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Reductive Collectivism and a Moral Justification for Killing in War

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy
in Philosophy

by

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June 2022

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Reductive Collectivism and a Moral Justification for Killing in War

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ABSTRACT

Reductive Collectivism and a Moral Justification for Killing in War

by

Sangsu Kim

The purpose of this dissertation is to argue that most unjust combatants are complicitously liable to be killed while most unjust noncombatants are not liable to be killed, and to construct an adequate moral principle for satisfying these two desiderata based on reductive collectivism. The dissertation comprises four main chapters:

Chapter I is a preliminary discussion of this dissertation. I provide an overall understanding of Just War Theory and present Walzer's key theses on killing in war. I then analyze the methodologies Walzer used to justify his claims. I also introduce the views of revisionists who challenge Walzer's view and explain in detail the methodological differences between reductive individualism and traditionalism.

In Chapter II, my main goal is to show that reductive individualism fails to satisfy two desiderata of an adequate moral principle regarding the justification of killing in war. In my view, if we assume that war is a conflict involving the use of armed force between collectives and these collectives are not adequately characterized solely in terms of relationships between individuals, then reductive individualism faces the individualized-liability dilemma. To that end, I explain McMahan's individual liability-based account and

demonstrate how the responsibility dilemma forces us to deny McMahan's account. I then argue that the prospects of reductive individualist accounts of liability solving the responsibility dilemma face serious problems. These problems give a good motivation for us to consider a collectivist account.

In Chapter III, I shift the main discussion from reductive individualism to reductive collectivism. Reductive collectivism makes use of a notion of collective action as opposed to individual action. I give a rough analysis of collective action and argue that what distinguishes genuine from non-genuine collective actions is a shared participatory intention among the members of the collective. I then clarify what it means to say that individuals who participate in collective action have a shared participatory intention. I also analyze how individual participatory intention is linked to the complicitous liability of individual agents in a collective.

In Chapter IV, my primary goal is to evaluate the liability of both unjust combatants and unjust noncombatants in war. I argue that most unjust combatants are complicitously liable to be killed but most unjust noncombatants are not liable to be killed. In order to show that, the first part of this chapter is dedicated to constructing a moral principle, rooted in reductive collectivism, that determines who is complicitously liable for a collective unjust action. I then argue that members of an organization can have two different kinds of participatory intentions, and their complicitous liability is determined by what kind of intention an individual has as a collective member. In the second part of this chapter, I illustrate how the reductive collectivist moral principle that I draw satisfies the two desiderata for which I argue at the beginning of the chapter: that most unjust combatants are liable to be killed and that most unjust noncombatants are not liable to be killed.

TABLE OF CONTENTS

I. Just Wary Theory and Discussions	1
A. Just War Theory	4
A-1. Jus ad bellum and Jus in bello	4
A-2. Terms	7
A-3. MEC and PNI	9
B. Traditionalism on moral justifications for killing in war	12
B-1. Methodology on Moral Equality of Combatants (MEC).....	13
B-2. Methodology on Principle of Noncombatants Immunity (PNI) 22	
C. Contemporary discussions and Revisionism.....	25
C-1. Against Traditionalism	25
C-2. Reductive Individualism.....	26
C-3. Tension	31
D. The structure of the following discussions	32
II. Against Reductive Individualism.....	36
A. Introduction.....	36
B. Reductive Individualism and liability-based account	38
C. Responsibility dilemma.....	41
D. Problems	47
D-1. Problem 1: The ambiguity of contribution	49
D-2. Problem 2: Obscurity of relationship	54

D-3. Problem 3: Epistemic constraints	58
E. Generalization on 'Individual-liability dilemma'	61
III. Reductive Collectivism and Complicitous Liability	65
A. Basic ideas in reductive collectivism	65
B. Genuine and non-genuine collective actions	70
B-1. Non-genuine collective actions	71
B-2. Genuine collective actions taken by ad hoc collectives	73
B-3. Genuine collective actions taken by organizations	75
C. Shared participatory intention	77
D. Complicitous liability and participatory intention	82
E. The centrality dilemma for Bazargan's account	90
IV. Two Different Participatory Intentions and Complicitous Liability in War	98
A. Introduction	98
B. Moral principle based on reductive collectivism	100
B-1. Two different participatory intentions	101
B-2. Epistemic requirements	114
C. Complicitous liability in war and combatants	118
C-1. War as collective action	118
C-2. Unjust effective combatants	120
C-3. Unjust ineffective combatants	123
C-4. Evaluation on MEC	127
D. Complicitous liability and noncombatant	129
D-1. Ordinary noncombatants and PNI	129

D-2. Different types of noncombatants	134
E. Conclusion.....	142
References.....	144

LIST OF FIGURES

Figure 1. Caption for Figure 1 goes here..... 56

Figure 2. Caption for Figure 2 goes here..... 56

Figure 3. Caption for Figure 3 goes here..... 78

Figure 4. Caption for Figure 4 goes here..... 78

Figure 5. Caption for Figure 5 goes here..... 80

Figure 6. Caption for Figure 6 goes here..... 81

Figure 7. Caption for Figure 7 goes here..... 112

Figure 8. Caption for Figure 8 goes here..... 141

I. Just War Theory and Discussions

Most people would agree that wars are continuing, severe armed conflicts between the military of political organizations such as states. Killing and death are what distinguishes war, and what makes it so terrible. We have witnessed, both historically and empirically, in wars, people kill each other in such large numbers with such little regard for the consequences of their actions. When people are engaged in a war that has genocidal intentions, killing is rarely justified, and this is true in many wars.

Someone might try to simplify war and think that war is nothing more than killing between combatants, but it is not true. In ancient times, a typical form of warfare was mutual killing between combatants in limited space and time, whereas contemporary war combines elements of a more complex and multidimensional level. Moreover, asymmetric warfare, such as terrorism, cyberwarfare, drone wars, and hybrid wars, are unique warfare types that are distinguished from conventional warfare.¹ Someone not familiar with the current literature on Just War Theory might be puzzled by the fact that why we need to think about a morality of war since, *prima facie*, a history of war shows that there have been countless killings in war, and killing in war has been taken less seriously or overlooked in its justification compared to killing in ordinary life.

However, scholars interested in the moral issues involved in war have produced a

¹ Exploring morally justified killing in these forms of asymmetric warfare involves a number of factors to consider in contrast to conventional warfare. Although it is difficult to draw a sharp line between conventional warfare and asymmetric warfare, conventional warfare is *roughly* an armed conflict between states accompanied by conventional weapons such as guns, rifles, knives, and artillery. In order to clarify the direction of the discussion, I would like to point out that this dissertation only concerns a moral discussion about conventional warfare waged by states.

large amount of work over the past century. Their fundamental task is to develop and explain the norms of war, both about the beginning of war and the conduct of war. In several areas, scholars have reached a significant amount of agreement. To give an example, most scholars acknowledge that there should be a *morally* and *legally* relevant distinction between combatants—those who fight in war—and noncombatants—those who do not.² Also, most theorists agree that killing in war is morally justified *only* when certain conditions are satisfied. For instance, it is natural to say that attacking or killing someone in a war implies an infringement of the victim's right to life; hence, in order for the killing to be justified, there needs to be sufficient grounds for the victim to lose his or her right to life.

Nevertheless, there are still debates on the following issues. The first issue concerns the requirements for a war to be justified. As mentioned earlier, war is an armed conflict between large collectives that causes mass destruction. Intuitively, a war to defend one's own state can be justified; however, an aggressive war that invades other states for economic or diplomatic gain cannot be justified. The important point is that, beyond our intuition, the discussion of various categories should be required when considering the requirements for the resort to war. This issue still generates a lot of debate. A second issue is the moral justification for targets that are permitted to be killed in war.³ In particular, the second issue produces questions such as: Whether combatants in war are permissible targets simply

² Various moral and legal distinctions have been made regarding the distinction between combatants and noncombatants. I will focus on a moral distinction. Intuitively, it can be said that the distinction between combatants and noncombatants depends on whether or not they belong to the military, but apart from this, the task of most modern scholars is to show how their moral status and liability are distinguished and trying to seek appropriate theories that justified this distinction.

³ Bear in mind that what the moral justification for killing in war means is not to consider that someone has the *privilege* to kill someone in war and how this privilege can be justified.

because they harm the other side as combatants, or whether there is a distinction between permissible and impermissible targets, even among combatants, and whether all noncombatants at any point in war are impermissible targets or killing noncombatants is conditionally permissible. A proper discussion of the second issue leads to a discussion of what moral principles are appropriate to justify killing in war.

As it happens, the term “the morality of war” encompasses multiple moral aspects, so we need to focus on central one aspect. Thus, the aim of this dissertation is primarily to focus on the second issue of how to determine our moral judgements of *conduct* in war. In particular, this issue concerns the following questions: Who are morally permissible *targets* in war? And what moral *principles* can justify killing in war? While the first issue, the discussion of just war conditions, is also considered crucial in the study of morality of war, in order to get an adequate conclusion of the first issue, I believe that we should have a broader category of discussion, and political, economic, and cultural aspects should be explored in a variety of ways. Thus, for the present purpose, I will set this first issue aside.⁴

The primary goal of this chapter is to give an overall understanding of the second issue in Just War Theory and to sketch a direction for my current discussion. Therefore, in this chapter, I will outline Just War Theory and introduce views between traditionalism and revisionism in the theoretical discussion of determining what justifies killing in war. In order to have a successful discussion of the second issue, firstly, we need to figure out what traditionalist views are in justifying killing in war and what are the real difference between traditionalism and those who challenge it. In other words, an analysis to clarify the tension

⁴ For a discussion of the first issue, the conditions of a just war, see McMahan (2005a), Rodin (2002), and Fabre (2012).

between the two camps on the same issue is required.

To this end, in Section A, I will give a general introduction to the Just War Theory and show the key thesis on killing in war presented by Walzer. Next, in Section B, I will analyze what methodologies Walzer used to justify his claims. It is specifically about how the loss of the right to life in war is morally justified. In Section C, I will introduce the views of revisionists who challenge traditionalism and explain in detail the methodological differences between reductive individualism and traditionalism. Lastly, in Section D, I will sketch the overall direction of this dissertation.

A. Just War Theory

A-1. Jus ad bellum and Jus in bello

Let us take a look at what Just War Theory is and where it comes from. To comprehend Just War Theory, it is important for understanding how it differs from realism and pacifism. Roughly, realism is the view that there are no rules in war, and any form of violence and strategy is permissible in war.⁵ According to this view, war is an exception in which the fate of the state is jeopardized, unlike ordinary life, so *any* means and methods of violence are permitted in war. Therefore, moral considerations regarding the just cause and conduct of war are futile. Pacifism, on the contrary, states that no lethal threat or violence is justified in war. Pacifists believe that war is in itself unjust because it is always accompanied by violence, and that violent acts such as killing and harm that occur in war are morally unjustifiable, no matter what moral grounds or reasons are given.

⁵ The basic position of the realists is that there is no room for moral discussion about war since war is a very *exceptional* thing that separates it from ordinary life.

In turn, Just War Theory states we must have moral considerations about war as a whole and killing in war can be allowed if certain conditions or moral principles are satisfied. In other words, Just War Theory is distinguished from pacifism in that it rejects non-violence, and is different from realism in that it allows only limited killing in war.⁶ In a nutshell, Just War Theory is concerned with which types of wars are just, who are the permissible targets in the war, and how killing in war is justified.⁷

Walzer's goal was to set out rules of morality of war. He says that war is distinguished from genocide or murder when rules are established to limit indiscriminate slaughter in war (Walzer, 2006, p. 42). Walzer attempts to distinguish the moral realm of war. He writes, “The moral reality of war is divided into two parts. War is always judged twice, first with reference to the reasons states have for fighting, secondly with reference to the means they adopt” (Walzer, 2006, p. 21). Let me clarify the distinction he is making. According to Walzer, the morality of war consists of two realms. The first one is *Jus ad Bellum*—the resort of war. The second one is *Jus in bello*—the conduct of war.⁸ It is critical to differentiate between the evaluated objectives of *Jus in bello* and *Jus ad bellum*. *Jus ad bellum* refers to the requirements for the justification of war as a whole. As far as I know, the content of *Jus ad bellum* is varied, but *Jus ad bellum* typically includes following six

⁶ For a general discussion of this, see Ramsey (2011) p.6.

⁷ We need to note that Just War Theory is an area of study, not merely a particular thesis or idea. Those who study Just War Theory reject both realism and pacifism even though there is room for disagreement about which types of wars are just, who are the permissible targets in the war, and how to justify killing.

⁸ Recently, some philosophers have discussed *Jus post bellum*, an account of actions that can be justified in post-war, and *Jus ex bello* on justifiable principles at the end of the war. Nevertheless, it seems to me that the two sets of these are the main subjects, without any difficulty. These Latin labels are widely accepted in Just War theory and are useful terminologies. For a more detailed explanation, see Moellendorf (2008).

requirements: *just cause, legitimate authority, right intention, reasonable prospects of success, proportionality, and necessity* (last resort).⁹

The norms of *Jus ad bellum* are intended to decrease wars, restrain aggressiveness, and so forth. Unfortunately, however, if a war breaks out, combatants participating in the war may directly threaten their opponents through engagement on the battlefield, or they may participate in the war in a variety of ways, although not on the battlefield. A question that can be raised in such a war situation is whether combatants can always say that their actions are morally right if their state satisfies the requirements of *Jus ad bellum*. Most people would not believe that the fact that combatants engage in a war with just causes always justifies their actions legally or morally. For example, the threats they inflict on civilians or children on the opposing side unrelated to combat are difficult to justify. In this context, there may be any types of rules or norms that are individually required of combatants, and these relate to the realm of *Jus in bello*. *Jus in bello* refers to the requirements for justifiable actions at the individual level rather than at the collective level. There are the following requirements in *Jus in bello*: “1) Discrimination: belligerents must always distinguish between military objectives and civilians, and intentionally attack only military objectives. 2) Proportionality: foreseen but unintended harms must be proportionate to the military advantage achieved. 3) Necessity: the least harmful means feasible must be used” (Lazar, 2020b).

According to requirements of *Jus in bello*, all combatants participating in war must distinguish between combatants and noncombatants when they attempt to attack or kill

⁹ For the detailed taxonomy of *Jus ad bellum* and *Jus in bello*, I follow that provided by Lazar (2020b).

someone. Also, we need to note that harming or killing noncombatants collaterally does not violate the first requirement of Jus in bello since it is not an intentional killing. However, this does not mean that it justifies unrestricted collateral killing of noncombatants. The requirements of proportionality and necessity should prohibit such unrestricted collateral killing of noncombatants.

Basically, many philosophers who have interests in a morality of war endorse the distinction between Jus in bello and Jus ad bellum.¹⁰ However, as mentioned earlier, my interest is the area of Jus in bello, and specifically, what conditions must be satisfied for killing that can be justified in war and finding appropriate answers to who are morally permissible targets in war. Therefore, we need to narrow the scope of the discussion and analyze Walzer's view as traditionalism on the second issue—a moral justification for killing in war.

A-2. Terms

Before analyzing Walzer's views on the second issue, in order to avoid confusion in the current discussion, we need a couple of terminological clarifications to determine the moral status of individuals in war. Firstly, we need to clarify how to define the distinction between just combatants and unjust combatants.¹¹ In this dissertation, I will use the terms in

¹⁰ Helen Frowe disagrees with the distinction between jus ad bellum and jus in bello in the morality of war. She argues that “There is no difference in content between jus ad bellum and jus in bello. There is, rather, a single set of principles that governs both the justness of resorting to war and the justness of particular acts within war” (Frowe, 2018, p.4). I believe, however, it is possible to recognize the distinction between theses in order to properly understand the morality of war. Also, even if, there is a universal moral principle that governs two theses, it is not necessary to deny that the categories of evaluation should be distinguished.

¹¹ One might think that the term 'soldier' instead of 'combatant' is more appropriate. In the

the following ways: “Just combatants” are those who belong to the military and participate in a war that has a just cause, while “unjust combatants” are those who belong to the military and participate in a war that lacks a just cause.¹² For this distinction, it is first necessary to clarify how to distinguish between just cause and unjust cause in war. As I said, just cause is one requirement of Jus ad bellum. Usually, the just cause of war is simplified and limited to defensive wars as self-defense against the attacking opponent's state.¹³ Put differently, the paradigm of an unjust war is an aggressive war, and the paradigm of a just war is one that defends against unjust aggression. However, as McMahan puts it, the just cause of war may have other causes than defensive warfare (McMahan, 2005a, p.1). In other words, the cause of a simple defensive war is not equivalent to the just cause of war, rather a defensive war can be accepted as one of the just causes. At this point, one wonders what an account of just cause is or how to differentiate between ‘aggressive’ and ‘defensive’. Most people, I think and hope, agree that one cannot resort to war in order to promote any kind of good, even if the good that results from the war is substantial.¹⁴ This shows that only a limited range of goals can be promoted by way of war, even though war can have many positive side effects that would not themselves be just causes for starting a war. And all goals contained in that range can be defined as just cause. Of course, there may be unclear

moral discussion for Just War Theory, I think that we can use both terms interchangeably, but for the sake of consistency, I use the word ‘combatant’.

¹² McMahan also makes a similar distinction. See McMahan (2004).

¹³ McMahan says: “The usual practice is to offer a simple characterization of the requirement of just cause—for example, that it is the requirement that there be a good or compelling reason to go to war—and then to observe that, at least until quite recently, contemporary just war theory and international law have recognized only one just cause for war: self- or other-defense against aggression” (McMahan, 2005a, p.1).

¹⁴ Lazar also argues that the traditionally accepted justification for war is limited to state defense and humanitarian intervention (Lazar, 2020b, p.16).

aspects of how to distinguish just or unjust causes, but this will be left as a topic for further discussion.¹⁵ Hence, in this chapter, it is better to define a just war as one that satisfies the requirements of Jus ad bellum, and unjust as one that fails to satisfy one or more requirements of Jus ad bellum.

Secondly, we need to note that, in Just War Theory, most scholars assume that those involved in war can be categorized into one of two categories—combatants and noncombatants. The distinction between combatants and noncombatants more or less coincides with that between members of the military and nonmembers. There are, of course, armed nonmembers of the military, such as guerillas. In order to avoid confusion, I assume that a noncombatant is not a member of the armed forces or does not have persistent combat function in war. Thus, in this dissertation, I use the term “noncombatants” to refer to unarmed civilians. Also, the distinction between just noncombatants and unjust noncombatants is also determined by whether or not each of the noncombatants belongs to the just side.

A-3. MEC and PNI

Many philosophers, who have interests with morality of war, have been concerned about Walzer's views on the justification of conduct (action) in war. The most prominent issues concern ‘Moral equality of combatants’ (hereafter, MEC) and ‘The principle of noncombatant immunity (hereafter, PNI). For discussion, we need to figure out exactly what Walzer means by these terms and how he justifies them. Therefore, I will first give a basic

¹⁵ This is not completely accurate, as one can distinguish between *independent* and *conditional* just causes. However, the discussion of the nature of just cause is about the first issue, I have decided not to take account of this (important) distinction, as nothing substantive in my discussion hinges on it. For details, see McMahan (2005a), p.14.

explanation of MEC and PNI, and then look at his methodology for how to justify MEC and PNI.

Before I start, let me make a distinction between the first-order questions and the second-order questions regarding the present discussion. This is because, it would be useful in figuring out the discussions I will proceed with in later sections. While the first-order questions are concerned with some normative facts or principles such as whether MEC and PNI are correct or not, the second-order questions are concerned not just differences about the truth of some normative facts or principles but about the methodology that how to justify some normative facts.

Let us briefly look at both MEC and PNI. Firstly, Walzer argues that MEC is the thesis that, regardless of their state's causes of war, all combatants who engage in armed conflict are subjected to the same moral obligations and restraints. Hence, in the context of war, all combatants are not only morally equal but also are permissible targets (Walzer, 2006, p.36, p.130). We need to note that MEC isn't a principle or rule, rather it is more like a thesis about how the rules apply: they apply equally to both just and unjust sides, there are no rules apply just to one side rather than the other side.

Secondly, PNI is the principle that noncombatants are not permissible targets in war. The important implication of PNI is that we must differentiate between combatants and noncombatants in war. This is due to the fact that combatants are targets that may be permissible in war, while noncombatants are immune to killing, thereby they are not permissible targets.

Walzer's views on MEC and PNI have been accepted as the dominant view on the morality of war, and his view has provided a foundation for contemporary international war

law.¹⁶ For example, MEC and PNI are explicitly embodied in the first additional protocol of the Geneva Conventions.¹⁷ With regard to MEC, Article 43 states: “Members of the armed forces of a Party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities” (ICRC, 1977). Also, there is an illustration of MEC in a preamble, “[T]his Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflicts” (ICRC, 1977).

PNI is also explicitly specified as Article 48 in the same protocol: “In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives” (ICRC, 1977). There is an additional article that says noncombatants are not permissible targets in war. According to the Article 51, “The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances; The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread

¹⁶ Since international war law is not domestic law, it should be regarded as a comprehensive reference to the laws and regulations related to war.

¹⁷ All articles related to MEC and PNI refer to ‘Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol 1).’

terror among the civilian population are prohibited; Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities” (ICRC, 1977).

Here, I do not intend to evaluate whether the laws enumerated above are appropriate in a legal sense. Rather, I just want to show why many just war theorists accept Walzer's views as traditionalism, and that moral views relating to the moral status of fighters and non-combatants are fundamental to contemporary international warfare law.

