

"The point is to change it"

Ours to question why

Professor Cécile, Fabre University of Oxford

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As I write this in November 2024, the war between Ukraine and Russia appears to have no end in sight, and neither does Israel's conflict with Hamas in Gaza. The UK is supplying military assistance to Ukraine and Israel. While the UK is not supplying 'boots on the grounds', it is contributing to the deaths of thousands of people. In living memory, its forces have directly killed individuals who had been declared the country's enemies, by order of the elected government of the day.

Of all the things that we do, killing another person stands in the greatest need of moral and legal justification: in the absence of such justification, it can constitute manslaughter or murder. A decision to resort to military force, regardless of who makes it and of its rationale, is in effect a decision to authorise soldiers — on our behalf — to kill enemy combatants and civilians, whether through deliberate acts or collateral consequences of military action. Thus, when parliament votes in favour of such action, it authorises soldiers to kill, not merely on our behalf but also, in some important sense, at our behest. When the government agrees to supply weapons to its allies, it provides the means for the act of killing. If we are to take the presumption against killing seriously, we — citizens, soldiers, elected representatives and government ministers — must also take seriously the task of morally justifying war.

Some view this task as hopelessly naive, futile, or both. It is naive, because states go to war if and when it serves their interests, and whatever philosophers have to say about the right and wrong of doing so has little purchase. It is futile, because what matters the most, surely, is not whether states are morally allowed to go to war and whether soldiers, so authorised, are morally allowed to kill enemy combatants and civilians: what matters is whether those acts are lawful.

And yet, a striking feature of recent parliamentary debates on military action is the highly moralised language employed by members of parliament (MPs) for and against war. In March

2003, the House of Commons voted in favour of the government's motion to wage war against Iraq, as part of a US-led coalition. Thus, arguing against the deployment of forces, Douglas Hogg MP, stated: ‘I do not think that any of the usual characteristics of a just war have been satisfied. If we were dealing with a situation in which Iraq had attacked another country or had mustered troops on the frontiers of another country, or if there were compelling evidence that Iraq was delivering to terrorists weapons of mass destruction with which they could attack another country, I would vote for war, but none of those circumstances exists.’

Or consider Peter Bradley's impassioned speech in support of intervention: ‘I believe in just wars. I believe that they are commissioned in defence of freedom, and against oppression. I also believe that, for them to be just wars, they must be the last resort. Diplomacy must come first, but if we are to prevail in defence of what we believe to be right, there must also be a limit to diplomacy. [...] If we are to set aside our prejudices and accept that doing nothing is not an option, if we accept that diplomacy is at an end and that Saddam continues to defy and threaten us, what is the alternative to war?’ There is none, Bradley concluded, siding with the government, though noting the difficulties of establishing, there and then in 2003, whether the conditions for a just war were met.

Ten years later, in August 2013, the House of Commons voted against the deployment of a British intervention force in Syria. MPs framed the decision whether to intervene in Syria in the language of rights and duties. When debating whether intervention in either Iraq or Syria was lawful, there seemed to have been little doubt in their mind about the moral legitimacy of the international legal framework within which Britain had to operate. As a constitutional matter, the decision to go to war is a royal prerogative: it does not require the approval of parliament, and any such approval (or disapproval for that matter) is merely advisory. Thus, in 2018, the then-prime minister Theresa May authorised military strikes against President Assad's regime (which had used chemical weapons against rebel forces and civilians) without seeking the consent of parliament. Nevertheless, as Hansard records, she addressed the House of Commons at length in similar terms to her two predecessors: ‘it was not just morally right but legally right to take military action [...] to alleviate further human suffering’.

Turning to the present, public debates, both inside and outside parliament, on the wars between Russia and Ukraine, and between Israel and Hamas, are suffused with moral language: the claim that Ukraine is morally justified in defending itself from Russia's unwarranted aggression is seen as beyond dispute; likewise, the claim that Hamas committed atrocities

against Israeli civilians on 7 October 2023 is widely endorsed (including by proponents of an independent Palestine); so is the view, at least in this country, that the humanitarian costs of Israel’s retaliatory war in Palestine since then are disproportionate.

Both within parliament and, indeed, in the press, there is a remarkable degree of consensus on the conditions which a war must meet to be just and lawful. It must have a just cause — such as national defence against a military aggression, stopping a humanitarian disaster, or upholding the moral and legal prohibition on the use of weapons of mass destruction — and reliable evidence that there is such a cause. It must aim to bring about those just ends. It must be a proportionate and necessary means of achieving those ends, including in the way it is fought. More specifically, minimising harm to civilians is of paramount importance. Disagreements focus on whether those conditions apply in the specific cases under consideration.

