, then failure to do so is blameworthy should they then be confronted with a moral tragedy that they could have prevented with those means. For example, leaders should commission extensive research into large-scale non-violent resistance. Non-violent resistance has been very effective in a number of desperate

59 Nussbaum, 'The Costs of Tragedy,' 1016.

situations, and would benefit greatly from government support and funding.[60] Leaders ought to properly explore *all* alternatives to war. If they fail to do so, then they are in some very real sense responsible for the moral tragedies that result in part from their failure to prevent them – not for their failure to prevent the threat of great harm, but their failure to provide an alternative to war to prevent it.

Finally, moral tragedy pacifism might appear to lack a certain 'completeness,' in that it is not action-guiding in all circumstances. One might argue that a theory that does not provide definitive moral answers in certain situations is no good as a theory of action. First note that the moral tragedy solution only kicks in in extreme (and extremely rare) circumstances; in all others it unequivocally holds war to be wrong. Nevertheless, a lack of 'completeness' (in the sense of always providing action-guiding answers) in a theory, even if only in rare situations, is often held to be a weakness. Daniel Statman, for example, argues that a moral tragedy theory that does not provide an answer to the obvious question fails to help resolve the tragedy.[61] But the 'completeness' of a theory is a mistaken goal if there are certain situations in which there is no right answer. And moral tragedies are such situations. As Walter Sinnott-Armstrong suggests, a theory's "lack of univocal advice is not a defect if the demand for such advice is unreasonable."[62] And in situations in which only war can prevent great harm, such demands *are* unreasonable, because of the complexity and tragedy of such situations. I think that the fact that moral tragedy pacifism does not provide a definitive answer in all situations is not a weakness of the theory. I believe it is instead a strength, since it reflects the nature of these situations with greater accuracy and realism. It better captures the moral truth. The moral tragedy solution does not stop an agent in a moral tragedy from choosing, but it holds that choice to be unjustified nonetheless.

An excessive focus on action-guidingness can cause a debate to become binary, which in turn runs the risk of oversimplifying complex situations. Clear directives are of no good use if they are misguided or short-sighted.[63] Much of

60 See Erica Chenoweth and Maria J. Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict* (New York: Columbia University Press, 2011); Nicholas Parkin, 'Nonviolent Resistance and Last Resort,' *Journal of Military Ethics* 15 (2016): 259–74.

61 Daniel Statman, 'Moral Tragedies, Supreme Emergencies and National-Defence,' 313.

62 Sinnott-Armstrong, *Moral Dilemmas*, 52.

63 As Hursthouse states: "Given some of the terrible dilemmas that life sometimes presents…an adequate normative ethics – one that captures our moral experience – would embody the fact that we really cannot resolve some of them, not aim to show us how to do it" (*On Virtue Ethics*, 67).

the discussion on recent wars, both academic and public, has demonstrated this binary-style thinking.[64] How many times do we see mass support for a war before it starts, only to see it evaporate as the harsh realities of war set in? This is because the initial appeal of war's harm-preventing properties fails to acknowledge certain moral complexities, and the extreme and inevitable moral wrongness of war. By assuming that war can be morally justified, and that there are clear solutions to these most complicated of situations, the just war tradition plays its part in entrenching the destructive cycle of war. In the end, the tradition does not properly condemn war as it ought to, and as it claims to. The presumption should be firmly set against war at all times.

Biographical Note

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64 See Chris Brown, 'Tragedy, 'Tragic Choices' and Contemporary International Political Theory,' *International Relations* 21 (2007): 5–13, 10.