B. Traditionalism on the moral justifications for killing in war

So far, I briefly introduced what MEC and PNI are and why these two are accepted as traditionalism. That is, in terms of the first-order question, Walzer claims that combatants are morally equal and that killing each other in war is morally justified. At the same time, it was revealed that noncombatants are morally impermissible targets in war. However, it is more important for us to focus on an evaluation of the methodology applied to moral justification about both MEC and PNI, that is, the second-order questions. The reason is that it is meaningless to simply say that Walzer concludes that all combatants are morally equal in war and that noncombatants are impermissible targets. Moreover, it is because, regardless of whether we agree with the MEC and the PNI, a rational basis for this position cannot be presented without a proper evaluation of how these conclusions are logically justified. Therefore, we need to evaluate the method Walzer uses to justify his conclusions.

B-1. Methodology on MEC

1) Independence thesis

Walzer argues that MEC is justified by a self-defense principle and by the independence thesis. Let us first explore the independence thesis. Walzer claims that *Jus ad bellum* and *Jus in bello* are logically *independent*, which is called the independence thesis. He says, “Medieval writers made the difference a matter of prepositions, distinguishing *jus ad bellum*, the justice of war, from *jus in bello*, justice in war.... *Jus ad bellum* requires us to make judgments about aggression and self-defense; *Jus in bello* about the observance or violation of the customary and positive rules of engagement. The two sorts of judgments are logically independent” (Walzer, 2006, p.21). Some explanation is needed to understand that the two realms are logically independent. The relevant aspect of the thesis is that the moral responsibility of the individual combatant does not depend upon which side he is fighting in war. I think that Walzer attempts to justify the independence thesis in two ways:

(IT1) The independence thesis would be false if combatants were responsible for the justice of the war they were fighting in; *but* they are not responsible for this since they don't have *ad bellum* responsibilities.

(IT2) The independence thesis would be false if the justification for using defensive force depended on whether those threatening their sides are fighting a just or an unjust war; *but* the justification of defensive force in war does not depend on this since they participate in the war on behalf of the state, not for the sake of the individual.

Let me give a more detailed explanation of (IT1). Historically, the beginning of war

has been decided by the highest political leaders or state agencies.¹⁸ So, Walzer believes that individual combatants do not have any authority and responsibility for the justification of a war cause even though the state they belong to initiates an unjust war. Thus, it is entirely the responsibility of the political leaders, not the realm for the combatants to decide and judge. For this reason, Walzer claims that moral responsibility for the unjust cause of war must not be *assigned* to the individual combatants even though they fight in a war without a just cause.¹⁹ Rather, combatants are governed only at the individual level according to whether their actions satisfy the requirements of Jus in bello.²⁰

With respect to (IT2), Walzer thoroughly understands that war is not a conflict between individuals, but a conflict between collectives, and he emphasizes that the purpose of combatants fighting is according to the cause of the state as a collective, not from the cause of the individual. As Walzer says, combatants are simply the “human instruments” of political leaders in war (Walzer, 2006, p.36). If so, the moral status of individual combatants in war must be determined solely by their individual conduct.²¹ It is obvious that all combatants have moral and legal obligations, regardless of which side they belong to. All combatants still need to comply with Jus in bello. The reason is that it is possible for

¹⁸ Although there is asymmetric warfare such as terrorism and guerrilla warfare, usually conventional warfare is decided by the agreement of political leaders or state agencies.

¹⁹ If the independence thesis is correct, *logically*, there is a way to argue that moral privilege (or advantage) for the just cause of war should not be assigned to the just combatants.

However, I think that there is no moral privilege in war as long as war accompanied killing.

²⁰ Here, as McMahan said, proportionality basically means proportional justification for harm. However, in ad bellum and in bello, the justification method for proportionality is that the former is a wide range, while the latter is a narrow justification. Also, these two justifications have different forms. The narrow justification is constraints on a liability-based justification, while the wide justification is constraints on a lesser-evil justification (McMahan, 2015, pp.697-698).

²¹ This is the main argument of the individualists, which I will introduce later. A detailed discussion on this will be presented in Chapter II.

individual combatants to fight unjustly, by virtue of violating requirements of Jus in bello at the individual level, even though the war they are fighting in is just at the collective level. This is because, it satisfies requirements of Jus ad bellum. Conversely, it is also possible for individual combatants to fight justly, by virtue of satisfying requirements of Jus in bello at the individual level, even though the war they are fighting in is unjust because it violates requirements of Jus ad bellum at the collective level. The crucial point in the independence thesis is that the logical independence of the two realms only implies that the combatant's moral status is independent of the cause of the state.²²

If the independence thesis is correct, the moral status of the individual combatants in the war has nothing to do with whether the collective cause is just or unjust. Then we need to explore whether all combatant in war, regardless of which state they belong to, have morally equal status, and how we can determine the moral status of combatants participating in the war.

2) Liability justification based on a self-defense principle

When theorizing about the morality of war, many theorists make extensive use of cases of *individual* self-defense. They often start by describing cases in which an individual agent faces some threat, and argue that one has strong intuition that in such cases the agent can justifiably defend oneself by means of force. Such a line of thought, then, is used as a way of justifying one's view on the morality of war. In many ways, I agree that this form of

²² Applying this analogically to the case of ordinary life, the members of the group only have to bear moral responsibility for the unjust consequences of their own actions, and there is no moral responsibility for the wrongs committed by other members, or the unjust actions performed jointly by the collective. I do not agree with this. My views on this and a detailed discussion of it will be provided in Chapter III & IV.

argument has much intuitive appeal. For instance, we often apply consequentialist reasoning to issues involving group agents because we, among other reasons, find consequentialist line of thought appealing on an individual level.²³ In light of this, one might intuitively question how combatants fighting for defensive wars and those fighting for aggression can have equal moral status. The former is regarded as an act that can be morally and legally justified, but the latter seems difficult to accept morally and legally.

In order to justify MEC, Walzer offers a liability justification based on the principle of self-defense. He argues that both just and unjust combatants lose a right to life by self-defense principle—a *threat-based* account of liability—in war.²⁴ On this principle, the basic assumption is that all innocent people, who do nothing to lose their right to life against others, are prevented from being attacked or killed. Walzer writes: “[T]he theoretical problem is not to explain how immunity is gained, but how it is lost. We are all immune to start with; our right not to be attacked is a feature of normal human relationships” (Walzer, 2006, pp. 144–45). Walzer advocates the rights-based self-defense principle and argues that a person makes oneself *liable* to attack by posing a *threat* to others (Walzer, 2006, p.145).²⁵ Here, it is necessary to understand exactly what ‘one is liable to be killed or harmed’ means. Although the term ‘*liability*’ has been accepted in its legal sense, in recent discussions about the justification of killing based on self-defense principles in war, McMahan (2005a, 2009), Quong (2009, 2020), and Otsuka (2016) have proposed a shift in understanding of the term

²³ For example, many people find the view that corporations ought to do what maximizes its profit not really troubling, since they believe that individuals also ought to do what maximizes her financial pay-off.

²⁴ I owe this term—a threat-based account of liability—to Parry (2015).

²⁵ Walzer explicitly says: “[O]ur right not to be attacked is a feature of normal human relationships, that right is lost by those who bear arms “effectively” because they pose a danger to other people” (Walzer, 2006, p.145).

‘liability.’ They offer different versions of liability, but basically what they want to assert is that a person is liable to be killed or harmed means that he/she has forfeited his/her right to life against being killed or harmed.²⁶ In other words, killing or harming people who lack a right to life does not constitute an infringement on their right to life. Thus, it is not morally wrong to attack or kill those who incur the liability.²⁷ The crucial question is: under what conditions or principles an individual agent can be determined to be liable to be killed?²⁸ It seems difficult for us to determine whether someone loses their right to life based on just a *single* factor. Therefore, it is vital to explore what the conditions required to justify liability are and the principle formed by combining these conditions.²⁹

Also, it should be noted here that liability justification is not the *only* way to morally justify killing. As far as I know, Walzer does not apply a lesser-evil justification in justifying MEC, but instead applies a liability justification.³⁰ However, it seems worthwhile to

²⁶ For instance, McMahan suggests a justification based on liability. He says: “The theory of the just war represented in these quotations offers a justification for killing in war that is best understood as a justification grounded in liability. To say that a person is morally liable to be harmed in a certain way is to say that his own action has made it the case that to harm him in that way would not wrong him, or contravene his rights” (McMahan, 2009, p.11).

²⁷ McMahan claims there must be some purpose in attacking or harming the person who is liable to be killed. He says, “a person is liable to be harmed only if harming him will serve some further purpose—for example, if it will prevent him from unjustly harming someone, deter him (or perhaps others) from further wrongdoing, or compensate a victim of his prior wrongdoing” (McMahan, 2009, p.8).

²⁸ It is argued that liability for the military attack should be tantamount to liability to be (potentially) killed or maimed.

²⁹ This is the same as for the methodology of liability justification. We will continue to address this issue later.

³⁰ Walzer applies the lesser-evil justification to the extremely rare cases, such as a supreme emergency. He argues that the right to life of noncombatants can be violated only if to thwart some terrible outcome. He provides some explanation of the term ‘supreme emergency.’ He says: “In an emergency, neutral rights can be overridden, and when we override them we make no claim that they have been diminished, weakened, or lost. They have to be overridden, as I have already said, precisely because they are still there, in full

understand a different justification of killing for current discussions. Some scholars argue that a moral justification of killing is appealing to a method of lesser-evil justification in ordinary life. A lesser-evil justification states that it can be morally justified, *rarely*, to kill an innocent person to thwart some terrible outcome. An innocent person here is one who has neither done any direct harm to others nor contributed to it. Therefore, according to liability justification, since an innocent person retains the right not to be killed, she/he is not liable to be killed, and because she/he does so, it is morally wrong to kill her/him. Nevertheless, according to the lesser-evil justification, if killing that innocent person is a lesser evil that infringes on their right to life, but prevents the greater evil of killing of a large number of people, in this case, it is not morally wrong to kill someone who is not liable to be killed. This is not simply to say that the expected good to be achieved by killing an innocent person can justify killing an innocent person as a comparative balance. Rather, the killing of an innocent person may be justified to avoid or prevent the worst foreseen consequences.

When it comes to MEC, all combatants *pose a threat* to their adversaries in war by fighting and killing each other. In other words, all combatants lose their right to life and make themselves liable to be killed by killing or attacking opposing combatants *irrespective* of whether their war is just or unjust. Thus, it is morally permissible to kill combatants if killing a combatant is a way to stop a threat that combatant poses to opposing side (potentially just combatants or noncombatants).

However, the question is whether there can be individual liability simply by

force, obstacles to some great (necessary) triumph for mankind when a supreme emergency is” (Walzer, 2006, p.247). He also says that this kind of emergency exists in situation which the survival of most citizens of the state is threatened. (Walzer, 2006, p. 33). For a more detailed analysis for a supreme emergency, see Cook (2007).

threatening each other in war. This is because, we can admit that combatants threaten each other in war, but if just combatants killing opposing unjust combatants are defensive killings for just cause, such as defensive purposes, on the other hand, unjust combatants killing just combatants is not. As it is an aggressive killing with unjust cause like a war of aggression, it can be thought that the killing between the two is clearly distinct in its nature. If we consider scenarios involving self-defense in ordinary life, the difference in the appeal of the right to life between these attackers and defenders becomes clearer. In ordinary life, suppose that person B has done nothing to person A. We might agree that if person A attacks to achieve unjust purposes, such as stealing, killing, or threatening, to kill person B, if the only way to defend against person A's threats is to kill person A, then person B can kill person A as a self-defense. Given this general case of self-defense, person B retains the right not to be killed, but person A ceases to have the right not to be killed. If so, Walzer's threat-based principle raises doubts as a justification for the killing of war.

Walzer, to be fair, is fully aware of these concerns. To fend off these concerns, Walzer offers two models for understanding the nature of combatants³¹: The first model is the gladiator model. According to this model, in war, all combatants are forced to fight the enemy by the state they belong to. The point here is that combatants in most states lack free will in that they are conscripted rather than voluntarily joining the military. If combatants refuse to fight, they are punished by the state they belong to, just like the Roman gladiators. Thus, in war, the main concern of combatants is their survival, and to ensure this, they must

³¹ The names of these two models are widely accepted names among Just War Theorists such as McMahan and Rodin, although Walzer did not directly call them the gladiator model and the boxing model. For discussion of both models, see Rodin (2005) p.26. and McMahan (2006) p.382.

kill each other.

The second model is the boxing model. According to this model, all combatants are already aware of their own dangers as combatants in war. Put differently, combatants agreed that they could kill their opponents in war and that they would also be killed by opposing combatants. It is as if the boxers forfeit their right not to be punched when they entered the ring, so it is not wrong for both boxers to hit their opponents. The point to keep in mind here is that boxers agree to punch and damage each other but can appeal to the right not to be punched from others outside the ring. Walzer says “A person can be personally attacked only because he already has been made into a dangerous man, and though his options have been few [e.g., he may have been conscripted], it is nevertheless to say that he has allowed himself to be made into man. For that reason, he finds himself endangered” (Walzer, 2006, p.145). This means that, in war, both just and unjust combatants are morally equal in killing each other, just as boxers are equal in punching when they engage in a match.³²

As Walzer said, if the independence thesis and self-defense principle are right, combatants who fight for an unjust cause have the equal moral status as combatants who fight for just cause insofar as they don't go against the requirements of *Jus in bello*. It seems that Walzer's strategy to justify MEC is, on the one hand, to raise the moral status of an unjust combatant via the independence thesis. He considers both just and unjust combatants are not only morally responsible agents but also, innocent victims. So, even unjust combatants, they can be regarded as victims of fighting on behalf of the group. The only reason they are permissible targets in war is because they threaten just combatants, by the

³² Thomas Hurka also follows this model. He claims that those who voluntarily join the military freely waive their right not to be killed. By doing so, all combatants, killing each other would not infringe on any right to life (Hurka, 2007, p.210).

threat-based principle, they are liable to be killed. On the other hand, by the threat-based principle, just combatants fail to retain their moral immunity even if they fight for a just cause, since just combatants also threaten unjust combatants. In other words, in war, any individuals are not given moral privileges and disadvantages according to the causes of war between the states. Thus, Walzer can conclude that MEC is a plausible thesis.

However, one may still question whether Walzer's threat-based account is appropriate as a moral justification for killing. In particular, although we can admit that gladiators and boxers are to some extent liable to be attacked or killed in the two models introduced above, intuitively, individuals in ordinary life are neither gladiators nor boxers. In other words, the threat-based account is inadequate in ordinary life as a moral justification for killing. For example, suppose criminals are threatening innocent citizens and the police threaten criminals to protect innocent citizens. In this case, it is an unacceptable claim that the criminal could kill the police to stop the threat posed to him, considering the moral asymmetry regarding the right to life between police and criminals.

Walzer also acknowledges that threat-based account is a principle applicable only to war. He argues that actions in war are not equivalent to those in civil society (Walzer, 2006, p.127). In short, he believes that moral justification for killing in war requires a unique, *sui generis*, methodology that differs from the one applied in ordinary life.³³ Walzer thinks war is the exceptional case, since war is not just an armed conflict between states, but the critical values of the state, such as political independence, culture, territory, and the lives of citizens

³³ Lazar calls this position 'exceptionalism', which means that the moral justification for killing in war is exceptional (Lazar 2020b). Some others call this 'non-reductivism' that the moral principles of war are not *reducible* to general moral principles that apply in ordinary life. A detailed discussion on this will be presented later.

are at stake (Walzer, 2006, p.110). Thus, he could argue that even if a threat-based account seems unacceptable as a justification for killing in ordinary life, this account is a viable moral justification for killing in war.

B-2. Methodology on PNI

Let us turn to PNI. PNI is the principle that most noncombatants are not permissible targets in war, and they are immune from any attack and killing. It is a widely accepted view that, both legally and morally, the attack or killing of noncombatants in war is not permitted. The important point for us is to analyze how Walzer justifies this claim.

According to Walzer, for PNI, regarding the object of protection for those not directly involved in war, he says: “More often, however, protection has been offered only to those people who are not trained and prepared for war, who do not fight or cannot: women and children, priests, old men, the members of neutral tribes, cities, or states, wounded or captured soldiers. What all these groups have in common is that they are not currently engaged in the business of war” (Walzer, 2006, p.43). Here, noncombatants, that is, those who do not fight or cannot fight, are not engaging in the business of war. So, Walzer says, noncombatants are mostly innocent people, and they haven't done or done anything that would cost them their right to life (Walzer, 2006, p.146).

As we can see above, in order to justify the liability of combatants, he argues a threat-based account that a person makes oneself liable to attack by posing a lethal threat to others. In accordance with the threat-based account, most noncombatants do not directly participate in wars and pose no threat to their opponents. If so, they are not liable to be killed and we can say that most noncombatants retain their right to life in war.

The crucial point is that PNI applies to all combatants, *regardless* of which

noncombatants belong to the just and unjust side. This is because, unjust noncombatants do not *directly* threaten anyone in the war, even if the state to which they belong is engaged in a war with an unjust cause, they still retain the right to life. Also, just noncombatants belonging to the just side do not pose any threat to anyone because they do not participate in the war, so they also have the right to life.³⁴ So both just and unjust combatants retain a right to life in war, which means that it is morally impermissible to attack or kill them. Thus, we may conclude that, if threat-based account is appropriate as a principle for determining individual liability in war, then PNI is plausible.

It should be noted that unjust noncombatants do not directly participate in war, which means, they do not pose any threat to opposing combatants or noncombatants. In other words, unjust noncombatants may be innocent when it comes to posing a threat, but not entirely morally *free* in their contribution to an unjust threat. Walzer recognizes the importance of economic aspects of modern warfare due to the development of military technology and believes that there are cases where noncombatants directly contribute to the war. As an example of this, he offers the following warlike activities of munitions employees. He writes: “We try to draw a line between those who have lost their rights because of their warlike activities and those who have not. On the one side are a class of people, loosely called “munitions workers,” who make weapons for the army or whose work

³⁴ This does not mean that just noncombatants are not liable to be killed because the state which they belong to has a just cause of war. Walzer states that the rules of war apply equally to all individuals, such as combatants and noncombatants, regardless of whether they belong to the just side or the unjust side. He says: “The rules of war apply with equal force to aggressors and their adversaries. And we can now see that it is not merely the moral equality of soldiers that requires this mutual submission; it is also the rights of civilians” (Walzer, 2006, p.136).

directly contributes to the business of war” (Walzer, 2006, p.145). It is obvious that unjust noncombatants who are *assimilated* into the functional aspects of war contribute to unjust war. What is debatable here is whether the fact that munitions factory workers contribute to an unjust war is equivalent to posing a threat. Walzer says these munitions workers are partly assimilated with combatants, contending that they are conditionally permissible targets if they are in the munitions factory during a war. It seems to me that Walzer considers the fact that the munitions workers engage in arms production during war to be something that poses a threat to their adversary. Of course, Walzer states that an attack on factory workers is only necessary for military necessity, and if they stop or give up war-related production activities at the factory, they will no longer pose a threat to others, so they are not liable to be killed and their right to life is not forfeited.³⁵

The discussion so far has explored the methodology of the moral justification on MEC and PNI. As a result, two primary methods applied to the moral justification of killing in the war presented by Walzer have been identified. The first is that killing in war is primarily based on a threat-based account of liability in the form of liability justification. Second, since war is an area clearly separated from ordinary life, moral justification for the actions of combatants and noncombatants in war requires special or exceptional moral principles, not general moral principles. This means that war is an exceptional area that is distinct from ordinary life. Thus, in terms of moral evaluation, according to Walzer, we

³⁵ Walzer says, “Once the contribution has been plainly established, only “military necessity” can determine whether the civilians involved are attacked or not. They ought not to be attacked if their activities can be stopped, or their products seized or destroyed, in some other way and without significant risk” (Walzer, 2006, p.145). Here, military necessity can be interpreted as absolutely required for the purpose of war. This is inevitable from a military point of view, despite all other means being considered. But, in my view, the criterion of what is a military necessity is still controversial.

should distinguish between inside of war and outside of war. These two methods could justify traditionalism in Just War Theory. However, traditionalism has faced various challenges from modern Just War Theorists regarding the moral justification of killing. Let's explore this in more detail in the next section.

C. Contemporary Discussions and Revisionism

C-1. Against Traditionalism

Traditional views about a moral justification of killing in war have intrigued many philosophers but faced several challenges in recent years. The camp that refutes these traditional views can be called revisionism. Recent debates on the moral justification for killing in war have been characterized by a disagreement between “traditionalism” and “revisionism” in Just War Theory. The discussion has generally centered on normative facts in Jus in bello and, in particular, MEC. The traditionalists, such as Walzer, Benbaji, Lazar, and Shue, have defended MEC even though they have a slightly different strategy, on the contrary, the revisionists, such as McMahan, Rodin, Frowe, and Fabre, have argued that MEC is false. With respect to PNI, we need to note that, by moral principle, PNI should be justified in different ways or needed to be more assumptions for the justification itself.³⁶ Most revisionists agree with PNI but try to justify it in a different way than by appealing to traditionalism.

In other words, the difference is clear in that traditionalists, especially Walzer, argue that noncombatants are an impermissible target based on the threat-based account. However,

³⁶ See, for example, McMahan (2005, 2009, 2011, 2015), Fabre (2009, 2011), Frowe (2014, 2018), Tadros (2014, 2020a).

revisionists explicitly reject the threat-based principle, but they attempt to justify PNI based on different methods.

There are some differences in these revisionist arguments, and over time, some philosophers have also changed their views to develop and revise arguments on MEC and PNI. Also, not only are all revisionists applying the same methodology, but the assumptions inherent in their arguments are also different.³⁷ This may result in different ways of organizing arguments depending on how the premise is constructed, even if the conclusions are the same.³⁸ Also, there is a clear disagreement about the methodologies that apply to a morality of war between traditional and revisionist camps.