Without explicitly acknowledging it, our MPs and prime ministers are engaging in philosophical arguments: they do what philosophers and theologians have done for millennia in both western and non-western traditions. Anecdotally, from my own experience as a philosopher of war, so do many soldiers. The question, then, is not so much whether foreign policy actors should engage with the philosophy of war, but rather whether they do so as well as they could. No less crucially, it is also what philosophers of war can learn from those public debates: if philosophy has a role to play in public life, so does public life in philosophy.

These conditions of a morally just war are familiar, intuitively powerful, and, at first sight, provide secure foundations for the laws of war. On closer inspection, and as philosophers of war have noted, they are much less straightforward than they appear. Let me highlight two serious difficulties. First, they raise thorny interpretative problems which, once brought into view, weaken prospects for consensus. Consider for example the claim that unwarranted military aggression is a just cause for war. In most cases, and paradigmatically so for Ukraine in February 2022 or Poland in September 1939, this may well be true. Suppose however that the aggressor-state invades the defender-state without shedding blood — as Russia did when it annexed Crimea in February 2014. Or that it seizes a remote and uninhabited part of the defender-state’s territory. The aggression takes place without violating anyone’s right not to be killed. The question, then, is whether and when violations of the comparatively less important right to territorial sovereignty warrant the use of lethal force against enemy combatants who have played a minimal role in those violations, as well as the collateral deaths of civilians.

Consider next the claim that war must be a proportionate means to achieving justified ends; that is, the bads it does must not be excessive in relation to the goods it brings about. To ascertain whether the war would be proportionate, thus, we must decide which goods, relative to which evils, are relevant. For example, suppose we go to war against an authoritarian state which has invaded us. There may be an opportunity to remove the authoritarian state's leaders from power and help its population install a democratic regime. It may seem that these are goods which ought to count against the bads our forces will inflict. Yet, it is doubtful that regime change is itself a just cause for war. If it is not justified to wage war to bring about this particular end, why should the outcome of a successful regime change be a factor when considering proportionality? And, if we do go to war against our unjust aggressor, the result could be that the aggressor's increased military spending leaves its civilians entirely destitute. Should those bads count against our decision to go to war?

Assume, next, that we can determine the relevant goods and bads. As the war goes on, policymakers must decide whether to carry on with the war or whether to sue for peace and withdraw their troops. This includes deciding whether the costs incurred so far count in the proportionality calculus, or whether they can be discounted as sunk costs. Suppose our elected representatives authorise the government to defend our homeland and anticipate a proportionate and thus acceptable cost of, say, 15,000 combatant fatalities. However, suppose the war goes badly: six months into the conflict, there are 10,000 combatant fatalities, for much smaller territorial gains than anticipated. Our military leaders estimate that a final push would deliver victory, but at a cost of 8,000 lives. Assume that they are correct: victory, then, in the end, would cost 18,000 lives.

There are two ways of thinking about the 10,000 lives already lost. On the one hand, they can be thought of as 'sunk costs'. Given that they can never be recovered, our leaders need not take them into account as they consider what to do next: rather, they must focus on the additional lives that will be lost if they proceed. As 8,000 is well below the 15,000 threshold, continuing with the war is not disproportionate. On the other hand, we can deem those 10,000 lives not to be 'sunk' and take the view that those costs are to be carried forward. If so, the war must stop, as it would fail to meet the proportionality condition. What should our leaders do?

What about the requirement to minimise harm to civilians? On the face of it, it is clear civilians should be protected from harm wherever possible. Matters are not so simple, however. For the problem is that some civilians contribute to unwarranted wars of aggression — for example,

those who work in the arms industry. There are others: civilian members of intelligence services; journalists and so-called ‘influencers’ who feed the war propaganda machine; and also civilian leaders, including (why not, after all?) civilian elected representatives who, in regimes which are or claim to be democratic, vote to authorise and facilitate the war.

Perhaps, then, the requirement to minimise harm to civilians only applies to innocent civilians — who do not participate in those ways in the war, let alone take up arms. They clearly are not legitimate targets; and whatever harm is done to them, as a collateral effect of our war, must be kept to a minimum. So far, so simple. Suppose, however, that complying with the requirement would entail a serious loss of life on our side. To whom must our leaders give priority, and on what basis? Answers to this most-difficult question are likely to depend on the kind of war we fight: whether it is a war of self-defence, or a war of intervention — and on whether the fatalities are soldiers (and whether these are conscripts or fight voluntarily) or fellow citizens.

There are no easy answers to the questions I have raised. The main lesson to draw from my remarks, if there is one, is that, in the light of a well-developed body of philosophical work on the morality of war, the appearance of consensus is likely to be deceptive — and indeed deceptively dangerous. The costs of being mistaken about, for example, what is a just cause and what is proportionate are measured in lives, not just in financial costs, votes, or reputation.