C-2. Reductive Individualism

At this point, one wonders: what exactly lies at the core of disagreement between traditionalists and revisionists? Before answering this question, however, let us ask first what *kind* of normative disagreement one can have. As I see it, there are normative disagreements. What follows do not seem like normative disagreements, but methodological ones. Put differently, their dispute is not just some difference in view on the truth of some normative fact or principle but on the methodology or ground rules that should govern the inquiry. As Seth Lazar writes: “revisionists [such as McMahan] not only disagree with Walzer about which acts of war were permissible. They disagree about how to do just war

³⁷ Revisionists not only attempt to show different methodology in justifying killing in war, but also differ in their conclusions as normative fact. For example, Strawser argues that the dichotomy between combatants and noncombatants should be discarded given the complexity of its structure in modern warfare. His view is a rejection of the distinction between combatants and noncombatants in war even though other revisionists assume this distinction. See Strawser (2011).

³⁸ Not all revisionists choose reductive individualism. The detailed differences between revisionists will be discussed in a later chapter.

theory” (Lazar, 2016b, p.2). To understand the nature of their disagreement about both the first-order and second-order, let me introduce a methodological view called ‘reductive individualism’.³⁹ I think reductive individualism is a stronger thesis than other views of its kind. Reductive individualism not only *entails* the denial of the moral equality of combatants (MEC), but also disagrees with the way in which moral principles derived from a liability justification. In that regard, it makes much sense to focus on some structural features of reductive individualism.

Reductive individualism consists of two strands. The first strand is reductivism. Reductivism states that any moral principle that justifies killing in war must potentially justify killing in non-war circumstances. Jonathan Glover explicitly argues it. He says “It is widely held that killing in war is quite different. It is not, and we need to think about the implications of this killing in war is morally on a par with other killing. Declarations of war, military uniforms, and solemn utterances by national leaders in no way reduce the burden of justification for an act of killing” (Glover, 1977, pp.251-252). In a nutshell, this reductivism asserts that there is no difference between violence in war and violence outside of war (ordinary life) in moral sense.⁴⁰ John Gardner also clearly argues that no special principle applies to the moral evaluation of their conduct, even for public officials such as

³⁹ As far as I know, there is no clear consensus on terminology. Theorists seem to use the terms a bit differently. I follow Lazar, since his paper (2016b) is the most systematic discussion of these issues.

⁴⁰ Surely, from a factual standpoint, there are many differences, as war involves many things that do not occur in peace. For example, war is always accompanied by killing, destruction, and uncertainty, and most wars are emergency states that are clearly distinct from ordinary circumstance. War also involves large-scale killing through organized efforts which is not often case outside of war (in ordinary circumstance). There are non-reductivists who reject reductivism based on the properties inherent in war. I will briefly introduce non-reductivists’ view in Chapter III. However, the claim here is that nothing new in the realm of morality is introduced here.

police officers and combatants. He says, “Morality is just morality, and it applies to all people. It applies to public officials (judges, soldiers, parliamentarians, police officers, local authority librarians, etc.) because they are people. They do not stop being people and hence do not stop being bound by morality when they put on their uniforms, or otherwise go on duty” (Gardner, 2012, p.118).

The second strand is individualism. Individualism states that if a moral principle P applies in warfare, P primarily applies to individuals, as opposed to collectives. Put differently, even if individual actions compose a collective action, the moral evaluation of the individual action can be only determined by what individuals do. So, if a person A is morally permitted to kill a person B in war, then there is something about A and B as individuals that enables one to apply the principle P and justify A’s killing of B. As stated, this seems a little bit vague. But what is meant in the literature seems to be that the justification for killing B in war must *not* depend on the fact that B belongs to some collective (McMahan, 2011, pp.547–548). Bringing reductivism and individualism together, we can call this view ‘reductive individualism.’

Here, I think, two things need to be pointed out. First, it is important to keep in mind that we are now talking about a particular aspect of war: namely, the aspect of justified killing in war. Surely, not all acts in war are acts of killing or even acts with intention to kill. But at the same time no one can dispute that war is different from other ordinary situations in that it almost essentially involves potentially massive number of killings or intentions to kill. So it makes sense to focus on this aspect of morality. Second, it might appear that reductivism and individualism are two independent or unrelated theses. In my view, this is not the case. To see this, suppose one is an individualist. Then, unless one is willing to admit

that war can be fought between individuals *qua* individuals⁴¹, one needs to embrace reductivism as well. For, without reductivism, whatever conclusion one draws from individual-level cases can be said to be simply *irrelevant* to the morality of war. As it makes no sense to say that individuals *qua* individuals fight wars, one needs some story here why such facts about individuals bear any relevance to the permissibility of acts in war, which paradigmatically involve collectives. And reductivism offers such a story. So individualists have a reason to be reductivists. Thus, I think, it is reasonable to guess that if a theorist is a reductive individualist, it is more likely that she embraces this position because she is primarily convinced of individualism. McMahan, Rodin, and Fabre et al. are reductive individualists precisely for this reason. They argue that if reductive individualism is an appropriate theory of morality of war, then the principle of self-defense in war—a threat-based account of liability which Walzer suggests as the basis for justifying MEC—is implausible.

In order to reject a threat-based account of liability, in particular, McMahan begins with the fairly uncontroversial assumption that in cases of individual self-defense in ordinary life the involved parties do not have the same rights against and obligations towards one another. McMahan provides the following example: “If a murderer is in the process of killing a number of innocent people and the only way to stop the murderer is to kill him, then the police officer who opens fire does not thereby make himself morally liable to defensive action, and if the murderer in self-defense kills the officer, he will become responsible for one more wrongful death” (McMahan, 2011, p.548).

⁴¹ Surely, no one wants to classify a conflict involving, say, two persons as war. Conflicts between two individuals might be fierce in its intensity, and therefore be called war-like. But this would be only a metaphorical usage of the word ‘war’.

McMahan believes that this ordinary life case can be applied analogously to war. The reason is that, by reductive individualism, any moral principle that justifies killing in war must potentially justify killing in non-war circumstances. McMahan claims, then, that a combatant is liable to be killed if and only if he or she is morally responsible for an unjust threat (McMahan, 2009). In war, the just combatant definitely attacks or kills the unjust combatant, but the just combatant does not thereby make herself liable to be killed because unjust combatants can be held morally liable for their contributions to the unjust threat. The threat which the just combatant poses is *thus* not an objectively unjust threat. Whereas the unjust combatant who contributes to the lethal threat to the just combatant thereby makes herself liable to be killed (McMahan, 2009, p.14). Since just combatants are not responsible for contributing to an unjust lethal threat, they are not liable to be killed. McMahan explicitly says, “Not all combatants are legitimate targets of attack in war. Unless they fight by wrongful means, just combatants do nothing to make themselves morally liable to attack. They neither waive nor forfeit their right not to be attacked. They are not, therefore, legitimate targets” (McMahan, 2009, p.205). Thus, McMahan concludes that MEC cannot be true.

Rodin and Fabre also argue that posing a threat is not the only ground to argue an individual liability to be killed (Rodin 2002; Fabre 2009). For example, in the war, most high-ranked commanders and political leaders have individual liability, since the commanders are responsible for contributing to the killing of their combatants by planning military operations and ordering them to subordinate, even if they do not fire their own weapons. However, if we embrace a threat-based account to determine a liability, then senior political leaders or commanders can escape liability because they did not directly

pose a physical threat to anyone in war. In this context, Rodin and Fabre also reject the threat-based account of liability offered by Walzer.

C-3. Tension

Through the discussions so far, I've attempted to clarify the methodological issues surrounding a moral justification of killing in war, and, along the way, describe how a difference in methodology leads to a difference in substantive positions. I hope that our discussion so far has shed light on the complexity of the methodological difference between traditionalism and reductivism about killing in war.

We can now grasp that, there is a disagreement on a moral justification for killing in war between traditionalism and reductive individualism as a revisionism. In other words, an analysis to clarify the tension between the two camps on the same issue should be preceded. It is clear that the reductive individualists attempt to go against traditionalism based on the different response to both the first-order questions—truth of the normative fact in war— and the second-order questions—methodology on justifying the normative fact. To put it concretely, they cast doubt on the threat-based account as one of the methods of moral justification for killing in war. They also deny that, through reductivism, exceptional moral principles are required in war, which are distinct from those applied in ordinary life. Furthermore, reductive individualists do not accept MEC as a thesis on the moral status of combatants suggested by traditionalism. Regarding the reductive individualists' position on PNI, it is generally similar to Walzer in its conclusion, but there was a clear difference in the moral principles justifying it.

D. The structure of the dissertation

In order not to lose sight of the point of our discussion about killing in war, let us briefly discuss what is at stake here. My primary concerns are trying to find the answers to the questions: Q1) who are morally permissible targets in war? and Q2) what moral principles can justify killing them in war? Let me introduce the structure of this dissertation and the direction of discussion to achieve my purpose. As mentioned earlier, Chapter I is a preliminary discussion of this dissertation, and the purpose was to clarify what I want to show in this dissertation and to promote an overall understanding of the background discussion required to follow my next discussions.

In Chapter II, I will analyze the methodology of reductive individualism as a liability justification for the loss of the right to life in war. This falls within the scope of the methodological discussion I mentioned earlier. I believe that their responses to first-order questions, such as MEC is not true and PNI is true, are appropriate. However, in my view, as long as we assume that war is a conflict accompanied by armed force between collectives that goes beyond the relationship between individuals, reductive individualism faces the individualized-liability dilemma, which is not easy for them to overcome. To demonstrate this, I will introduce the responsibility dilemma, first introduced by Lazar as a form of the individualized liability dilemma, and show how this dilemma undermine reductive individualism. It should be noted that the failure of reductive individualists to overcome the responsibility dilemma does not entail that reductive individualism is inappropriate as a moral theory of war. Conversely, their successful response to their responsibility dilemma does not guarantee that reductive individualism is the best moral theory of war.

However, it seems to me that the responsibility dilemma is a strong dilemma which

seriously threatens reductive individualism, and it raises fundamental doubts about it. Thus, I will argue that reductive individualists fail to satisfy two desiderata of an adequate theory of the justification of killing in war. The first condition is that most unjust combatants are legitimate targets in war and the second condition is that most unjust noncombatants are not.

In Chapter III, we will shift our discussion away from reductive individualism. It is worth to consider other candidates we might try to justify killing in war in ways other than reductive individualism. The first is to consider non-reductivism, which is a position that is distinguished from reductive individualism by excluding both the reductivism part and the individualism part. The second approach is to investigate reductive collectivism by retaining reductivism and associating collectivism rather than individualism.

In order to accept non-reductivism as a proper theory for justifying killing in war, non-reductivists should provide plausible reasons why we need special or exceptional moral principles. It seems to me that non-reductivists think that once we recognize the collective nature of war that somehow automatically forces us to accept non-reductivism. However, I disagree with that since the fact that war is a collective activity does not necessarily justify those exceptional moral principles are required in war.

The important point is that the fact that war has certain features does not necessarily follow that we must need *specific* moral principles for the justification of killing in war. The primary rationale for pursuing non-reductivism would be that reductivism cannot provide a satisfactory account for killing in war. Thus, it makes sense to first explore the prospects for reductivism and then only if that fails there a reason to take more seriously non-reductivism. If reductivism can constitute an appropriate moral principle that determines justifying killing in war, then there is no real motivation to take non-reductivism. Therefore,

the direction we should proceed is to examine other alternatives while holding reductivism. As I said the above, I think that individualistic accounts do not yield adequate results for the moral justification of killing in war. Moreover, we can raise the question: Should reductivists also always *be* individualists? Here, we are not so sure. But it appears to me that reductivism is much less in need of individualism than vice versa: Reductivists can deny individualism as long as they think that the fact that collectives and not just individuals are involved in a conflict suffices to be informative enough about the morality of war. If so, they have no need to explain how individual-level facts can be relevant to the morality of war. In that sense, they have more leeway to resist individualism. Therefore, I will take reductive collectivism as a methodology of moral justification for killing in war. I think that, in order to successfully construct a moral principle P that can justify killing in war based on reductive collectivism, this moral principle P must satisfy the following three requirements:

Requirement 1) To satisfy reductivism, the moral principle P should potentially justify killing in non-war circumstances (ordinary life).

Requirement 2) To satisfy collectivism, the moral principle P should potentially justify killing based on collectivism rather than individualism.

Requirement 3) For the application to the context of war, the moral principle P should justify killing in war and yield appropriate outcomes—most unjust combatants are permissible targets in war and most unjust noncombatants are not.

My primary goal will be in Chapter IV, therefore, to construct a moral principle P that satisfies the above three requirements. To this end, I will construct a moral principle that determines who is complicitously liable for a collective unjust action based on reductive

collectivism. I will argue that members of an organization can have two different kinds of participatory intention and will show that their complicitous liability is determined by what kind of intention an individual has as a collective member.

II. Against Reductive Individualism

A. Introduction

As we noted in Chapter I, traditionalists have attempted to justify MEC—combatants are all morally permissible targets, regardless of whether the state to which they belong is just or unjust. However, MEC has been challenged by reductive individualists. Among them, McMahan's individual liability-based account is particularly noteworthy. According to McMahan, a person can become liable to be killed when he is morally responsible for an objectively unjustified threat to another person (McMahan, 2005b, 2009, 2011). So, on McMahan's account, unjust combatants are morally liable to be killed since they fight for an unjust cause, and by doing so, they are morally responsible for an unjust lethal threat. By contrast, just combatants are not morally liable to be killed since just combatants fight for a just cause, and doing so does not contribute to an unjust lethal threat. Therefore, McMahan claims that MEC is mistaken (McMahan, 2005b, 2008, 2009, 2011).

However, there is a problem that, typically, many combatants simply play an ineffective role in supporting the unjust lethal threat.⁴² In other words, many ineffective unjust combatants do not make a more significant contribution to the unjust lethal threat

⁴² Lazar illustrates ineffective combatants as follows; "Military units rely on cooks, medics, mechanics, and engineers, who support their more lethal comrades. These are especially numerous in the air force and the navy: for example, a Nimitz-class aircraft carrier has a crew of over 5,500, but only houses between sixty and eighty aircraft, and has around ten principal armaments. Only a very small proportion of the crew can be directly responsible for specific micro-threats. Many of the rest facilitate those threats, and so only make small contributions to the overall macro-threat" (Lazar, 2010, p.36). According to Lazar, there are combatants whose roles in the military do not involve significant, direct contributions to threats. I think, even if Lazar does not describe, we can also consider the ineffective combatants with more direct combatant roles in executing their roles. For example, the combatants who do not fire their weapons, or who have poor aim.

than unjust noncombatants do.⁴³ As Lazar claims, if McMahan's criterion for liability is correct, we have to choose between the view that many unjust combatants are not liable to be killed and the view that unjust noncombatants are liable to be killed (Lazar, 2010, p.189). However, both views are implausible. Therefore, McMahan's account faces a dilemma—what Lazar called “the responsibility dilemma.”

In this chapter, my main goal is to evaluate reductive individualist responses to the responsibility dilemma and to show the problems with each response. McMahan and other individualists hope to provide answers to this dilemma. However, I think their attempts have failed. Reductive individualists basically want to show an adequate account of liability that yields both that most unjust combatants are permissible targets and that most unjust noncombatants are not permissible targets at the same time. Furthermore, McMahan's failure to respond to the responsibility dilemma is not unique to his account because of individualism.⁴⁴ In order to show that, we need to raise enough problems about the liability-based accounts of individualists to solve the responsibility dilemma. Also, I believe that these problems give a good motivation for us to look for a different kind of solutions such as collectivism.

To that end, in Section B, I will introduce both reductive individualism and the individual liability-based account presented by McMahan. In Section C, I will show how the

⁴³ Not all unjust noncombatants also contribute to the same level. Just as unjust combatants could be distinguished into effective and ineffective unjust combatants according to their degree of contribution, so the degree of contribution among unjust noncombatants can vary. I will provide a detailed explanation in this regard later.

⁴⁴ Revisionists like McMahan argue that MEC is false, so how does the dilemma concern the possibility of holding both MEC and PNI? Individualists can satisfy PNI so long as they embrace the other horn of the dilemma, according to which unjust combatants are not legitimate targets.

responsibility dilemma force us to deny McMahan's account. In Section D, I will analyze whether the responses of reductive individualists to the responsibility dilemma are appropriate and show that their responses have non-trivial problems. Lastly, in Section E, I will explain about why reductive individualists fail to solve the responsibility dilemma as long as they stay within an individualistic framework.

B. Reductive Individualism and liability-based account

Let us explore McMahan's challenge to MEC. McMahan begins with the fairly uncontroversial assumption that in cases of individual self-defense in ordinary life, the involved parties do not have the same rights against and obligations towards one another.⁴⁵

Suppose Andy unjustifiably threatens Bill's life. Then, most people might say that Bill is morally permitted to kill Andy in self-defense if doing so is the only safe way to stop him. But the same cannot be said to apply to Andy. It does not follow that Andy is permitted to use lethal force against Bill just because, as long as Bill is acting in self-defense, he has the moral right to use violence against Andy.⁴⁶ Hence, no moral equality exists. From the Andy-Bill case, we can conclude that merely threatening the lives of other people is not a sufficient to make it permissible to take one's life. Rather, we may say that if a person poses an *unjust* lethal threat to others, then he/she is morally or criminally liable to be killed.

⁴⁵ Here, it's the attacking party and the defending party that don't have equal rights and obligations McMahan provides the following example: "If a murderer is in the process of killing a number of innocent people and the only way to stop the murderer is to kill him, then the police officer who opens fire does not thereby make himself morally liable to defensive action, and if the murderer in self-defense kills the officer, he will become responsible for one more wrongful death" (McMahan, 2011, p.548).

⁴⁶ Here, I'm not appealing to a rights-based theory, which a lot of people do. There is a difference between 'Andy is not permitted to use force against Bill' and 'Andy ceases to have a right not to be killed.'

However, it is doubtful that posing an unjustified lethal threat is a necessary condition for the liability (or liable to be killed). Let us take look at the following case:

Mastermind. Suppose mastermind K plans a bank robbery. K needs ten individuals to make the team. All members agree to participate in the bank robbery. The crucial part of the plan is to kill the witnesses in the bank. K neither directly poses a lethal threat to the witnesses nor participates in the robbery. K merely develops and provides an overall plan for the bank robbery.⁴⁷

In the above case, mastermind K did not pose an unjust lethal threat directly. If so, can we say that K lacks liability for the planned killings and robbery? Someone might think that mastermind K is *criminally* liable for the acts performed by those carrying out his plan. Surely the answer is “Yes.” But criminal liability—liability to trial and punishment—is not the same as being liable to be the target of *defensive* violence. Here mastermind K is also liable to be the target of defensive violence. We should ask whether it would be permissible to kill mastermind K if this were the only means of saving the lives of the witnesses. McMahan argues that posing an objectively unjust lethal threat is not necessary for the loss of one’s right to life.⁴⁸ McMahan, rather, argues that a person is morally liable to be killed if and only if he/she is morally *responsible* for an objectively unjust threat to another person (McMahan, 2005a, 2005b, 2009, 2011).⁴⁹

McMahan believes that this ordinary life case can be applied analogously to war.

⁴⁷ To borrow this example from Bazargan (2013), and I made some changes for the discussions.

⁴⁸ What this point says that McMahan rejects the threat-based principle that Walzer offers as a moral justification for killing.

⁴⁹ McMahan continued to claim a liability justification as a responsibility account.

The reason is that, according to reductivism, any moral principle that justifies killing in war must potentially justify killing in non-war circumstances. In war, most just combatants definitely attack or kill unjust combatants, but they are not morally wrong because unjust combatants have rendered themselves liable to be killed by their contributions to the unjust threat. The threat which the just combatant poses is thus not an objectively unjust threat, and thereby just combatants cannot be morally responsible for an unjust lethal threat. Thus, just combatants are not morally liable to be killed. On the contrary, the unjust combatant who contributes to the wrongful threat to the just combatant thereby makes herself liable to be killed since, by their contributions to the unjust threat, they have moral responsibility for the unjust threat. McMahan concludes that MEC cannot be true (McMahan, 2009, p.14). So far, McMahan's discussion is as follows.

M1) In ordinary life, a person can become liable to be defensively killed if and only if he is morally responsible for an objectively unjust lethal threat to another person.

M2) By reductivism, killing in war should be justified by the same moral principles that apply in ordinary circumstances.

M3) By M1) and M2), in war, a combatant is liable to be defensively killed if and only if he is morally responsible for an objectively unjust lethal threat to another person.

M4) Unjust combatants are morally responsible for contributing to an objectively unjust lethal threat to just combatants.

M5) By M3) and M4), unjust combatants are liable to be defensively killed.

M6) Just combatants are not morally responsible for contributing to an objectively unjust lethal threat to unjust combatants since unjust combatants lose their right to life by M4).

M7) By M3) and M6), just combatants are not liable to be defensively killed.

C) Therefore, unjust combatants and just combatants are not morally equal in war.

The discussion thus far shows that MEC faces a challenge. If McMahan is right, the liability-based account is an appropriate principle for challenging MEC. As I mentioned earlier in Chapter I, Walzer argues for the independence thesis that an individual's moral status in war has nothing to do with the cause of the war in the state to which they belong. If we follow McMahan's liability-based account against MEC, the independence thesis is false since the liability of individual combatants now depends on whether a combatant is fighting for a just cause or an unjust cause. Thus, moral evaluations of the individual actions in contributing to a war depends on whether he/she belongs to a just side or an unjust side. Thus, on McMahan's view, we should reject the independence thesis.

C. Responsibility dilemma

It seems to me that a liability-based account is appropriate for demonstrating the asymmetry of unjust combatants and just combatants. Nonetheless, the primary problem with individual liability-based accounts is that they seemingly would allow most unjust noncombatants to be liable to be killed.⁵⁰ This can be shown through the following.

It is true that most unjust noncombatants do not pose a threat to another person.

⁵⁰ As I said, unjust noncombatants are not a member of the military on the unjust side.

Rather, they usually contribute to their state by paying their taxes, voting, and providing services to the military. On McMahan's account, however, liability does not require that one pose an unjust threat, only that one be morally responsible for contributing to it. If so, on his account, unjust noncombatants are morally responsible for contributing to an unjust threat. Therefore, unjust noncombatants are liable to be killed and are permissible targets in war.

One might highlight the difference between the contributions of combatants and noncombatants to the unjust threat. Someone may argue that noncombatants do not directly participate in war and the fact that they have contributed to unjust threats is not substantial basis to justify their liability, while combatants are liable because their individual contributions to unjust lethal threats to others are therefore sufficient to make them liable to be killed. However, in war, not all combatants are effective combatants who pose an unjust lethal threat to others. Many combatants simply play an ineffective role in supporting the unjust lethal threat.⁵¹

Lazar points out that the McMahan account might be appropriate as a principle of denying MEC, but the problem is that his account leads to what Lazar calls “the responsibility dilemma” (Lazar, 2010, p.10). The responsibility dilemma is as follows. If McMahan is correct, the individual liability of both combatants and noncombatants now

⁵¹ It can be difficult to establish sharp criteria for determining whether a combatant is effective or ineffective. When we talk about ineffective combatants, there are two different ways that a combatant can be ineffective. One kind of case is that combatants whose roles do not involve making any direct contribution to a threat. Another kind of case is that combatants whose roles do involve, in principle direct threats, who do an ineffective job carrying out their role. Put differently, they have very poor aim. So even in combatants who have a direct combat role, some are more ineffective than others. In this chapter, effective combatants are active combatants who fight directly on the battlefield and kill their opponents. Ineffective combatants, on the other hand, simply support effective combatants and assume no direct harm or murder to their opponents.

depends on their contributions to an unjust threat. Also, all or most people (combatants and noncombatants) on the unjust side can be morally responsible for contributions to an unjust war. The crucial question is thus how much a person must contribute to an unjust threat in order to justify their liability in virtue of their contributions. To assert that noncombatants are not liable, Lazar argues that McMahan needs to set up a high bar for liability. But if he raises the bar required to justify the individual liability, then many unjust combatants should not be permissible targets. If so, *most* unjust combatants will not be permissible targets in war. That seems much closer to contingent pacifism (Lazar, 2010, p.189). If McMahan lowers the liability bar to argue that many unjust combatants are permissible targets, then a large number of noncombatants would also be permissible targets in war. If so, the PNI cannot be preserved in McMahan's account. This result leads us closer to realism. For a clearer understanding of the responsibility dilemma, let us consider the following unjust combatants and unjust noncombatants.

Chris. Combatant Chris was drafted into the army and participated in an unjust war. As an infantry combatant, he used a rifle and combat knife as a useful tool to kill just combatants.

Bob. Combatant Bob doesn't kill just combatants directly with a weapon like Chris does. He is a combatant who only serves in supporting roles, such as providing food and maintaining weapons.

David. Noncombatant David is a researcher who works in the defense industry. For his nation's security, he has made a very effective bomb that maximizes killing and causes mass destruction in war. David's state purchased his company's weapons and used them. As a result, the bombs that

David researched and developed were very effective in killing just combatants.

Emma. Noncombatant Emma is a civilian who works at a firm of accountants. As a citizen she pays taxes to her state and votes in the election of national political leaders.⁵²

Fisher. Noncombatant Fisher is a citizen who works for a food production company. His company has a contract with the military to provide and deliver food for combatants.⁵³

Let us first consider unjust combatants Chris and Bob. Chris is an effective combatant who engages in warfare and directly poses a lethal threat against just combatants. So, we may conclude that Chris can be liable to be killed because he directly posing or contributing to an unjust lethal threat against just combatants. As such, he is a permissible target in war. Bob is also a combatant. He does not directly participate in fighting (or combat), but merely contributes to unjust threats as a supporter. On McMahan's account, if his indirect contribution to the unjust threat is sufficient to make it permissible to take his life, then Bob is liable to be killed as well as Chris. Whereas, if his contribution to unjust threats is not enough to make him liable to be killed, then he may retain his right to life and he is not permissible target.⁵⁴

⁵² I think that someone might add to the discussion to have an extremely wealthy person, who donates to political campaigns and is taxed heavily. Such a person's contribution would be significant. However, in this chapter, I just assume Emma as one kind of common person in state.

⁵³ According to Gross, up to 25% of the population in modern industrialized countries works in war-related businesses (Gross, 2010, p.159).

⁵⁴ When it comes to the tooth-to-tail, historically, the ratio of effective and ineffective combatants is asymmetrical. Statistically, in modern warfare, the military has a ratio of 10-

Let's think about the liability of noncombatants David, Emma, and Fisher. It is obvious that the weapons David researched are remarkably effective in killing just combatants. However, David does not directly pose an unjust threat to just combatants. David, like Bob, does not kill or attack to anyone. Nonetheless, there is *strong* causal contribution to the unjust threat. In fact, it seems quite likely that David's contribution to unjust threats is more significant than Bob's.

Emma does not directly participate in the war, and does not participate in the development and research of any war-related materials. She is just a citizen of the state who pays her taxes and votes in elections. However, there is a possible way to think about her contribution to an unjust threat. Even if her contribution to an unjust threat is individually very *slight* and indirect, it is possible to say that her financial or political contributions are a resource that make unjust war possible. In other words, although the contributions of individual taxpayers to their armed forces are each superfluous, the aggregate of these contributions may enable their armed forces to pose unjust threats.

Fisher works as a food factory employee. The food he produces is directly distributed to the combatants in the military. His contribution to an unjust threat is slight—somewhere between David and Emma's contribution—and is similar to Bob's contribution, but Fisher more indirectly contributes to the unjust threat.

According to McMahan, it is obvious that an individual moral responsibility for contributions to the unjust war grounds the individual's liability (or liable to be killed). The

15% effective combatants and 70-85% ineffective combatants. Thus, if it is concluded that ineffective combatants are not liable to be killed on any moral principle, this leads to *many* combatants on the unjust side of the war being impermissible targets. This conclusion would lead to contingent pacifism and goes beyond Just War Theory. For statistical data on tooth-to-tail ratio, see McGrath (2007).

difficult problem on his account is how to set *a bar or threshold* for individual liability. If he insists that Bob is liable to be killed because the degree of his contributions to the unjust war is enough to justify his liability, then it seems that McMahan should lower the bar for liability. This results leads that Emma and Fisher (as well as many other unjust noncombatants) can be liable as well as Bob, for each individually contributes to unjust threats.⁵⁵ Also, there is a case that noncombatant David makes a greater contribution to the unjust threat than ineffective combatant Bob and the contribution to the unjust threat by noncombatant Fisher is similar to Bob's.⁵⁶ If, in order to protect noncombatant David, Emma, and Fisher from liability, McMahan raises the bar for liability so that loss of one's right to life requires a more significant contribution, then many unjust combatants like Bob will escape their individual's liability either.⁵⁷ Thus, I think that Lazar successfully shows that, on an individual liability-based account, it cannot both be true that few or no noncombatants are liable to be killed and that all or most combatants are liable to be killed. The dilemma for McMahan is: which one of these is true? This depends on how high he wants to set the threshold for liability.

⁵⁵ One may think that ineffective combatants do not directly threaten, but nevertheless contribute more to the unjust threat than noncombatants. However, ineffective combatant contributions are not a significant difference in justifying liability when compared to noncombatants as individuals.

⁵⁶ We can imagine that scientists who developing advanced weapon systems can potentially contribute to a large unjust threat. So, someone might argue that a *preemptive* strike against them is justified in some cases. Note the following "In the early 1950s Israeli Mossad agents carried out a series of assassination operations against prominent Arab scientists. Most notably, Israel was assumed to be responsible for the death of Egyptian theoretical physicist Dr. Ali Mustafa Mosharafa. More recently, since 2007, five Iranian nuclear scientists have been killed under mysterious circumstances, most with motorcycle-borne assailants attaching small magnetic bombs to the exterior of the victims' cars" (Meisels, 2013).

⁵⁷ Note that, by individualism, liability does not depend on membership, but on individual contributions—what he/she *did* or *does*—to unjust threats.

D. Problems

I think that the possible answers to the responsibility dilemma are: (A1) to argue that individual liability-based accounts can overcome the responsibility dilemma; (A2) to seek an alternative, non-individualist criterion for liability to be defensively killed that is not subject to the responsibility dilemma; or (A3) to reject one of the assumptions behind the responsibility dilemma. I think (A3) is an inappropriate response. The reason is that we don't need to avoid the responsibility dilemma if it is based on false assumption. In other words, if this dilemma is not a real dilemma, reductive individualists don't solve it. However, I argued that the responsibility dilemma, as I mentioned earlier, is an appropriate dilemma that shows the problems inherent in the individual liability-based accounts. Hence, we cannot choose (A3). Then, an alternative method is giving a positive defense of rejecting individualism. So, if we take (A2) we don't need to solve the responsibility dilemma because it is not a real dilemma to an alternative theory. Before taking (A2), it is necessary to look at (A1). It is still possible to argue that reductive individualism is an appropriate theory for justifying killing in war if reductive individualists can successfully present appropriate responses to the responsibility dilemma. Thus, I will show that (A1) has failed in this section.

McMahan and others attempt to solve the responsibility dilemma with the individual liability-based account. I think the only way for (A1) to succeed is to show that the individual liability-based account can yield the result both that all or most unjust noncombatants are not permissible targets and that all or most unjust combatants are permissible targets. The reason is clear when analyzing the logical structure of the responsibility dilemma. The structure of the responsibility dilemma is as follows.

Responsibility Dilemma. The responsibility dilemma states that if an individual liability-based account is the criterion to determine who is liable to be defensively killed, then either most unjust noncombatants are liable to be killed or most unjust combatants are not liable to be killed.

Assuming L, N, C, as follows.

L: Individual liability-based account is the criterion to determine who is liable to be killed

N: Unjust noncombatants are permissible targets in war

C: Unjust combatants are permissible targets in war

We can formulate the responsibility dilemma into “If L, then either N or $\sim C$ ”. By symbolization, we can symbolize the statement with substitution instances as follows.

$$\therefore L \supset (N \vee \sim C)$$

In order to deny the responsibility dilemma, $L \supset (N \vee \sim C)$ must be false. The only case $L \supset (N \vee \sim C)$ is false is L must be true, and $(N \vee \sim C)$ must be false. By De Morgan’s Law, $(N \vee \sim C)$ is equal to $\sim (\sim N \cdot C)$. If $\sim (\sim N \cdot C)$ is false, then $(\sim N \cdot C)$ must be true.

Therefore, (A1) requires showing that both L and $(\sim N \cdot C)$ is true. Thus, in order to show the responsibility dilemma is false, McMahan needs to somehow show that unjust noncombatants are not liable to be killed and unjust combatants are according to his criterion.⁵⁸

Some reductive individualists, including McMahan, concede that there is a risk that

⁵⁸ Surely, if L is false, then $L \supset (N \vee \sim C)$ is always true by the conditional rule. If so, the responsibility dilemma is always true. However, McMahan believes L is true. Thus, he should show the $(\sim N \cdot C)$ is true.

liability-based accounts may undermine PNI, which is the principle that all noncombatants are not permissible targets in war. However, it seems to me that they try to show that the individual liability-based account can yield the result ($\sim N \bullet C$)—unjust noncombatants are not permissible targets in war and unjust combatants are permissible targets in war.

D-1. Problem 1: The ambiguity of contribution

Some reductive individualists, including McMahan, concede that there is a risk that liability-based accounts may undermine PNI, which is the principle that no noncombatants are permissible targets in war.⁵⁹

McMahan explicitly concedes that unjust noncombatants contribute to the unjust lethal threat. He says, “[C]ivilians may contribute to an unjust war in various ways: by voting, paying taxes, sustaining their country’s economic strength, failing to protest, and so on” (McMahan, 2011, pp.549–550). But he considers the contribution of the vast majority of unjust noncombatants to the unjust threats to be *small and negligible*, and therefore insufficient to justify their liability (McMahan, 2011, p.550). In other words, the negligible and minor contribution of an unjust noncombatant as an individual does not suffice to make him/her liable to be killed. Fabre also claims that noncombatant liability must be judged based on what noncombatants do as individuals, rather than invoking the outcomes of collective efforts. She suggests despite the fact that the overall production of a munitions factory makes a significant effect to the war, it does not follow that the individual contributions of workers in the factory assembling pieces of weapons are sufficient to render

⁵⁹ I doubt that this principle possibly can be plausible. It seems to me that there are some cases that even if a person is a noncombatant, that person is permissible target in war. For example, Hitler was a noncombatant, and that Hitler would have been a great target for killing in WW2. I will show my account about this issue later.

them liable to be defensively killed (Fabre, 2009, pp.58–59). McMahan and Fabre think that even if noncombatants contribute to the unjust lethal threat, if their contributions are very small and negligible as individuals, they are not liable. What this means is that noncombatants belonging to the unjust side have a basic contribution to the unjust threat, but their individual contribution is not sufficient to justify their liability.

I agree with McMahan and Fabre that the unjust noncombatant's contribution to the unjust threat is very small or minor. The problem is, however, that the contribution of the ineffective unjust combatant to the unjust threat is also very small as an individual. Note that McMahan justifies his liability-based account rely on reductive individualism. On his account, in evaluating an individual's liability, the individual's membership should not be taken into account (McMahan, 2011, pp.547-548). Rather, the liability should solely depend on that individual's contribution to an unjust threat.

Let us compare ineffective combatant Bob and noncombatant David. Bob is the ineffective unjust combatant who makes a small contribution to supporting the effective combatant, Chris. Let us consider David. The bomb developed by David makes a large and significant contribution to the killing of just combatants. At the same time, there may be a high probability of collateral threats to just noncombatants. If so, David has made a larger contribution to unjust lethal threats than Emma, Fisher, and Bob.⁶⁰ McMahan grants that a noncombatant who makes a substantial contribution to unjust lethal threats bears a high degree of responsibility for it and so maybe a legitimate target in war.⁶¹ On McMahan's

⁶⁰ I think there is room for David to contribute even more to the unjust lethal threat than Chris who is the ineffective combatant.

⁶¹ For McMahan, see “[N]on-combatants may, on rare occasions, be legitimate targets of attack in war. If, for example, there are certain non-combatants who bear a high degree of

view, then, David is morally liable to be defensively killed by virtue of contributing to unjust lethal threats, and he is a permissible target in a war.

However, there is still a problem for McMahan concerning noncombatants Emma and Fisher, both of whom contribute less than David. One might think that Bob's contribution is greater than Emma's. For one thing, Bob probably pays taxes and votes as well as Emma. Also, Bob may have additional contributions to support effective combatants in the military. So, it might be better to compare Bob with Fisher who does more than just pay taxes and vote. I doubt there is a significant difference between Bob's contributions with respect to the scale of contribution, such as food supply and vehicle maintenance, compared to the material contributions that Fisher makes to the military. Thus, if McMahan insists that an ineffective combatant is liable to be killed in virtue of his small contributions, then the liability bar should be low that noncombatant, Fisher, also can be liable. Therefore, the responsibility dilemma is still not solved.

McMahan seems to agree that the contribution of ineffective combatants to unjust threats is similar to that of noncombatants even though he argues that ineffective combatants are liable to be killed. Thus, he attempts to provide additional reasons why the ineffective combatants' contributions are sufficient to justify their liability. Namely, McMahan considers a case like ineffective combatant Bob:

There are, of course, many unjust combatants who fulfill support roles rather than combat roles. Lazar cites as an example the high proportion of the crew

responsibility for a wrong that constitutes a just cause for war, if attacking them would make a substantial contribution to the achievement of the just cause, and if they can be attacked without disproportionate harm to those who are genuinely innocent, it may then be permissible to attack them” (McMahan, 2005b, p.22).

of an aircraft carrier who do not participate directly in combat. But many of these intentionally make immediate and necessary contributions to the ability of the flight crews and others to fight. Without the support personnel, the planes could not fly, or get within range of their targets. Most soldiers in support roles are also trained to fill combat roles, and will do so if necessary. In both their support role and their potential combat role, they substantially increase the objective risk that innocent people will be killed. (McMahan, 2011, p.549)

McMahan claims that Bob's contribution is an *immediate* and *necessary* contribution to Chris, who directly poses an unjust threat. It seems to me that McMahan considers Bob's contribution to be more *immediate and necessary* to unjust threats than Emma's and Fisher's contribution.

First, consider that Bob's contribution is more immediate to the unjust threat than that of Emma and Fisher. It is true that the contribution of ineffective combatants to unjust threat is more direct than that of noncombatants. Similar to McMahan, Rodin says that noncombatants' contributions to unjust threats are causally remote compared to combatants' contributions to unjust threats, and this causal remoteness protects PNI (Rodin, 2008, pp.44–68).⁶² However, I don't think it is right that causal remoteness of noncombatant's contributions to an unjust threat is the way to salvage PNI. Considering the following case:

Paul. Paul is not only a brilliant banker but also the best hacker. The bank in which he works has a very high level of security. Paul wasn't interested in

⁶² I think that McMahan and Rodin have the idea that the temporal and spatial elements are a component of immediacy. I agree with this idea, and it is a reasonable assumption that spatiotemporal elements are related to causal immediacy.

financial benefits and just wanted to disable the security system to see how effective his plan was. He succeeded in destroying the security system through careful planning and the program he developed. By sheer luck, some villains noticed that the system was down, and when it was down, they robbed the bank. In the process, the villains killed several police officers.

In the above case, Paul did not plan the bank robbery that the villains carried out and did not directly participate in the killing of the police. If so, we can say that Paul does not make a direct contribution to the robbers' murder of the police. Nevertheless, the bank's security system was clearly destroyed by the program Paul developed, providing a decisive opportunity for villains to execute their bank robbery during which they killed the police officers. If what matters for liability is just currently contributing to an unjust lethal threat, then we can conclude that Paul is not liable. However, I think Paul's contribution is somewhat remote, but his contribution is still necessary for the bank robbery. We might imagine a situation in which the only way the police officers can be saved is if Paul is killed.⁶³ If so, it is possible to say that, because of Paul's prior contribution in the threat that is *currently* killing police officers, he is defensively liable to being killed although he is currently no part of the threat.⁶⁴ The implication of this case is that the fact that they are

⁶³ I think the moral luck issue is involved in determining Paul's liability. Daniel Story argues that there is a special sort of luck associated with shared responsibility, but what he says also applies to moral liability for others' actions. I agree with it. We basically have to accept moral luck if we're going to buy into shared responsibility and so forth. I think if Paul is somehow seriously liable or perhaps liable to be killed, then Paul is subject to the moral luck of interpersonal relationships (Story, 2019).

⁶⁴ Frowe also said, "[W]hat matters for liability is whether the unjust lethal threatening situation to which the agent contributes is current." She provides the analogy that "What makes Nazi in Coercion a legitimate target is his prior contribution to the threat currently facing Citizen" (Frowe, 2014, p.169).

separated in space and time from the unjust threat of contributors is not a reason to waive their liability. Therefore, a different causal proximity is inappropriate in determining the significance of an individual's contribution to the unjust threat.

D-2. Problem 2: Obscurity of relationship

McMahan clearly explains just cause in war based on individualistic account and says:

There is just cause for war when one group of people—often a state, but possibly a nation or other organized collective—is morally responsible for action that threatens to wrong or has already wronged other people in certain ways, and that makes the perpetrators liable to military attack as a means of preventing the threatened wrong or redressing or correcting the wrong that has already been done. (McMahan, 2005a, p.8)

The key idea here is the notion of liability. That is, the aggressor, whether an individual or a collective, does something that makes himself liable to military attack. But as stated, it is not more than a mere truism. To make it substantive, one needs to elucidate what it is for an aggressor to make himself liable to military attack. Here, McMahan provides two restrictions in order to get a grip on the conditions of liability to military attack. First, war usually involves killing and maiming, or, at least, potential killing and maiming. So, it is argued that liability to military attack should be tantamount to liability to be (potentially) killed or maimed. This much, I think, can be granted without much disagreement.

Second, McMahan relates the notion of just cause to the methodological view of reductive individualism. So, what makes someone liable to military attack cannot be mere membership in a collective such as the military but rather must be based on something he

does. However, I believe that this is false since the notion of ‘what he/she does’ is understood broadly; that is, it can include his role as part of a collective agent. As one can expect, the notion of collective agency introduces an additional dimension of complexity, since it raises the question of how liability should be distributed among various participants in war given that all acts are done as part of collective agency.⁶⁵ It seems to me that McMahan overlooks the complexity of relationships that could be considered in war.

As military warfare has always been a collective action involving lots of people with a division of labor, it may be argued that the division induces a dilution of responsibility among individuals, as each individual’s contribution to the threat can fall below the significance threshold and fail to justify his or her being killed. If so, the prospect of justifying killing on the basis of individual contributions seems ill-fated. We need to assess McMahan’s argument that contributions by ineffective combatants are necessary to the unjust lethal threat. I doubt that the ineffective combatant Bob’s contribution is necessary for an unjust threat. As McMahan mentioned, surely, it would be difficult for an effective combatant Chris to fight without the support of ineffective combatants. Support by ineffective combatants will also increase the risk to just combatants. In my view, there are two different ways an ineffective combatant and an effective combatant may be related:

⁶⁵ I will provide a more detailed the nature of collective in Chapter III.