The second difficulty is that the morality of war is not as clearly aligned to the laws of war as is often supposed by many outside philosophy (and also, by quite a few within the just war tradition). The laws of war sharply distinguish between the legal status of a decision to resort to war, and the legal status of acts of killings within the war. Thus, take for granted that Russia unlawfully invaded Ukraine on 24 February 2022, and that Ukraine had a lawful cause for responding by force. Yet, although Russia’s war of aggression is unlawful, the individual acts of killing carried out by Russian soldiers against Ukrainian soldiers in pursuit of their regime’s unlawful ends are not, in themselves, unlawful. Indeed, they are not any less lawful than the acts of killing carried out by Ukrainian soldiers against Russian soldiers in defence of their country.

Morally speaking, however, this cannot be right. For if it is morally wrong to wage a war of aggression, then by implication it is morally wrong to kill in pursuit of that war. To be sure, it may well be that soldiers on the ‘unjust’ side have no choice but to fight — perhaps they are conscripted under life-threatening duress, or perhaps they are unavoidably unaware of their regime’s true ends. It is worth noting, however, that those reasons would not be

considered as exculpatory of the deliberate killing of innocent civilians. Yet, even if, for example, Russian soldiers are not blameworthy for killing Ukrainian soldiers, it remains the case that they are not morally permitted to do so, whereas (by implication) Ukrainian soldiers are morally permitted to kill in defence of their homeland.

Some readers might have no difficulty granting the point in this case — so deep is moral outrage, in this country at least, at this war. But it is worth highlighting what it implies: if, as some readers might think, the UK, the US and their coalition partners lacked a just cause for invading Iraq in 2003, then by implication and whatever the laws of war may say, soldiers of the coalition force were not morally permitted to kill Iraqi soldiers who were resisting the invasion. Theorists of the just war are familiar with such a view — indeed many explicitly endorse it. Outside academic philosophy, however, I wager that it is rather controversial — so much so, perhaps, as to cast doubt on the usefulness of philosophy to public policy, at least in this area.

Here is what non-philosophers may well be tempted to say. What follows is a rough summary of remarks I have often heard over the years:

‘Well, many of our soldiers believed that they were doing the right thing, in fact the MPs who voted in favour of the war in 2003 believed they were doing the right thing. All those people acted in good faith. The invasion of Ukraine, or the Second World War for that matter, which philosophers of war keep invoking, are easy cases — too easy to serve as reliable guides given the complexities of most conflicts. Besides, suppose you’re right and that our soldiers were not morally permitted to kill Iraqi soldiers who were defending their country. So what? Do we really want to revise the laws of war, so that killing enemy combatants in an unjust aggression is a war crime? Surely not: who would stand in judgement? How could we possibly enforce those laws? Besides, let us not pretend that Iraqi soldiers were saints: as well as defending their country, they were also defending a murderous regime so if the war was unjust, it was unjust on both sides, and it is really not clear what to make of that.’

Philosophers of war can learn at least four lessons from these sorts of remarks. First, they need to pay greater attention to the conditions under which policymakers — members of parliament, cabinet ministers, defence officials, military personnel — are required to make those decisions that will inevitably lead to deaths. This requires that they seriously

consider empirical evidence about war and political decision making, as well as records of parliamentary proceedings and publicly available policy briefs.

Second, they need to be more attentive than they have been so far to the fact that, according to their own principles, no war is fully just or unjust. This obvious observation, which one often hears from non-philosophers, has profound implications for our moral assessment of decisions to go to war in the first place, and of individual military missions with that war.

Third, they need to contribute more than they have done so far to debates about the relationship between the morality and the laws of war, and to discussions about the dilemmas faced by public officials whose moral judgements are in tension with the law. ‘Resign!’, we might say. But what if the law offers the best moral compromise we can hope for under the circumstances? What about the costs of keeping one’s hands clean?

Finally, philosophers of war need to do much more work than they have done so far on the rights and wrongs of decision-making under conditions of uncertainty. By uncertainty, I mean both uncertainty about the facts of the case (for example, does a satellite image of troop movements along a border constitute evidence that our neighbour is about to attack us?), and uncertainty about what is the right thing to do (for example, does the loss of 10,000 soldiers constitute a sunk cost or not?).

Moral uncertainty is particularly troubling. There is no settled consensus amongst philosophers on many of the issues discussed here. Our leaders do not have time to wait until we develop a plausible view on sunk costs before deciding whether, for example, to increase military support for Ukraine. But what they ought to expect from philosophers is some guidance on the moral implications of both views.

To be sure, philosophers have addressed those issues — just as policy actors are aware of the moral complexities of seemingly straightforward principles. All too often, however, they fail, it seems, to communicate their views outside academia. To make progress, what is needed from both philosophers and policymakers is greater reciprocal engagement. This could take many forms, from compulsory ethics teaching in military academies, to setting up more systematic and regular exchanges between philosophers of war, our elected representatives, and members of the armed forces. In our current geopolitical moment, ethical reasoning that is both rigorous and attuned to the realities of armed conflicts is more important than ever.