Relationship #1:

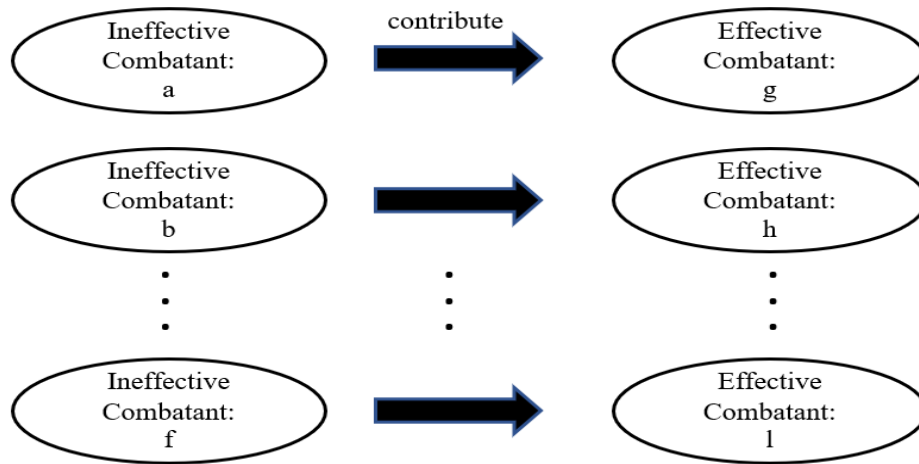


Figure 1.

Relationship #2:

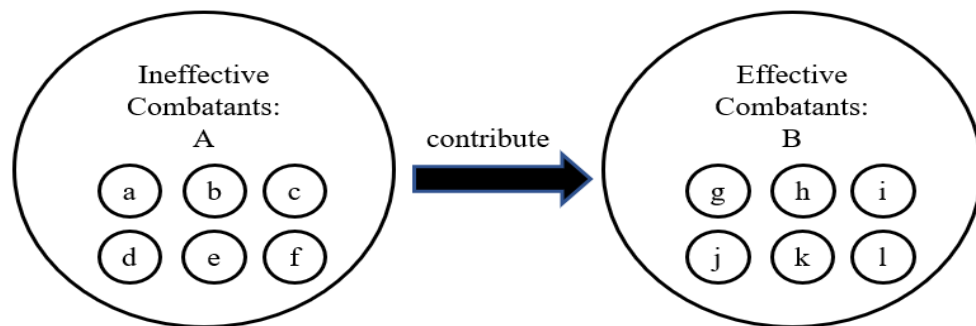


Figure 2.

In the relationships above, the first relationship is one in which each of the individual ineffective combatants a,b,c,d,e, and f supports each of the individual combatants g,h,i...l as an individual. Let us think of the following interpersonal relation between combatants and ineffective combatants. Suppose a is an ineffective combatant and g is a combatant. Then, a

engages in the act of ϕ -ing towards g , where a 's ϕ -ing supports g 's killing in war. In war, there's one person pulling the trigger, but there's a second support person, and that individual support really is crucial. For example, a two-man team, where 'g' fires a certain weapon, and 'a' carries the ammunition. In this case, if suddenly the 'a' providing the ammunition was wounded on the field, 'g' wouldn't be able to fire the weapon anymore.

The second relationship is that ineffective combatants as a collective A support combatants as a collective B. Here, a complication arises, because we have a tendency to—or, at least, I tend to—think about this matter in terms of the two collectives such as combatants A and noncombatants B, namely A to which a belongs and B to which g belongs. Hence, ' a supports the killing or attack of g ' is almost automatically interpreted as a collective-level statement that the collective to which a belongs engages in a joint or collective action of g .

Relationship #1 is not a relationship between collectives but between individuals. Relationship #1 is a scenario that frequently arises outside of war—for example, the supporting relationship between a client and a hitman—but in the context of war, the role assigned to individuals in military structures is extremely limited. Therefore, there seems to be little reason to believe that individual contributions made by ineffective combatants is necessary to the unjust lethal threat from individual effective combatants. If so, it is unlikely that ineffective combatants are liable to be defensively killed because their contributions are necessary.

If McMahan considers Relationship #2 as the contributions to the unjust lethal threat, it is right to say that ineffective combatant contributions are necessary to the unjust lethal threat. The reason is that if ineffective combatants as a collective do not support effective

combatants as a collective, effective combatants may not be able to pose an unjust lethal threat to others. However, Relationship #2 is not enough to show that individual ineffective combatants are liable, since it does not show that their contributions are individually necessary. Here, the fact that ineffective combatants as a collective A are necessary for collective B, does not mean individual a's contribution in the collective is *necessary* to the unjust lethal threat imposed by individual g in collective B. For instance, the overall threat posed by the aircraft carrier in war might be unaffected by the subtraction of one or two ineffective combatants' contribution. As I mentioned in Section C, Bob is a combatant who only serves in supporting roles, such as providing food and maintaining weapons. So, we can consider him as an ineffective combatant. Even if we assume that Bob is suddenly wounded or ill and unable to perform his role in the war, it does not have a decisive effect on the fighting ability of his army in the war. Therefore, even if the military to which he belongs carries out the unjust war, his contribution is not essential as an individual.

My point is that most of the support is at the level of collectives rather than individual action. If my point is right, then in evaluating an individual's liability in war, Relationship #2 that goes beyond an individual relationship should be additionally considered. Thus, on McMahan's account, it is still unclear whether Bob is liable to be killed in virtue of contributing to an unjust threat. If Bob's indirect contribution to the unjust threat is sufficient to make it permissible to take his life, then Bob is liable to be killed as well as Chris. Whereas, if his contribution to unjust threats is insufficient to warrant his liability, then he may retain his right to life.

D-3. Problem 3: Epistemic constraints

McMahan also notes that noncombatants face epistemic constraints that interfere

with their ability to know how their contributions indirectly contribute to unjust threats. Consider Emma's case. Emma obviously may have no idea whether her financial or political contributions will contribute to a future war when paying taxes as a citizen. Strictly speaking, David may foresee how his work would affect hostile combatants if a war occurred in the future, but Emma would not. Fabre also argues that noncombatants cannot be held morally responsible for their contributions since they are unaware of whether or not the threat to which they are contributing is just or unjust. She asserts that noncombatants are too distant from the threats to accurately evaluate their contributions to the threat (Fabre, 2009, p.58). Thus, she concludes that their ignorance of unjustness of war mitigates their liability.

However, the problem is that if the epistemic constraints of noncombatants prevent them from being liable to be defensively killed, then, *by the same logic*, this is also applicable to unjust combatants. Fabre's argument would generalize to combatants because of reductivism. If ineffective combatants inevitably do not know they are engaged in an unjust war and believe the cause to be just, because of ignorance of the facts about the war or about justice, then Fabre's criterion seems to say we cannot kill them. In fact, many combatants just play their assigned role as combatants, and it is sometimes hard for them to make a judgment as to whether the state's cause in war is just or not. Practically, in war, as Dan Zupan said, in the context of an ongoing engagement, combatants are usually focused on combat and may not consider whether their actions are for an unjust purpose. He says, "the ignorance of combatants is such a common feature of their experience, even in wars that, from an objective point of view, are much less controversial. Being under orders, trusting in his superiors, focusing on the mission at hand are such a part of the ordinary

experience of being a soldier that ‘knowing’ his war to be unjust turns out to be something he literally cannot do” (Zupan, 2007, pp.41–49).

A further complication is that the causes of war can vary throughout the course of a war. If we assume that the cause of war pertains simply to the initial resort to war, it may be plausible to expect combatants to evaluate the justness of the war prior to participating in combat. But it is also possible for the causes of the continuation of war to be different over time. In other words, as a war progresses, the aim being pursued by one’s side may change, so that even if the initial cause was just, the new aim may be unjust and *vice versa*.⁶⁶ And it is unlikely that combatants actively fighting in war will have epistemic access to the relevant information. Thus, there seems to be little reason to believe that combatants are better off knowing that their state's cause is just or unjust.⁶⁷

McMahan, however, claims that even if unjust combatants pose an unjust threat to others with an epistemic constraint, they are still morally liable to be killed. He argues that when combatants enlisted in the military, they should have anticipated that their future threats could be objectively unjust (McMahan, 2009, p.183).⁶⁸ When it comes to ordinary life cases, however, this seems to be an unacceptable reason. Let us consider the following

⁶⁶ McMahan also considers the initial war cause is not only the only war cause: “Contemporary just war theorists often assume, therefore, that the requirement of just cause applies only to the initial resort to war, and that after war has begun all that matters is how the war is conducted. But this cannot be right. It is possible that a war can begin without a just cause but become just when a just cause arises during the course of the fighting and takes over as the goal of the war. When this happens, it would be absurd to say that an unjust war has concluded and a new, just war has begun” (McMahan, 2005a, p.2).

⁶⁷ I think that some sort of moral luck is related to whether unjust combatants are more clear in their knowledge of the war cause compared to unjust noncombatants.

⁶⁸ McMahan says, “They [unjust combatants] earlier made a voluntary choice that in effect committed them in a public way to obedience, and those to whom they owe obedience will, unless prevented, order them to fight in an unjust war in which it is reasonable to expect that they will participate” (McMahan, 2009, p.183).

case.

Sara. Sara is a noncombatant who is an employee of a munition factory.

Though she knows the pistols and bombs she produces will be distributed to the army, her only reason for working at the factory is to support her family.

In the above case, weapons produced by Sara may be used to attack or kill other combatants in a war. If, as McMahan said earlier, unjust combatants should have foreseen that they may contribute to objectively unjust threats in the future when they join the military, in the same way, Sara, as a munition employee, should also have foreseen the possibility that she would contribute to unjust threats. The problem is that if the foreseeability of the possibility of contributing to an unjust threat in the future can justify individual liability, the majority of noncombatants are also morally liable to be killed by virtue of the fact that they failed to foresee the unjust wars that the state would initiate in the future.

I have thus far examined whether the solutions to the responsibility dilemma suggested by McMahan and reductive individualists are adequate. It seems to me that their responses to the responsibility dilemma still not enough to solve the dilemma. If my conclusion is correct, then reductive individualists fail to derive the desired outcome, that most unjust combatants are permissible targets and that most unjust noncombatants are impermissible targets at the same time.

E. Generalization on 'Individual-Liability dilemma'

As I said in the previous section, McMahan and other individualistic accounts have clear limitations in solving the responsibility dilemma. We need to note that a condition for an adequate account of liability is that most unjust combatants are permissible targets while

most unjust noncombatants are not. However, reductive individualists have difficulty yielding both those implications at the same time. Thus, I think their attempts have failed. Furthermore, McMahan's failure to respond to the responsibility dilemma is not unique to his account.⁶⁹

It seems to me that the responsibility dilemma is really just a dilemma for reductive individualism. We can construct the responsibility dilemma neutrally as a more generalized dilemma. Whatever the ground of liability is there will be the questions; 1) Can we get the right result? and 2) Can we explain why combatants are liable to be killed but noncombatants are not liable to be killed?

The problems implied by the generalized dilemma are: First, any individual liability-based account that all or most unjust combatants are liable to be killed would also entail that many unjust noncombatants who contribute to the same enterprise are liable to be killed. Second, any individual liability-based account that entails that most noncombatants are not liable to be killed would also entail that many unjust combatants are not liable to be killed.

It is important to keep in mind that the dilemma does not demonstrate that reductivism should be denied; rather, it demonstrates that, according to an individual liability-based account, it is difficult to satisfy both horns at the same time. Therefore, *no* individual liability-based account can both give the results that most unjust combatants are liable, but most unjust noncombatants are not liable to be killed.⁷⁰ That is not talk in terms of

⁶⁹ Revisionists like McMahan don't want to satisfy MEC, so how does the dilemma concern the possibility of holding both MEC and PNI. Individualists can satisfy PNI so long as they embrace the other horn of the dilemma, according to which unjust combatants are not legitimate targets.

⁷⁰ Someone might think that the attempt at generalization here is too quick. I partly agree that since I didn't provide details of other individualistic accounts for justify killing in war.

responsibility; rather it is completely neutral about how we are explaining liability. The claim is we cannot get these two results at the same time. So, the problem that the band faces is really an instance of a more general problem that any account of individual liability has to deal with and then formulate that general problem which is ‘individual liability dilemma.’

This liability dilemma is a generalization of the difficulty in producing a result that satisfies both conditions through a specific account in determining the object of killing that can be permissible in war. The liability dilemma also entails a responsibility dilemma, which in turn forces consideration of how to set up accounts that can define permissible targets in war. What the dilemma indicates is that if reductive individualism attempts to justify the liability of unjust combatants, then it leads to the widespread intentional killing of individuals such as noncombatants.

In my view, as long as we assume that war is a conflict accompanied by armed force between collectives that goes beyond the relationship between individuals, reductive individualism faces the individualized-liability dilemma, which is not easy for them to overcome. Also, suppose one is an individualist. Then, unless one is willing to admit that war can be fought between individuals *qua* individuals⁷¹, one needs to embrace reductivism

The case I make against McMahan—the individualistic account figure I discuss in any detail—is about the difficulty of distinguishing unjust combatants and unjust noncombatants in terms of their moral responsibility for causal contributions to the unjust war. However, I do not argue that the causal contribution is the only option for reductive individualists. In Section D, I introduced some individualistic attempts to solve the responsibility dilemma and showed that their attempts still had problems. The results showed that individualism still struggles to produce the ideal outcome for justifying killing in war. Also, my basic idea is that it is hard to get significant differences between *some* unjust combatants and *some* unjust noncombatants in terms of their *individual properties* related to war.

⁷¹ Surely, no one wants to classify a conflict involving, say, two persons as war. Conflicts

as well. For, without reductivism, whatever conclusion one draws from individual-level cases can be said to be simply *irrelevant* to the morality of war. As it makes no sense to say that individuals *qua* individuals fight wars, one needs some story here why such facts about individuals bear any relevance to the permissibility of acts in war, which paradigmatically involve collectives. And reductivism offers such a story. So individualists have a reason to be reductivists. Thus, I think, it is reasonable to guess that if a theorist is a reductive individualist, it is more likely that she embraces this position because she is primarily convinced of individualism.

But what about the converse? Should reductivists also be individualists? Here, I'm not so sure. But it appears to me that reductivism is much less in need of individualism than *vice versa*: Reductivists can deny individualism as long as they think that the fact that collectives and not just individuals are involved in a conflict suffices to be informative enough about the morality of war. If so, they have no need to explain how individual-level facts can be relevant to the morality of war. In that sense, they have more leeway to resist individualism.

Therefore, we need to consider other ways to justify killing in war. To this end, in the following chapters, I will show some reasons for why we should prioritize reductive collectivism over non-reductivism. Then, I will present an analysis of collectivism and my views on how individuals participating in collective action are distinguished.

between two individuals might be fierce in its intensity, and therefore be called war-like. But this would be only a metaphorical usage of the word 'war'.

III. Reductive Collectivism and Complicitous Liability

A. Basic ideas in reductive collectivism

The discussion of the previous chapter shows that reductive individualists fail to satisfy two desiderata of an adequate theory of the justification of killing in war. The first condition is that most unjust combatants are legitimate (or permissible) targets in war and the second condition is that most unjust noncombatants are not. An adequate moral principle for determining justifiable killing in war should be capable of satisfying both conditions at the same time. Hence, we need a different approach to seek alternative moral principles that can determine justifying killing in war.

Some scholars have attempted to justify killing in war by rejecting reductivism, one of the two parts that constitute reductive individualism. We call them ‘non-reductivists.’ They argue that the same moral rules that could justify killing in ordinary circumstances cannot be used to justify killing in war. This means that even if killing can be justified in a non-war circumstance because of a moral principle, say, P, P that fails to justify killing in war. In a nutshell, from a moral standpoint, there is a clear difference between violence in war and violence in ordinary life. Hence, non-reductivists basically emphasize the features of war that distinguish it from ordinary life. (Zohar, 1993, 2004; Kutz, 2005; Walzer, 2006; Estlund, 2007; Benbaji, 2008; Dill and Shue, 2012). In order to more accurately explain non-reductivism, an account of the features of war must be given. Lazar notes the following six features of war:⁷²

⁷² Lazar (2016b) p.10.

W1) Wars are *large-scale* conflicts. The interests of many people are at stake.
And wars have an inherent tendency to increase in scale.

W2) There is widespread and egregious *noncompliance* with any principles that could plausibly govern killing outside of war.

W3) Among the interests at stake, some are *political*. For example, they have to do with preserving political sovereignty and territorial integrity.

W4) At least one party to the conflict is a *state*.

W5) The conflict is governed by *institutions*, in particular the laws of war.

W6) The conflict takes place against the backdrop of, and usually disrupts, the *international state system*.

Non-reductivists have argued that the features just listed undermine reductivism. For example, Henry Shue argues that the circumstance of war is clearly distinct from ordinary life, and this shows that, as a matter of descriptive fact, ordinary moral rules are not abided in the context of war.⁷³ David Estlund argues that combatants should follow the orders of their state if their state decides to wage an unjust war. This argument states that unjust combatants are free from their responsibility for participating in unjust wars because they engage in wars according to the orders of the state.⁷⁴ Similarly, Lazar argues that it may be

⁷³ Henry Shue says, “[t]he circumstances of war are so different from the context of ordinary life that even when the same fundamental moral touchstones are the reference, the differences in the circumstances yield different specific guidelines” (Shue, 2008, p.87).

⁷⁴ This view states that some collectives can make special moral reasons for people—combatants and noncombatants—to take the actions by state’s order. He says: “[T]he soldier’s obedience to his state automatically sanitizes his participation in an unjust war (even if there might yet be impermissible ways of fighting it). I will argue that when the political and institutional process producing the commands is duly looking after the question whether the war is just, the soldier would be wrong to substitute his own private verdict and

permissible for combatants to kill non-labile combatants in order to perform special duties such as associative and general duties. In particular, the feature of war that Lazar pays attention to is that war is not the use of force for simple self-defense between private individuals, but the use of force between collectives such as states.⁷⁵

I do not deny the features of war offered by non-reductivists. The important point, however, is that war possessing certain features does not necessitate specific moral principles for justifiable killing in war. The primary rationale for pursuing non-reductivism would be that reductivism cannot adequately provide a moral account of the liability to be killed in war. Thus, it makes sense to first explore the prospects for reductivism and then only if that fails is there a reason to take seriously non-reductivism. If reductivism can constitute an appropriate moral principle that determines justifying killing in war, then there is no real motivation to take non-reductivism.⁷⁶

Therefore, the direction we should proceed is to examine other alternatives while

thwart the state's will. (...) When the state and its procedures are of the right kind the soldier's participation in an unjust war is sanitized precisely because he was following orders" (Estlund, 2007, p.213).

⁷⁵ Here Lazar says that the military exists to protect the state and that people who live in the same territory share some special kind of bond between them. He says, "The armed forces exist for members of a political community to perform their associative and general duties to protect in a way that is optimal and fair. In most political communities, most people will share most of their special relationships with other people who are resident in the same territory. There are obviously exceptions, but the requirement of optimality justifies concentrating on those duties that substantially overlap" (Lazar, 2013, p.32).

⁷⁶ We could say that non-reductivism might work but we are only really justified in appealing to non-reductivism just in case reductivism does not work. This is because the more natural view is that there is a single set of moral norms that apply to all circumstances (both inside of war and outside of war). What I want to emphasize here is the 'Principle of Parsimony.' The principle of Parsimony has two fundamentally distinct senses of simplicity. The first one is simplicity in syntactic sense with respect to the number and complexity of assumptions, and the second one is simplicity in ontological sense regarding the number and complexity of things postulated. I follow the second sense about the simplicity. For a more detailed explanation for the concept of parsimony, see Baker (2016).

holding reductionist accounts. We need to note that I have previously rejected individualistic accounts in Chapter II on the grounds that reductive individualists do not yield adequate outcomes for the moral justification of killing in war. Thus, we are left to consider whether collectivism can provide an adequate account of liability in war. In what follows, I examine whether reductive collectivism can provide such an account.

Let us take a look at the content of reductive collectivism. Reductive collectivism consists of two strands. The first strand is reductionist. It states that we can justify killing in war on the basis of the same moral principles that apply in ordinary circumstances. This means that any moral principle that justifies killing in war must potentially justify killing in non-war circumstances. It is important to bear in mind that reductionism does not state that any principle that does not justify killing outside of war also has to justify killing in war. On this account, it is possible that there be two different moral principles, A and B, which justify killing outside of war, but where only A justifies killing in war. This is because the morally salient features to which B appeals are not present in war.

Now, let us turn to the second strand, which is a position known as collectivism. As far as I know, there are different ways to state what a collectivism is. Here, I want to characterize collectivism contrasted with individualism in a moral sense.⁷⁷ The crucial thing is the relationship between the evaluation of the collective action and the individual actions. In the previous chapter, we noted that individualism states that we should be able to assess

⁷⁷ The tension between individualism and collectivism is an important issue in contemporary philosophical and sociological theory. There have been various kinds of discussions between these two positions: ontological, epistemological, and methodological dimensions. Therefore, the discourses of these two positions are very large and diverse. I will not cover all the differences between the two positions in this chapter. Instead, we will focus on the methodological distinction between individualism and collectivism that concerns the moral evaluation of individual action.

the morality of individual acts prior to the morality of the collective action. So individualism says, even if individual actions compose a collective action, the morality of the individual action can be only determined by what individuals do. Then, collectivism ought to be the denial of this. Thus, I think that a proper way to understand collectivism should be that *usually* the individual actions that compose a collective action cannot be *adequately* evaluated prior to, and independently from, the evaluation of that collective action.⁷⁸ I think that, in order to successfully construct a moral principle P that can justify killing in war based on reductive collectivism, this moral principle P must satisfy the following three requirements.

Requirement 1) To satisfy reductivism, the moral principle P should potentially justify killing in non-war circumstances (ordinary life).⁷⁹

Requirement 2) To satisfy collectivism, the moral principle P should potentially justify killing based on collectivism rather than individualism.

Requirement 3) For the application to the context of war, the moral principle P should justify killing in war and yield appropriate outcomes—most unjust combatants are permissible targets in war and most unjust noncombatants are not.

Our goal is, therefore, to construct a moral principle P that satisfies the above three

⁷⁸ In light of a liability, this is not just individual liability but rather is a complicitous liability based on collectivism that people are liable to be killed just indirectly because their actions are part of unjust collective actions.

⁷⁹ We will focus on how the liability of collective members for an unjust collective action is justified in ordinary life (outside of war). As I mentioned, we need to construct a moral principle based on reductivism. This means that we need to think about the moral justification for killing in ordinary life, then apply those justification to the context of war.

requirements. To this end, in Section B, I will first give a rough analysis of collective action and argue that it should be focused on whether there is a shared intention in distinguishing between genuine collective actions and non-genuine collective actions. It is reasonable to think that collectivism is based on the notion of joint action rather than individual action.⁸⁰ So we first need to understand at least roughly what a collective action is. In Section C, I will then clarify what exactly it is to say that individuals who participate in a collective action have a shared participatory intention. In Section D, I will analyze how individual participatory intention is linked to the liability of individual agents in a collective. In this respect, it is worth paying attention to the complicitous liability account proposed by Bazargan. He develops an account of complicitous liability in which participating in an unjust collective action makes individual participants liable for what others do. I think that his account satisfies requirements 1 and 2 but does not satisfy requirement 3. To substantiate that he fails to satisfy requirement 3, in Section E, I will show that his account faces a centrality dilemma.

B. Genuine and non-genuine collective actions

What is a collective action? The answer to this question will vary, but intuitively most people might give the answer that a collective action is not an individual action, but a bunch of people doing something together. That said, one way to begin the inquiry into what a collective action is is to think about a case where a bunch of people are doing something together. In this section, I shall not provide a full analysis of what a collective action is

⁸⁰ Various terms referring to collective action in social science and philosophy have been adopted, such as 'collective action', 'group action', 'social action', and 'shared action'. Various terms have different meanings, but for the convenience of discussion, I refer to actions involving a large number of people rather than individuals as 'collective action.'

because this analysis has been mainly dealt with in action theory, and it is difficult to discuss all of the analysis in this section. Thus, my weaker aim is at least to give a rough initial characterization of a genuine collective action that is relevant to the study of war and how it differs from non-genuine collective actions such as a mere aggregation of people performing individual actions at the same time. This section lays the groundwork the notion of collective action that is relevant to collective liability.

B-1. Non-genuine collective actions

We need to have a better understanding of collective action. When we attempt to have a general understanding of collective actions, intuitively, this can cover a whole range of cases involving a bunch of people doing something together. However, contrary to our intuition, I think that a collective action is not equal to a bunch of people doing something together. To figure out what collective action is, let us begin with what non-genuine collective actions are.

Let us think about the following example that Peter French provides:⁸¹ “An accidental grouping of six people waiting on a corner for a bus clearly constitutes an aggregation. Each person in that aggregation is on the corner pursuing his or her private interests, though they share the intent of boarding the bus when it arrives, and many may be planning to disembark at the same bus stop on the route.” (French, 2020, p.14). I think it might be worth going into this a little bit more. In the bus example, passengers are doing something in parallel but also in a kind of coordinated way. It is true that there is something we (passengers) are all doing—we are all getting on the bus.⁸² Before the bus comes, we are

⁸¹ French (2020) calls this a ‘random collective.’

⁸² Here, I just assume that we are all passengers.

all waiting for the bus, so we are all in some sense doing the same thing. But we are doing it separately. Then, when it was time to get on the bus, we were each doing our individual instance of getting on the bus together. In this situation, there might be a kind of coordination of individual activities. For instance, we don't all just rush onto the bus at the same time, and we take turns in a nice orderly way, and we don't sit in the same chair.

The point is that there are people who are pursuing their own aims, getting on the bus, and adjusting their behavior to coordinate with other people for pursuing their aims. If I was describing what happened there, I would say that a bunch of passengers were waiting for the bus and then the bus arrived, and they all got on together. So I use the word 'together' and I say this is something that they all did. However, this is not something that passengers do collectively in any robust sense. This is because, even if we can acknowledge that, loosely speaking, sometimes we say people are doing something together, in the bus example, they are just doing the same thing at the same time individually. Each passenger individually decided to board the bus, and they just ride the bus for their own independent purposes, and they just so happened to have gathered at the same time and place and to get on the bus at roughly the same time. Thus, this is not the case that they did something collectively with other passengers in a genuine collective sense. Rather, in the bus example, this is just a mere aggregation of individual actions.⁸³

Also, there are collective actions from a mere aggregation but which *jointly* yield some result. For example, the environmental pollution that people emit while driving a vehicle causes significant harm when taken as a collective even though individual actions contribute very little to the harm of the whole. In this case, it is possible to say that a bunch

⁸³ Ludwig (2016, 2017) calls this kind of action 'plural action.'

of drivers are doing or causing environmental pollution together. In the bus example, passengers perform parallel actions at the same time and place with the same purpose (getting on the bus), but in the example of environmental pollution, drivers jointly produce some wrong result (global warming). They have a collective impact, which provides a sense in which we are *together* causing global warming. However, this is not really collective actions in the full-blown sense since each driver does not intend to yield a significant harm collectively. In particular, at least somewhat intuitively, there is no intention to be acting together.

What we have learned from the pollution example is that an aggregate of individuals jointly producing harm is not sufficient for collective action.

B-2. Genuine collective actions taken by ad hoc collective

In the two examples given above, I argued that several people did something together, but strictly speaking, these were not genuine collective actions. We need to figure out what makes it the case that a bunch of people doing something together are performing a genuine collective action as opposed to just doing a bunch of stuff at the same time. If so, what is the nature of the ties that bind us when we do something in a genuine collective sense? To find an answer to this question, consider the following example as a genuine collective action different from the previous two examples.

For example, a car accident occurred on the road, and a large tree fell on the car, endangering the safety of the occupants. People on the road who witnessed the accident cooperated to move a large tree to rescue the occupants. In this scenario, the people are not members of any particular collective. However, they might have a temporary intention to act together in order to rescue the occupants. Also, each player is temporarily assigned a role in

their common project. In order to rescue him quickly, it may be clear that we need one more person, such as somebody who needs to hold this rope, and somebody walks by and grabs that rope.⁸⁴ This case is sort of an ad hoc group to deal with an emergency, but in order to achieve a common goal, people have a sort of intention to participate together in the rescue operation.⁸⁵

A crucial difference between the previous two examples and the rescue operation example is whether the individuals participating in a certain action have a *participatory intention*.⁸⁶ Here we need to understand the concept of participatory intention. Some scholars have attempted to clarify the notion of participatory intention by arguing that in a collective action C, individual participants have participatory intentions directed toward the collective action C, if they intend to do their part in the collective action C.⁸⁷ I think that a

⁸⁴ Here, someone may think of a case in which the additionally called person does not know whether rescue operations are currently being carried out, but he was told to do something, and he just does it. However, I assume that everybody fully understands their roles. Later, I will talk about cases where that is not true. For the moment, the focus is more on the ideal case.

⁸⁵ We can also think of a small but a long-standing professional rescue team. The rescue team consists of 5 people and has been performing rescue operations for 10 years, but there is no hierarchy. Assume that the accident has occurred on the road. They received a rescue call and ran to the road to rescue the person in danger. In the road example presented above, the rescue action is a collective action by a temporary group rather than a structured team, but the action of a professional rescue team is an action that originates from a standing collective such as a structured team. Unlike the temporary group, this team has a purpose to rescue people, but it is not to achieve some particular immediate goal. They all have a shared purpose and intention during the rescue operation. In this case, it is not clear whether there is a hierarchy in the small team. For the sake of discussion, I just assume there is no hierarchy in this small team.

⁸⁶ For a more detailed explanation about the relationship between collective actions and a participatory intention. See Bratman (1992), Tuomela (2007), Tuolema & Mäkelä (2020), Kutz (2000), Miller (2001), Bazargan (2013).

⁸⁷ Some writers argue that if individual participants have a participatory intention directed toward collective action C, the fact guarantees that they have a mutual belief in the success of collective action C (Chant & Ernst, 2008). Others such as Kutz argue that a participatory

participatory intention plays a decisive role in understanding collective actions.⁸⁸ In the bus example, passengers fail to have a shared participatory intention to do something together though individually, they intend to get on the bus separately. Also, in the pollution example, although drivers jointly cause fatal harm to the environment, they only act individually and have no shared participatory intention directed toward the pollution. What I want to say is that if collective action does indeed involve a kind of interrelationship on the part of the individual participants, then we should consider the intentions of each individual who participates in collective actions.⁸⁹ Thus, what distinguishes genuine collective actions from non-genuine collective actions such as a mere aggregation of individual action is a shared participatory intention among the members of the collective.

B-3. Genuine collective actions taken by organizations

Unlike the earlier examples such as the bus example and the pollution example, we do have a genuine collective action with the rescue example. Now, we've crossed the divide from non-collective action to genuine collective actions. The crucial point in the rescue example is that people have a sort of intention to participate in the rescue operation with the other members of the team to save a person who is in danger.

However, the rescue example is a fairly simple example, and it is a small and only

intention accompanied by a sort of belief that individual action contributes to the collective goal (Kutz, 2000; Tuomela, 2007).

⁸⁸ In the next section, I will give a more detailed explanation about the concept of participatory intention.

⁸⁹ Although many writers on action theory differ to some extent in proposing the essential requirements for collective action, most acknowledge that factors such as intention must be taken into account. For example, Searle suggests that a collective has a collective intention (Searle, 1990), Bratman provides an account of shared intention (Bratman, 1990; 1993; 2014), Gilbert argues that there is a joint commitment with individual intention (Gilbert 2002; 2008; 2009).

temporary group that does not really have a hierarchy and so on. There might be other kinds of a genuine collective action that are distinct from the collective action in the rescue example. There are highly organized collective actions taken by organizations such as corporations, military, and governments. I extend the idea that we can introduce the idea of collective actions that have a more organized structure and large size which could be more complicated.⁹⁰ Our primary focus will be on collective actions taken by highly organized collectives rather than simple collectives.⁹¹ These highly organized collectives usually have a general goal. For example, a corporation creates a profit, the military operates and manages armed forces to win wars in case of emergency, and the state allows citizens to pursue life, safety, and happiness.

Furthermore, as the collective becomes more advanced and organized, members of this collective can be differentiated in various ways. It is obvious that all individuals belonging to a collective have a formal membership in that collective. Also, in organizations, different roles are assigned to different members of the organization. There is also a hierarchy among members of the organization. The important point is that members in an organization intend to play their own assigned roles in the organization, and by playing their roles, they are doing something together. We can say that individual agents, as a member of the organization, have a shared participatory intention in achieving the collective purpose.

⁹⁰ Some refer to these kinds of actions as institutional actions.

⁹¹ This is because war, which we will focus on later, is a highly organized collective action taken by a collective such as the military and state.

C. Shared participatory intention

Our discussion so far has concerned the difference between non-genuine collective actions and genuine collective actions. I argued that the key to distinguishing these two types of collective action is whether the people participating in the action have a shared intention. Even if I've briefly mentioned a participatory intention earlier, we need to then clarify what exactly it is to state individuals who participate in collective action have a shared participatory intention.

The term 'intention' has attracted attention from many scholars because it is a key concept that often appears in normative ethical discussions as well as in philosophy of action. I think that it would be impossible to give a full explanation of the nature of the intention in this section. Instead, my aim here is to provide a minimal discussion to clarify what a participatory intention is. In order to understand what it means for members of a collective to have a shared participatory intention directed toward collective action, let me first analyze the intention-owning subject, gradually extending from the one individual to the collective. An individual intention is, roughly speaking, a state of mind of an individual agent directed toward an individual action.⁹² Thus, the content of the intention is determined by the individual action plan. I think that we should consider the components such as the agent, the intention, the action to which the intention is directed toward.

First, consider the case where an individual agent has an intention directed toward a specific action. Suppose X has the intention to kill a person P. Here, X is the individual

⁹² Of course, an individual intention does not solely represent an individual's mental state. In ordinary life, when most people perform certain actions, various emotional factors are also involved in a complex way. However, I believe that emotional considerations do not necessarily relate to one's intentions.

agent, and the content of the intention is killing P. X clearly has an intention, but this is an intention that an individual has on his/her own, so it is not a shared intention.

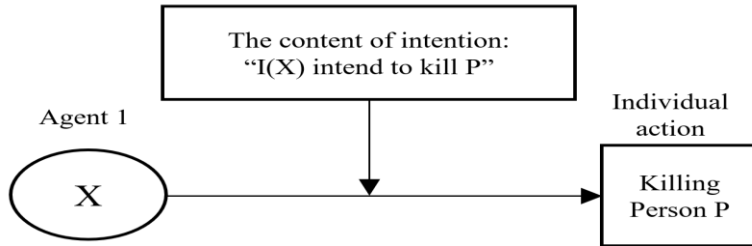


Figure 3.

Now, suppose X has the intention Y to kill P and X₁ also has the intention to kill P. X solely attempted to kill P himself on Thursday. Also, X₁ solely attempted to kill P on Friday. However, P was so physically strong that each assassination failed. In this scenario, Both X and X₁ have the same purpose. Their content of the intention is the same, killing P, but X and X₁ attempted to kill *independently*. Each of them just independently had an intention to kill P. There is no shared intention, and their actions do not together constitute a collective action. Thus, even if two agents have the intentions with the same content, this is not sufficient for them to have a shared intention.

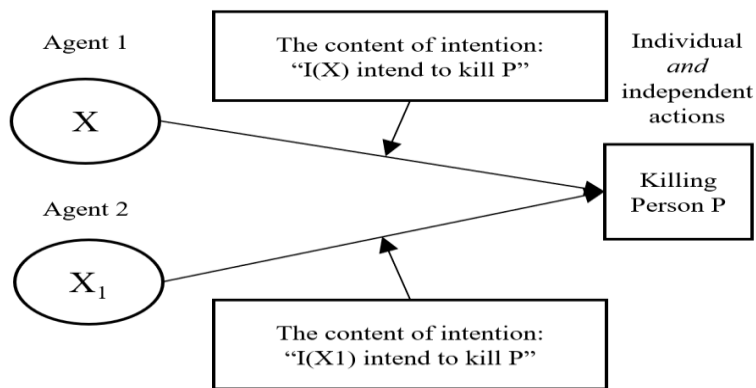


Figure 4.

Let us further consider another situation. X and X₁ accidentally recognize that both wants to kill person P. Through their previously unsuccessful assassination, they realized that there is no way one person individually can kill P since P was well guarded and physically strong. Thus, they have a plan to kill P together. Their plan is to just drown him by holding him underwater. The deal is neither of them is strong enough individually to hold him down, so they both have to hold P down. A few days later they jointly assassinate P according to their plan. So, they are just both playing the same role holding him down. This scenario is different from the previous one. It is not just that they both intend the same thing such as killing P but rather they intend to kill P *together*.

There could be another version where they occupy different roles in the plan such as that one of them will hold him while the other one stabs him or one of them will distract him, make a noise and then the other one will take advantage of that opportunity. In this case, we can say X has an intention to play his specific role, holding person P and, also X₁ has an intention to play his specific role, stabbing person P in their collective action. They intend to play their roles in a collective action. Thus, both X and X₁ have an individual participatory intention according to their role. The participatory intention is the one that makes reference to a role that is “I intend to play a role in such a collective action”. When two people have individual participatory intentions, they don’t have exactly the same intention. However, what makes it the case that two people have a shared participatory intention— “We (I and you) intend to kill person P together”—is that the collective action referred to in the content of their intentions is the same. They can share their respective roles and accomplish their goals by fulfilling their respective roles. What I want to say here is that, in terms of intention, there are two readings. The first reading is the individual sense

that, as a member of the collective, the individual agent herself intends to play a role to kill person P. The second reading is the collective sense that both intend to kill person P together, I mean that each of the participants can have the intention “We are killing person P together”. So, the intention both X and X₁ have is the shared participatory intention.⁹³ See the diagram below:

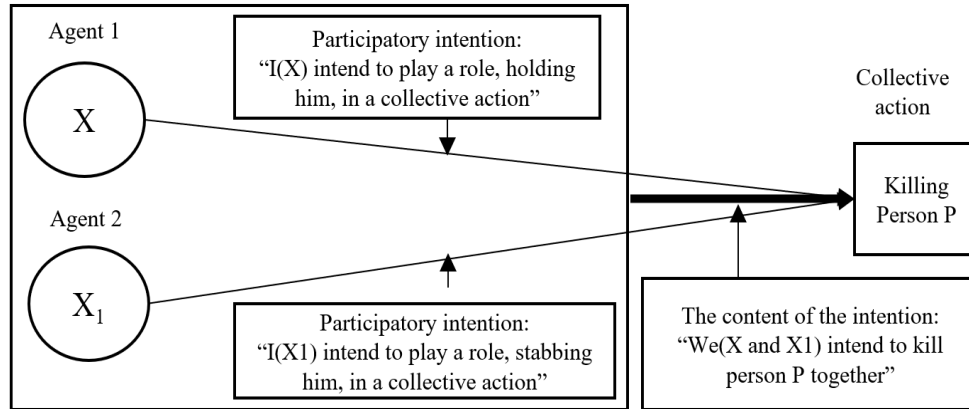


Figure 5.

In the above scenario, only two agents, X and X₁, are involved in the killing, but if we can extend from two agents to a number of individual agents X₂, X₃, X₄...X_n acting jointly, this can be extended to collective actions. We can imagine that other cases have a more complex structure. The scenario I just showed is a kind of very egalitarian picture since both X and X₁ are equals, and they are simply cooperating to bring about something jointly. However, neither of them is the boss and neither of them has authority for killing P. As I mentioned, we can introduce the idea of collective actions that have more organized and authoritative structures such as a criminal organization (B-3). In these organizations, different roles are assigned to different members of the organization. There is also a

⁹³ In this regard, Tuomela suggests a distinction between two types of intention: I-mode and we-mode (Tuomela, 2007).

hierarchy among members of the organization. Suppose that members of a criminal organization jointly kill P. In this organization, there is a mastermind A who plans to kill P, principal actor B who actually kills P according to A's order, and contributor C who support principal actor B. In this scenario, individual members intend to play his own assigned role in the organization. By doing so, they are killing P together. We need to note that a structure of participatory intention is brought about by individual participants who engage in collective action. What I wanted to say here is that, in terms of the first-person singular intention, they don't have same intention since they intend to participate in the killing in different ways. Thus, the content of their first-person intentions is different. They, however, share participatory intentions to kill person P because their intentions are directed toward the same action. Through the diagram below, we acknowledge that individual agents in an organization have a shared participatory intention regardless of their different roles and different scale contributions to collective action.

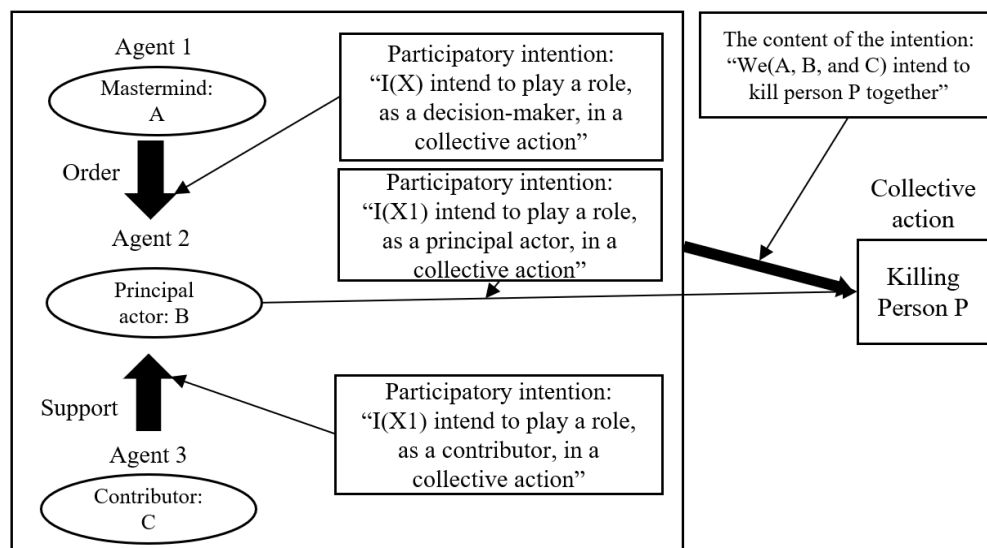


Figure 6.

D. Complicitous liability and participatory intention

Our discussion so far has concerned the analysis of genuine collective actions and shared intentions. We have learned that individuals form a shared participatory intention by intending to take part in a collective action by performing their assigned roles. It is worth recalling what we set out to show in this chapter. The goal was to show how reductive collectivism can explain the liability of individuals who are involved in an unjust collective action. Thus, what we need to explore next is how a participatory intention is linked to the liability of individual agents in a collective. In particular, if a highly organized collective jointly causes unjust harm, the judgment of individual participatory intention and the basis for determining liability will play a decisive role in finding an adequate account of what morally justifies killing in war. However, the evaluation of a collective action performed by a large, organized collective is a complicated matter. As I mentioned in the previous section, when a certain collective jointly establishes a specific plan with an unjust purpose and performs the unjust collective action P, there are numerous ways for members can participate in P. For example, some members may participate directly in P, and others may not participate in P. Moreover, among the members participating in P, some may play an important role, while others may simply act as contributors.

In this respect, it is worth paying attention to the complicitous liability account proposed by Bazargan. He argues that individual participants who have a participatory intention in collective unjust actions can be liable to be killed in order to prevent the threats posed by the collective action (Bazargan, 2013). Thus, he has argued that unjust ineffective combatants, as individuals, are liable in virtue of their intentional participation in the unjust wars fought by their comrades. Similar to McMahan, he first proposes principles that apply

in ordinary life and then applies them equally to a war context. Hence, his account is reductivist. Bazargan provides the following case in ordinary life.

Suppose a criminal mastermind puts together a plan for robbing a bank. She hires five individuals, each of whom agrees to participate in the robbery. The recruits are made aware that part of the plan is to kill the witnesses in the bank. The mastermind does not physically participate in the robbery—instead, she provides the plan, the layout of the bank, the equipment, etc. One of the recruits, J, is stationed on a second floor balcony above the bank, as a look-out. Her role is the least important. The mastermind would have commenced with the plan even without a look-out. Suppose that J is not a very effective look-out—in fact, she falls asleep on the job. Fortunately for the robbers, J’s incompetence has no negative effect on the robbery, though her participation does not causally contribute to the robbery or murders either. The plan succeeds, and two witnesses are killed. (Bazargan, 2013, p.182)

In the above case, J has not played a significant role but agreed to participate in the Heist plan. Because of her neglect, she fell asleep during her surveillance mission. Her neglect did not have any negative impact on the plan, which succeeded. On Bazargan’s view, however, even if J made no causal contribution to the robbery and murders, she must bear liability for murder and robbery because she intentionally participates in the joint project.⁹⁴ This claim implies not only 1) J is complicitously criminally liable for what the

⁹⁴ Bazargan says: “According to the Complicity Principle, a participant in a cooperative project who does her part in furtherance of a cooperative act but whose participation fails to

collective, and its other members do, but also implies that 2) J is complicitously liable to be defensively killed if it is necessary to stop the threats posed by other members.⁹⁵

Here, a more detailed explanation of 2) seems necessary. In Heist, we can imagine a situation where the only way you can somehow foil the bank robbery before robbers shoot the witnesses inside would be to shoot the lookout J. Perhaps, J's falling to the ground would alert the bank robbers and this result could prevent the killing of innocent witnesses in the bank. If the only way you could save the lives of innocent witnesses in the bank would be to shoot the lookout J, it would be permissible to do that in this case because she is part of the team even though she is not the one who is directly threatening the people in the bank. The key thing here is not just that because J is part of the group J could be sent to prison along with the rest, but more specifically, with respect to 2), defensive violence can be used against J, perhaps even defensive lethal violence. So, even though J is an ineffective contributor and J is not even doing a very effective job in the bank robbery, it is still possible to say that someone could use defensive force against J.

Here is the apparent difference between McMahan and Bazargan. As I mentioned earlier, McMahan argues that a person can become liable to be defensively killed if and only if he/she is morally responsible for contributing to an objectively unjust lethal threat to another person (McMahan, 2009). So, on his view, J is not liable to be killed since J fails to do her role in the heist, and by doing so, she does not contribute to the unjust lethal threat. However, Bazargan claims that even if J does not pose unjust threats to the witnesses and

contribute causally to that cooperative act can nonetheless bear complicitous liability” (Bazargan, 2013, p.183).

⁹⁵ Here, Bazargan uses the term ‘complicity’ is applied in the criminal law equivalent to accomplices.

does not effectively and causally contribute to the unjust threats posed by other robbery members, her mere participation makes it the case that she can be defensively liable to be killed if killing J is the only way to prevent the threats posed by others.⁹⁶

A more precise understanding of the complicitous liability presented by Bazargan requires a detailed analysis of what a participatory intention is. Bazargan considers that a person participates intentionally in collective action when she has a participatory intention. Bazargan says that a participatory intention is an intention to act according to a role, whose role is to contribute to a collective action (Bazargan, 2013, p.186). Given that the individual is a member of the criminal organization, he/she is intending to play his own assigned role in the unjust plan, and playing a role as a part of the unjust plan makes him/her liable to be killed.

We need to spell out more about Bazargan's general theory of how collective actions work with the participatory intention in accordance with an assigned role in the nested structure in war. Bazargan provides the following case in war.

Suppose a squad of soldiers is participating in the rescue of a wounded POW. Two soldiers in the squad are carrying the wounded POW while six others are laying down suppressive fire. Each of the two soldiers assisting in carrying the wounded POW shares participatory intentions in that they intend to do their part in furtherance of one and the same cooperative act: carrying

⁹⁶ Bazargan says: "Though J causally contributed nothing, she bears some liability for the murder of the witnesses and the theft of the money. The claim is not simply that J is liable to retributive punishment, which isn't subject to a condition of effectiveness. Rather, J is liable to be killed if it is necessary to avert the harms posed by the other participants. That is, J is liable to be opportunistically killed. It is intuitively permissible to kill J if it is necessary to stop the murders, even though J neither contributes to the murders, nor does anything to prevent others from stopping the murders" (Bazargan, 2013, p.183).

the wounded POW. Under this description, their participatory intentions are not shared with the six soldiers laying down suppressive fire, who, in turn, share participatory intentions of their own. As a result, the six laying down suppressive fire are participating in one cooperative project, and the two carrying the wounded soldier are participating in another. But all eight soldiers in the squad share the broader participatory intention of doing their parts in furtherance of rescuing the wounded POW. (Bazargan, 2013, p.185)

The crucial thing is the quotation introduces a sort of nested collectivity and the shared intentions with a scenario of a military operation. When it comes to the structure of military organization, about 10 individual combatants gather to form a squad, and three squads gather to form a platoon. In this way, the size of the group goes beyond companies, battalions, regiments, and divisions, and finally the entire army is constituted. In other words, the collectives we refer to in the military are not individually independent but have a nested structure according to their size and role in the military.

Bazargan does not go into the details about the relationship between a nested structure in the military. However, it seems to me that he tries to explain the joint authorship in the military by a nested structure. Here, the meaning of joint authorship is as follows: X and Y are joint authors of a certain act when they can both truly say, “We performed that action.”

This nested structure enables shared intentions in which the intentions of the lower-level groups are naturally extended to the higher-level. In the above case, the two combatants who are carrying the wounded POW have a participatory intention to carry the wounded POW together. So, the content of this shared intention is very specific, and is

shared by only those two people. Not even the other people in the squad share that intention. The other 6 combatants in the squad do not physically carry the POW, but instead, according to the assigned roles, they lay down suppressive fire to support the two combatants who are carrying the POW. These six combatants all intend to play their roles in the joint act of laying down suppressing fire to support the act of the two combatants who are carrying the wounded POW. This intention is not shared with these two combatants.

However, there is a broader intention that everybody in the squad shares, the intention to play their role in rescuing the wounded POW. Bazargan says that all combatants of the squad have inclusive joint authorship for the rescue of the POW. Here, we need to understand two types of authorship. According to Kutz, authorship is divided into exclusive and inclusive forms. Kutz says: "I am the exclusive author of the actions I perform myself, as well as of the events caused by those actions. My authorship is exclusive because I and only I can say of an action or event 'I did it', or 'I caused it to be done'. By contrast, I am an inclusive author of the actions of the group in which I participate, inclusive because I am one among those who can say 'We did it'" (Kutz, 2000, pp.105-106). According to this distinction, on the one hand, each of the two combatants is an exclusive author of his individual contributions to the joint act of rescuing the POW. On the other hand, all eight combatants can say "We rescued the POW." All eight are also inclusive authors of the smaller actions composing that joint action. All eight can say "We carried the POW to safety" and "We laid down suppressing fire," even if they didn't play roles in those more particular actions. If we take this analysis to the Heist case, only the person who actually pulls the trigger can say "I shot the witness," but every member of the group can say "We shot the witness."

Bazargan doesn't really spell out what the shared participatory intention is at the platoon level. Presumably, it could be that all the members of the platoon have a shared participatory intention to play their assigned role in whatever the platoon does.

Therefore, we can imagine that it is going to turn out that even the people in the platoon who were still back in the barracks are also inclusive authors of the rescue. Everybody in the platoon can say “We rescued the wounded POW,” even the members of the platoon who weren't part of the squad that actually carried out the rescue operation. This is the crucial bit: because of their shared participatory intention in the activities of the platoon as a whole they are inclusive authors of what the members of the squad did. So far, I have tried to explain some understanding about how the notion of joint authorship is tied to participatory intentions. We need to note that, ultimately, what we want here is the criterion for complicitous liability.

Bazargan draws an analogy between J and an ineffective combatant in a war context. Moreover, he thinks the complicitous liability which obtains in ordinary life could apply to a war context.⁹⁷ By joining the military, all combatants are assigned their roles in the military. And in war, they intentionally participate in war according to their role. For example, an effective combatant kills and attacks enemy forces, and ineffective combatants support effective combatants in order to achieve the military's goals. There are two ways of being ineffective. One way is to have a fairly peripheral supporting role. He is not an effective

⁹⁷ Bazargan says: “It should be obvious that I take J’s role in the robbery and killings to be analogous to the role of an ineffective combatant in an unjust war. Virtually all combatants (effective or not) who agree to participate in the military by acting in accordance with roles designed to facilitate the achievement of the military’s aims, can be complicitously liable for what their fellow combatants foreseeably do in furtherance of the military’s aims” (Bazargan, 2013, p.183).

combatant because he is making a fairly minor contribution towards the lethal threat.

Another way of being ineffective is to have a very essential role, but to be incompetent in carrying it out. One who is an infantry combatant, but who never hits any of his shots or who never pulls the trigger has a central role but is still ineffective. Ineffective combatants do not actually make much of a causal contribution to the lethal threat. Thus, ineffectiveness does not mean incompetence, but rather to provide little or no causal contribution to the unjust lethal threat.

One might argue that ineffective combatants should be exempted from liability for unjust harm because they serve only to support effective combatants. However, as noted earlier, Bazargan should consider the ineffective combatants to be joint authors in an inclusive sense depending on the nested structure of the military. What this means is that all ineffective combatants are inclusive joint authors of what their effective combatants are doing. Thus, Bazargan claims that all unjust combatants, effective and ineffective, have a shared participatory intention in an unjust war and are consequently liable to suffer defensive violence.⁹⁸ On the complicitous liability account, unjust ineffective combatants are complicitously liable to be killed because they have shared participatory intention which means they are the inclusive joint authors in an unjust war.

The complicitous liability account seems well positioned to explain why unjust combatants (even ineffective ones) are liable to be killed in war, but most unjust noncombatants are not. According to the complicitous liability account, individual liability depends upon an intention to participate in an unjust collective action, regardless of what size the contribution is and how essential that contribution is to an unjust lethal threat. On

⁹⁸ I do not think so. I will elaborate later on this.

Bazargan's view, it is possible that noncombatants such as David, Emma, and Fisher on the unjust side are not liable, even if they contribute to the unjust lethal threat, because they are not the inclusive joint author in the unjust war and thus are not complicitously liable.

However, the unjust ineffective combatant, Bob, does have an intention to participate in an unjust war.⁹⁹ So, Bob, who is an ineffective combatant, is complicitously liable to be killed if doing so is necessary to thwart the threats caused by effective unjust combatants, just as J is in heist scenario.

E. The centrality dilemma for Bazargan's account

I think that the basic idea in the account that Bazargan suggested might work to explain why most ineffective combatants are liable to be killed. As we noted, Bazargan considers the unjust ineffective combatants to be inclusive joint authors in unjust war because they share participatory intention with the unjust effective combatants who actually pose an unjust threat to others.

Let us consider the aspects of contemporary war. It seems to me that we should be able to widen the circle to encompass the state as a whole. Bazargan's view seems to entail that everybody, regardless of whether people are combatants or noncombatants, in the state has participatory intentions directed toward war just in case their state began the war. The reason is that the military is a part of the state and war is not just military enterprise. Hence, it is possible to regard the war as a joint effort whose members include noncombatants.

Surely, I and most people agree that wars are carried out by the military. Therefore, the military as a collective can be said to be the exclusive author of unjust war, but a

⁹⁹ I think that Chris, an effective combatant, is also an inclusive joint author.

collective of noncombatants also participates in wars indirectly through collective actions that make the military sustainable. For example, noncombatants Fisher, David, and Emma, each play a role for the state and the collective production of these noncombatants is essential to the establishment and maintenance of the military. If someone asks what is vital to waging and conducting wars, most people would agree that the production of military supplies by noncombatants is essential as a collective. Moreover, Rodin says that in modern total warfare, noncombatants sometimes pose a vital threat in warfare. “[T]he focus should be on the roles they occupy. Are non-combatants off-limits because they are non-threatening? In the age of total war, noncombatants can pose a vital threat to the enemy. In World War II, code-breaker Alan Turing posed a greater threat to the Nazis than did any bomber pilot” (Rodin, 2008, p.145). This means that even noncombatants can sometimes play a vital role in an unjust war.

As I mentioned, Bazargan believes that the members of the squad have a certain shared participatory intention but then also as members of a platoon they have a shared participatory intention as inclusive authors of the army and then perhaps the military as a whole which encompasses the various branches, they are all a larger group. If so, according to his methodology, there is some sense in which an army officer is a joint author of things that the navy is doing. Moreover, why not expand the collective once more the state as a whole? So, it is possible to hold the noncombatants liable in an unjust war. If so, it is possible to argue that most noncombatants might be inclusive joint authors in unjust war. For example, David is a scientist in the state. When it comes to his participatory intention towards the collective actions of the state, he intends to design weapons since his role is design weapons. It is obvious that the weapons he designs enable the military of his state to

fight more effectively. Also, Emma intends to play her role in the general functioning of her state and part of what her state is fighting on war. So, when she has an intention to play a role in the activities of the state that include an unjust war, someone can say that Emma intends to play a role to support an unjust war which is one part of collective action in state. If so, David and Emma are an inclusive joint author of the unjust war. This means they are also complicitously liable to be killed. Bazargan raises a problem for himself, and he does seem to admit that everybody in a sense is part of the collective in war, and this leads him to raise the question how central or peripheral their role is.¹⁰⁰

[M]y account of complicitous liability over-generalizes by implicating a significant proportion of civilians. But this worry is unfounded. The function of civilians, such as tax-payers, is to contribute in ways that have only a marginal impact, at best, on the war. So even if a typical tax-paying civilian, for example, ultimately contributes no more to an unjust war than an ineffective combatant does, the ineffective combatant can still bear substantially greater complicitous liability than the civilian. A combatant's role, in a straight-forward sense, is designed to contribute to a degree far greater than the typical civilian's. After all, a combatant's successful

¹⁰⁰ Bazargan takes a similar view, arguing that the military is part of the state and war is understood as a collective action of the state, then noncombatants can also be considered as participants in the larger collective action. He says “[O]ne might worry that, based on the analysis of cooperative projects that I have presented, “the armed forces” is part of a larger cooperative project, encompassing all the civilians engaged in war-planning, war-provisioning, and war-making. Moreover, one might point out that since the military is an element of the state, it is natural to think of the government as a cooperative project which includes the citizens as its members, if the citizens vote government officials into office, or if they pay taxes part of the purpose of which is to fund the military” (Bazargan, 2013, p.189).

contribution to an unjust war is enough to ground individual liability to be opportunistically killed—but not so for a typical civilian’s successful contribution to an unjust war. (Bazargan, 2013, p.189)

He considers the objection I raise, and his solution is that the distinction between the roles of combatants and noncombatants in war, and the degrees to which these roles contribute to the unjust war, is sufficient to maintain that combatants with central roles are liable to be killed, but not sufficient to maintain that noncombatants with peripheral roles are liable to be killed. Put differently, his method to justify killing in war is the degree of inclusive joint authorship that distinguishes whether an individual is liable or non-labile as a member of a state. The assumption here is that the degree of inclusive joint authorship is determined by the roles assigned to individuals in the collective.

However, it seems to me that the distinction between the centrality and peripherality of roles does not necessarily coincide with the distinction of the liability of both combatants and noncombatants.

Let us evaluate six people, Chris, Bob, David, Emma, Fisher, and Sara in Chapter II, according to the centrality of the roles Bazargan suggests.¹⁰¹ First of all, the combatant Chris

¹⁰¹ For the sake of discussion, refer to the different types of individuals I introduced in Chapter II: *Chris*. Combatant Chris was drafted into the army and participated in an unjust war. As an infantry combatant, he used a rifle and combat knife as a useful tool to kill just combatants, *Bob*. Combatant Bob doesn't kill just combatants directly with a weapon like Chris does. He is a combatant who only serves in supporting roles, such as providing food and maintaining weapons, *David*. Noncombatant David is a researcher who works in the defense industry. For his nation’s security, he has made a very effective bomb that maximizes killing and causes mass destruction in war. *Emma*. Noncombatant Emma is a civilian who works at a firm of accountants. As a citizen she pays taxes to her state and votes in the election of national political leaders. *Fisher*. Noncombatant Fisher is a citizen who works for a food production company. His company has a contract with the military to provide and deliver food for combatants. *Sara*. Sara is a noncombatant who is an employee of a munition factory.

plays the role of directly attacking the opposing combatant in war. His role is therefore central to the unjust threat in war. The other combatant Bob does not directly participate in combat, but instead serves to support the combatants on the battlefield. It seems to me that Bob's role is relatively less central than Chris's role. Nonetheless, Bazargan would want to say that Bob's role is still on the fairly central side, and it is enough to ground complicitous liability. Therefore, according to the centrality of the roles, all combatants are complicitously liable to be killed, irrespective of contributing directly or indirectly to their unjust threat.

Emma's role as an ordinary citizen is peripheral in unjust wars. She poses no direct threat to anyone in war. She contributes as an individual to the state to which she belongs by fulfilling the basic duties and roles required of everyone as a citizen of the state. Bazargan does not deny Emma's contribution to the unjust war but believes that Emma's role is very peripheral and not sufficient to consider her an inclusive joint author of the unjust war. Thus, Bazargan can say that ordinary civilians such as Emma are not complicitously liable to be killed. Let us consider David. Most people might agree that David has a central role that makes a significant contribution to the war even if he does not pose an unjust threat directly.¹⁰² Nevertheless, if Bazargan asserts that David is also not liable to be killed because most noncombatants have absolute immunity from killing in war, this is incompatible with the difference between centrality and marginality of roles, which are the criteria for determining liability suggested by Bazargan. In response to this problem, Bazargan may

¹⁰² Historically, there have been attempts to make or justify the killing of scientists involved in weapons development or research even though they are illegal because of the significance of their contribution to war. "More recently, since 2007, five Iranian nuclear scientists have been killed under mysterious circumstances, most with motorcycle-borne assailants attaching small magnetic bombs to the exterior of the victims' cars" Meisels (2013).

posit some exceptional cases in the form of slightly weakening PNI. Specifically, he can admit that David really has a central role in designing weapons for the military, so David is liable to be killed. Or Bazargan could say that the significance of David's role is equivalent to that of effective combatants like Chris. Then David, although David is a noncombatant, is liable to be killed due to the centrality of his role. However, it would be possible that there are very few noncombatants who play central roles on a similar level to David.¹⁰³ If so, his response might work to avoid the problem I raise.

It might be interesting to consider Fisher and Sara who are noncombatants. Fisher works as a food factory employee. The food he produces is directly distributed to the combatants in the military. It seems to me that his role is neither central or peripheral—somewhere between David and Emma's role—and is similar to Bob's role, but more indirectly contributes to the unjust threat. Also, Sara is a noncombatant, but I think her role is equally central to Bob's role in an unjust war.

If the role of Bob and Fisher are equally central or peripheral, then it looks like Bazargan has to argue that Fisher is liable to be killed. This is because, according to the centrality of roles, if Bob and Fisher are different but play an equal level of centrality in an unjust war, the liability of the two should also be determined equally. Earlier, Bazargan explicitly argued that ineffective combatants like Bob, although their role in an unjust war was less central than combatants like Chris, were liable to be killed. Therefore, if Fisher's role is also central at a similar level to Bob, Fisher is also liable to be killed. If Bazargan

¹⁰³ Historically, we can find a couple of cases where civilian organizations such as a collective of noncombatants have played a central role in unjust wars. Please see McMahan (2009).

asserts that Fisher is not liable because he is a noncombatant and has a peripheral role, then by the same logic, Bob who is an ineffective combatant is also not liable to be killed.¹⁰⁴ It seems to me that if the centrality of role assigned to each member in the state is set as the criterion for the degree of inclusive authorship in unjust war, this leads to a result similar to the responsibility dilemma, which is the dilemma that arises in reductive individualism.

The dilemma is as follows. If Bazargan is correct, whether a noncombatant or a combatant is liable to be killed depends on the centrality of roles to an unjust threat. All or most people (combatants and noncombatants) on the unjust side play an assigned role in an unjust war. The crucial question is thus, with respect to the individual roles, what degree of centrality is required to become liable to be killed in virtue of their roles in unjust war?¹⁰⁵ In order to protect noncombatants such as Fisher and Sara, Bazargan should set the centrality bar high. But the problem is that, if the centrality bar is high, many unjust ineffective combatants such as Bob are not liable to be killed since his role is peripheral to an unjust war. If so, there are very few permissible targets in war. This results in a position very similar to pacifism. In order to avoid this result, if Bazargan lowers the centrality bar to argue that many unjust ineffective combatants are liable to be killed, then many noncombatants, such as Fisher and Sara, will also be liable to be killed. If so, the PNI cannot be preserved in Bazargan's account. Let us call this dilemma 'the centrality dilemma'.

I think the centrality dilemma is a way to show the problem in Bazargan's account. If

¹⁰⁴ Among ineffective combatants, we might think of those roles are even less central than Bob's role in killing. For example, military barbers provide barber services to other combatants and special services officers whose roles is encourage combatants to have positive attitudes.

¹⁰⁵ We need to note that, for Bazargan, if someone is the inclusive joint author of the collective unjust threat, he/she is complicitously liable to be killed.

this dilemma is right, then Bazargan fails to satisfy requirement 3. However, this dilemma applies only to Bazargan's account and does not mean that any complicitous-liability account and reductive collectivism have failed to justify killing in war. Therefore, in the next chapter, to clarify this, I would like to present an alternative complicitous-liability account by focusing on reductive collectivism.

IV. Two different participatory intentions and Complicitous Liability in War

A. Introduction

In the previous chapters, we have discussed how to justify the liability of unjust combatants in an unjust war and why most unjust noncombatants are not liable to be killed even though they are members of the unjust state. Many writers have attempted to show how to justify the liability of combatants and noncombatants. For example, in Chapter II, we evaluated whether the moral justification of killing according to the individual liability-based account claimed by reductive individualists is appropriate. The underlying problem with reductive individualism is that it gets into a dilemma when setting up an individual's liability bar to determine who is a permissible target in war. Subsequently, in Chapter III, we analyzed the complicitous liability approach proposed by Bazargan based on reductive collectivism and evaluated whether it is appropriate as a moral justification for killing in war. As a result, none of them were satisfactory to me.

In this chapter, my main purpose is to evaluate the liability of both unjust combatants and unjust noncombatants in war and argue that most unjust combatants are complicitously liable to be killed but most unjust noncombatants are not liable to be killed although they are member of the unjust state. My strategy in this chapter will be to argue as follows:

S1) There is a moral principle P when determines who is complicitously liable for an unjust collective action taken by a highly organized collective in ordinary life (outside of war).

S2) The state, which is a highly organized collective in ordinary life, sometimes resorts to unjust war.

S3) An unjust war is one instance of the unjust collective actions taken by a state.

S4) All combatants and noncombatants are members of the state.

S5) By applying a moral principle P to the context of war, we can determine which members of the state are complicitously liable to be killed in war.

First, to provide a more detailed explanation of S1, we need to remember three requirements I provided in Chapter III.¹⁰⁶ S1 is concerned with establishing a moral principle that passes requirements 1 and 2. For S1, in Section B, I will construct a moral principle that determines who is complicitously liable for a collective unjust action based on reductive collectivism. I will argue that members of an organization can have two different kinds of participatory intention, and will show that their complicitous liability is determined by what kind of intention an individual has as a collective member. Next, regarding S2 - S4, I would like to assume that these are facts that most people might accept. To show this more clearly, in Section C-1, we present a brief discussion of how war is analyzed as a collective action.

Finally, for S5, in sections C and D, by applying the moral principle P to the context of war, I will evaluate the liability of both unjust combatants and unjust noncombatants in

¹⁰⁶ Requirement 1) To satisfy reductivism, the moral principle P should potentially justify killing in non-war circumstances (ordinary life). Requirement 2) To satisfy collectivism, the moral principle P is not based on individualism rather based on collectivism. Requirement 3) For the application to the context of war, the moral principle P should justify killing in war and yield appropriate outcomes—most unjust combatants are permissible targets in war and most unjust noncombatants are not.

war. This result will show that, when states begin an unjust war, most unjust combatants are permissible targets in war and most unjust noncombatants are not.

B. Moral principle based on reductive collectivism

There are two things to keep in mind to understand the overall discussion of this section: First, we will focus on how the liability of collective members for an unjust collective action is justified in ordinary life (outside of war). As I mentioned, I want to construct a moral principle based on reductive collectivism. This means that, in order to satisfy reductivist accounts, we need to think about the moral justification of killing in ordinary life that determines who is liable for a collective unjust action, and then apply this justification to the context of war later.

Secondly, our primary focus will be on the collective action of a highly organized collective rather than a simple collective. It is obvious that individual agents belonging to a collective can be described nominally as members of that collective. However, as the collective becomes more advanced and organized, the members of this collective can be differentiated in various ways. For instance, individual agents in some collectives do not have the same roles, and their mental states toward the collective goal may also be different. In particular, when a certain collective jointly establishes a specific plan with an unjust purpose and performs an unjust collective action X, in relation to X, the members are not all the same. Some members may participate directly in X, and others may not participate in X. And among the members participating in X, some may play an important role, while others may act as simple supporters. Also, there might be non-culpable ignorance of what we are doing something together in large, organized collective actions. Even for members of the same collective, if the collective is large and has diverse division of labor, some individuals

cannot have been expected to realize they are participating in the *unjust* action.¹⁰⁷

Thus, the complexity of this sort of organization causes difficulties in assessing the liability of individual agents in the collective for the unjust action. In the moral realm, if an individual agent participates in an unjust collective action, she/he is complicit. I have already introduced the notion of participatory intention to justify attributions of complicitous liability. In order to determine who is liable for an unjust collective action, we need to discuss the content of the participatory intentions that individuals have as collective members and how this participatory intention justifies individual liability based on complicity.

B-1. Two different participatory intentions

Let us first discuss what kind of participatory intention renders members of the collective liable for an unjust collective action. I think it might be worth talking about an organization that has both just and unjust aspects.

Suppose that there is a large company whose name is 'Janus'. Janus is a large organization with many components. Many of their actions are perfectly legal and moral. Let's call the division that performs legally and morally justifiable tasks 'Good-Janus'. Unlike Good-Janus, in Janus, there is also a Bad-Janus, a division that conducts unjust activities that are not legally and morally justified. Janus is not a company that always has an unjust purpose. In general, Janus makes profits and makes social contributions, which are similar to those of large corporations. Thus, Janus is distinct from a mafia-like criminal organization. Nevertheless, Janus has intermittently carried out unjust actions in virtue of the

¹⁰⁷ Gilbert & Priest has similar view on such ignorance of members in large, organized collectives (Gilbert & Priest, 2020).

fact that Bad-Janus has performed unjust actions for the benefit of Janus as a whole.

In Janus, there are many members. Among them, there are four people who are assigned different roles as follows:

- 1) Rachel is a vice president of Janus and makes the key decisions in running Janus.
- 2) Peter is the chef at the cafeteria, which is one part of Janus.
- 3) Tokyo is a killer, and plays the assassination role required by Janus.
- 4) Lisbon is a hacker and plays the hacking role required by Janus.

They are all members of Janus, and by playing their individual roles, they contribute to the operation of the organization Janus. Let us assume the following auction situation.

Auction. Janus participated in a building auction to make a profit. Several companies, including Janus, participated in this auction, and there was a fierce price competition with Janus and Company A. As the bid deadline drew near, Janus's directors decided that winning the auction would require several efforts, one of which would be to kill the directors of Company A. Rachel who is a vice president of Janus ordered Tokyo to assassinate the director in Company A in order to win the auction. At this time, Tokyo was informed of the purpose and plan of the assassination in detail. Rachel also orders Lisbon to disable the security system installed in the directors' homes in order to facilitate the assassination. Lisbon is aware that Tokyo will assassinate the directors, and believes that if she disables the security system, this will obviously contribute to the success of the assassination of the directors.

In Auction, the directors in Company A are being unjustifiably killed by Janus, an

organization. Rachel, as vice president, orders Tokyo and Lisbon to perform assassinations that were decided by a meeting of the board of directors. And the assassination was actually carried out as a joint action of Tokyo and Lisbon. Both are members in Janus. The difference between Tokyo and Lisbon here is that Tokyo is the principal actor of the assassination, while Lisbon is the contributor.

It seems to me that we need to have additional explanations about the principal actors and contributors. Firstly, principal actors are direct actors that actually produce unjust harm as members of the collective. They are individuals who commit their own wrong actions, such as murder, destruction, kidnapping, looting, etc., for the unjust purpose of the collective. In addition, principal actors are essential actors for collective action. Also, collective actions are not completed *if* the principal actors are absent or inactive. The meaning of ‘not completed’ here is that, in the absence of the principal actor, the actual execution of the collective action planned by the collective is not achieved. For example, when one collective kills someone jointly, even if there is a designer who planned it and contributors to support it, an unjust joint action will not be completed unless the principal actor who actually performs the killing takes action. If so, there would be no consequences of collective action.

Secondly, there are contributors who do not directly pose threats, but only contribute to threats posed by the principal actors. Contributors usually play supporting roles in joint action. Contributors are collective members who do not directly cause unjust harm, such as murder or looting, but contribute to the unjust actions of the principal actor. Contributors are usually aware of the unjust collective purpose and the specific plans to achieve it, and they

directly support principal actors.¹⁰⁸

Let us return to Auction. In Auction, it is obvious that Janus inflicted unjustifiable killings on members of Company A. What then is it for Janus to intend to do something together?¹⁰⁹ As I mentioned, it is possible to say that when an organization intends to kill person X, individual participants have a shared participatory intention directed towards the assassination. In order to clarify the notion of a shared participatory intention, let me give some explanations of how first-person singular intentions are connected to plural intentions. There are two things we could mean when we talk about a shared participatory intention. The first one is a first-person singular intention to play a role in a common collective action. For instance, I intend to play a role *r1* in collective action, and you intend to play a role *r2* in collective action. The contents of my intention and your intention are both first-person singular "I intend to play a role in collective action." Those are different intentions, but two the intentions are shared because both intentions are directed towards the same action.

¹⁰⁸ One might argue that there may be instances where contributors do not fully understand the unjust collective action in which they participate. I will provide my views later in relation to these epistemic elements. For the sake of discussion, we will assume that all contributors have an understanding of the collective action in which they participate.

¹⁰⁹ Some scholars, so-called methodological holists, argue that highly organized structured collectives are the author of their actions since collective actions are the outcome of collective endeavors. Methodological holists usually emphasize that if some collective has a decision-making structure accumulated over a long period of time, these collectives can be accepted as a moral agent. Feinberg (1970), French (1984), Crawford, (2007), List and Pettit (2011), Isaac (2011), Pasternak (2020), Copp (2020). Other scholars (Gilbert 1990; Bratman 1999; Mellema 2006; Tuomela 2007) argue that not only structured organizations, but also goal-oriented collectives can be considered as a collective agent. According to Mellema, a goal-oriented collective is not an organization, but is a group of people working toward achieving joint goals (Mellema 2006). However, I think that even though organized and goal-oriented collectives are structured and have complex interactions among their members, such facts do not imply that the collective itself has any intentions, motives, responsibilities, and knowledge. We can still accept the shared intention *without* attributing an intention to the collective *as such*.

Whenever two people have first-person singular shared intentions towards some common action, then we also intend to form an action together. Thus, this counts as a shared participatory intention: “We intend to do something together.” The second one is just the first-person plural intention. In this case, the shared participatory intention is the plural intention “We intend to do something together.” I think that the word ‘we’ can be used as the subject in both ways equally, but in this chapter, unless otherwise specified, I follow the first way. Let us analyze the intentions of the individuals who participated in the assassination.

Rachel, as vice president, plays a role as a decision-maker. Rachel is fully aware of all aspects of the plan as the designer and mastermind of the collective unjust plan. She might have the intention “I intend to order someone to kill the directors of Company A.” This is a first-person singular intention, and it doesn't even seem to be towards a collective action.¹¹⁰ She wants to kill the directors, but she is going to use her employees, Tokyo and Lisbon, as her instruments rather than shooting the person herself.¹¹¹ So she is killing the person via ordering.

Tokyo is a principal actor and also clearly aware of the purpose of Janus and the specific plan to achieve it, and she eventually kills the directors of Company A. It seems to me that Tokyo has the intention “I intend to kill the directors of Company A.” Rachel and Tokyo might both *express* their intentions using the same words “I intend to kill the

¹¹⁰ I think that we can imagine a scenario that Rachel might first form the intention “I intend to kill the directors in Company A.” Then maybe she opens to the possibility that she will do it herself, but she doesn't have a plan yet. What she will do is give an order Tokyo to kill the directors because Tokyo is an expert. So when she first forms the intention maybe she doesn't even have a specific plan yet about being a collective action and it only actually develops a plan that kind of turns into collective action.

¹¹¹ It seems to me that when Rachel intends to kill the director, she intends to do it via ordering and initiating a collective action.

directors of Company A.” However, we need to note that Tokyo's intention is not the same as Rachel's intention, since they intend to participate in the assassination in different ways. In particular, Tokyo is as an individual agent actually killing the directors by himself. Whereas when Rachel intends to kill the directors and do it via ordering and initiating a collective action. So maybe there is a way in which her initial intention already was kind of a collective sense when she says, “I intend to order someone to kill the directors.” Thus, the content of their intentions is different. They, however, both share participatory intentions to kill the directors because both intentions are directed towards the assassination.

Let us think about Lisbon. Lisbon made a direct contribution to the assassination and assisted Tokyo, who is the principal actor under the direction of Rachel. Lisbon did not physically assassinate but took part in the assassination by hacking. So, it seems to me that Lisbon has an intention that “I intend to disable the defense system of the director’s house,” The content of Lisbon’s intention is clearly different from both Rachel and Tokyo. Her intention, however, is directed towards the assassination. Thus, we can say that Lisbon shares participatory intentions to kill directors with Rachel and Tokyo.

What is clear here is that each member contributes to Janus by playing the role assigned to him/her in the achievement of Janus's purpose. So, the content of their intentions differs according to the role assigned to them. The important point here is that each of them not only intends to play a role in killing the directors of company A, but they all share participatory intentions to kill the directors of company A together. Thus, it is possible to say that they have a shared participatory intention directed towards the assassination.

One might argue that not all individuals participating in an assassination make an equal contribution to the assassination, and differences in their contributions are crucial in

determining an individual's liability.¹¹² I think that it is unclear who made a greater contribution to the assassination: Rachel, who decided and planned the assassination, or Tokyo, the principal actor who carried out the assassination.¹¹³ What is clear, however, is that both have a shared participatory intention to participate in an unjust collective action.¹¹⁴

Let me clarify how a shared participatory intention relates to liability. If an individual agent has a shared participatory intention for a collective unjust action, then they are inclusive joint authors of the unjust action. We need to note that the complicitous liability of an unjust collective action does not depend on the degree of individual's contributions to a wrongful plan, but rather in their participation in that wrongful plan. The implication of complicitous liability is that an individual member can be held complicitously liable to be defensively killed if doing so is required to protect against the threats caused by other group members.

Here, a more detailed explanation of the mechanism of complicitous liability seems to be required. In Auction, we can imagine a situation where the only way you can foil the assassination before Tokyo shoots the directors is to shoot Lisbon. It is possible to say that killing Lisbon could prevent the killing of the directors of Company A. If the only way you

¹¹² I think individualists believe that, even though organized and goal-oriented collectives are structured and have complex interactions among their members, such facts do not imply that the collective itself has any intentions, motives, responsibilities, and knowledge. Therefore, they believe that all factors that we usually consider when considering liability, such as collective action, collective intention, and collective awareness, are all reduced to individuals and should be evaluated only as individuals. They only claim that from an individualist moral standpoint, we should be able to assess the morality of individual action independent of collective action.

¹¹³ It is unclear what makes a difference to their ability to have complicity.

¹¹⁴ One could argue that the epistemic requirement should play a role in the formation of a shared participatory intention among individual agents. I will discuss this possibility in detail in the next section.

could save the life of the director was to shoot Lisbon, it would be permissible to do that in this case even though Lisbon is not a principal actor who is killing the director in Company A.

Therefore, Rachel, Tokyo, and Lisbon may make different contributions to the assassination, but regardless of this, they are liable to be killed in that they jointly have a shared intention to participate in the assassination. It is possible (and surely common in real cases) for individual contributors to have participatory intentions that refer to the same action under different descriptions, even if they all have the same information about what the action will entail. For example, one participant might have an intention with the content “We assassinate” and another might have an intention with the content “We eliminate the competition.” Presumably some descriptions of the action might reveal true ignorance about the moral qualities of the action, but there's going to be a wide range of distinct descriptions that essentially show that people who intend the action under those descriptions understand the moral relevance of the action.

Now, let us think about Peter, who is working at the cafeteria, which is one part of Janus. Peter is a member of Janus and is cooking in the kitchen in the cafeteria. Peter can still be considered a contributor to Janus because he makes a contribution that causally supports Janus in some ways. For instance, when Peter is feeding Rachel, Tokyo, and Lisbon, we can imagine that as long as he plays a role as a chef in Janus, his actions are part of Janus, and Peter contributes, at least indirectly, to the assassination. Someone might believe that, as a member of Janus himself, Peter is also an inclusive author of its unjust actions since his role is part of Janus. I am skeptical that he is an inclusive joint author of the assassination, even if he is a member of Janus and his role contributes to both Janus and the

assassination.

In my view, we should draw a distinction between (A) intending *to play a role* in the *functioning of a collective* and (B) intending to *participate in a collective action*. I want to call (A) a ‘functional participatory intention’ and (B) an ‘immediate participatory intention’. Although some might argue that both (A) and (B) are morally equivalent, I argue they aren’t.¹¹⁵

Let me clarify the functional participatory intention in my view. As I have mentioned, large-organized collectives have many different kinds of roles and organized structures.¹¹⁶ All collective members have a role assigned to them, and most members are aware that their role is not entirely independent but part of the group. All members of the organized collective are embedded in the functional structure. Some might consider this functional structure to be the same as a hierarchical structure. However, hierarchical structures are just one kind of functional structure. There are many others. The distinctive mark of a functional structure is not hierarchy but that members belonging to the collective perform various functions required for the proper operation of the collective. In light of the functional aspect of the collective, each individual has the intention “I intend to play a role R as a member of the collective,” on the role assigned to him at the individual level. This is not

¹¹⁵ I think that this distinction is applicable only to a large-organized collective. As mentioned earlier, there are many different types of collectives. If individual agents play any role in specific ad hoc collectives or goal-oriented collectives formed for unjust purpose, they should be considered to have an immediate participatory intention.

¹¹⁶ In sociology, various types of organizational structures have been discussed. For example, there are hierarchical structures, a matrix structure, a flat structure, a divisional structure. In analyzing various collective actions within a highly organized collective, I think that it is also worthwhile to discuss the intentions of individual agents to participate according to various types of structures, but I set aside those discussions as they go beyond the scope of this dissertation. For a detailed discussion on this see Grossi et al (2007).

to say that every member has the same role and makes equal contributions to a collective. At the individual level, the contents of intention are different depending on what the role of R is. Also, if the size of the collective is large and roles are subdivided, members may not fully know each other's roles. Notwithstanding, all members reasonably expect that their roles are some of the functions required for the operation of the collective.¹¹⁷ Thus, there is the content of the shared intention “I intend to play a role as a member of the collective *together*” that all group members have. In other words, basically, all members of a collective have a first-person singular intention to play a functional role in the collective as a member, and this intention is a functional participatory intention that members of the collective intend to play a role as a member of the collective. We need to note that a functional participatory intention is here, not just a shared state of intending but the intention shared among collective members directed toward *their* functions in the collective. What I mean is that each one has a single function, but they don't all have the same function.

The crucial point is that for any large-scale collective in ordinary life, such as Janus, on a functional aspect, there are members that intentionally contribute to the organization without any unjust purpose. For example, Peter does not really play a role in any particular criminal plans. Rather, he just runs the kitchen in the cafeteria. I'm not saying that Peter is not a member of Janus or does not contribute anything to Janus. In my view, even if Peter has a functional participatory intention to contribute to Janus and he contributes to the unjust

¹¹⁷ Some members might perform functions that contribute to the operations of the collective but are not required for the operations of that collective. For example, many modern bureaucracies have lots of redundancies in them, such that people play roles that strictly speaking are unnecessary. Moreover, many big, structured collectives can sustain some losses in membership without operations falling apart. What I am trying to say is that group members have their own roles, and these roles, regardless of their importance or actual contribution to the collective, are essential to maintaining and operating the collective.

collective action, it does not mean that he is generally participating in something, even at a very high level of abstraction.

Also, the crucial thing is that even though Peter is a member of Janus like Rachel, Tokyo, and Lisbon, there is no *super* action that Peter, Rachel, Tokyo, and Lisbon are all performing towards which they all have a shared participatory intention where the assassination is just part of that. Which means that there is no one thing that the organization is doing. They all belong to Janus and are playing their functions in Janus but that does not mean that they are generally participate in something, even at a very high level of abstraction. In Janus, there are different divisions that are doing their own separate actions at an individual or sub-collective level, but there is not one super action.¹¹⁸ Of course, there is something they do have certain goals, such as making money, but that doesn't mean that there is one super action where everything that they do is just a part of that action. The crucial point I'm making here is that there are members who play a role in an organization, but that doesn't mean they are inclusive joint authors with the other members.

I think that Peter doesn't have any immediate participatory intention in any action taken by the other members, Rachel, Tokyo, and Lisbon, of the Bad-Janus. On the contrary, other members, such as Rachel, Tokyo, and Lisbon, are engaged in unjust actions. They are

¹¹⁸ Sometimes people might say that there is one super action which is like living my life, and everything I did was just a part of that action. I don't think so, but I think for everything I mean, there could be somebody in fact living life. What makes two sub-actions part of a single action is that each one is formed with the intention of contributing to that larger action and I don't think everything I do is. I do not intend each of things I do to be a contribution towards this larger action of living my life. I suppose that if I have some master plan of living a perfect life and everything, I decide whether or not to do it based on whether it is a contribution towards this larger action of living my life then maybe in that case I am performing this one super action and everything else is a part.

intending to participate in the unjust action and have the shared participatory intention of the assassination. Thus, they not only have a functional participatory intention directed toward their functions in Janus, but also have an immediate participatory intention directed toward an unjust collective action. The overall picture of how members belonging to a collective have distinct participatory intentions is diagrammed as follows:

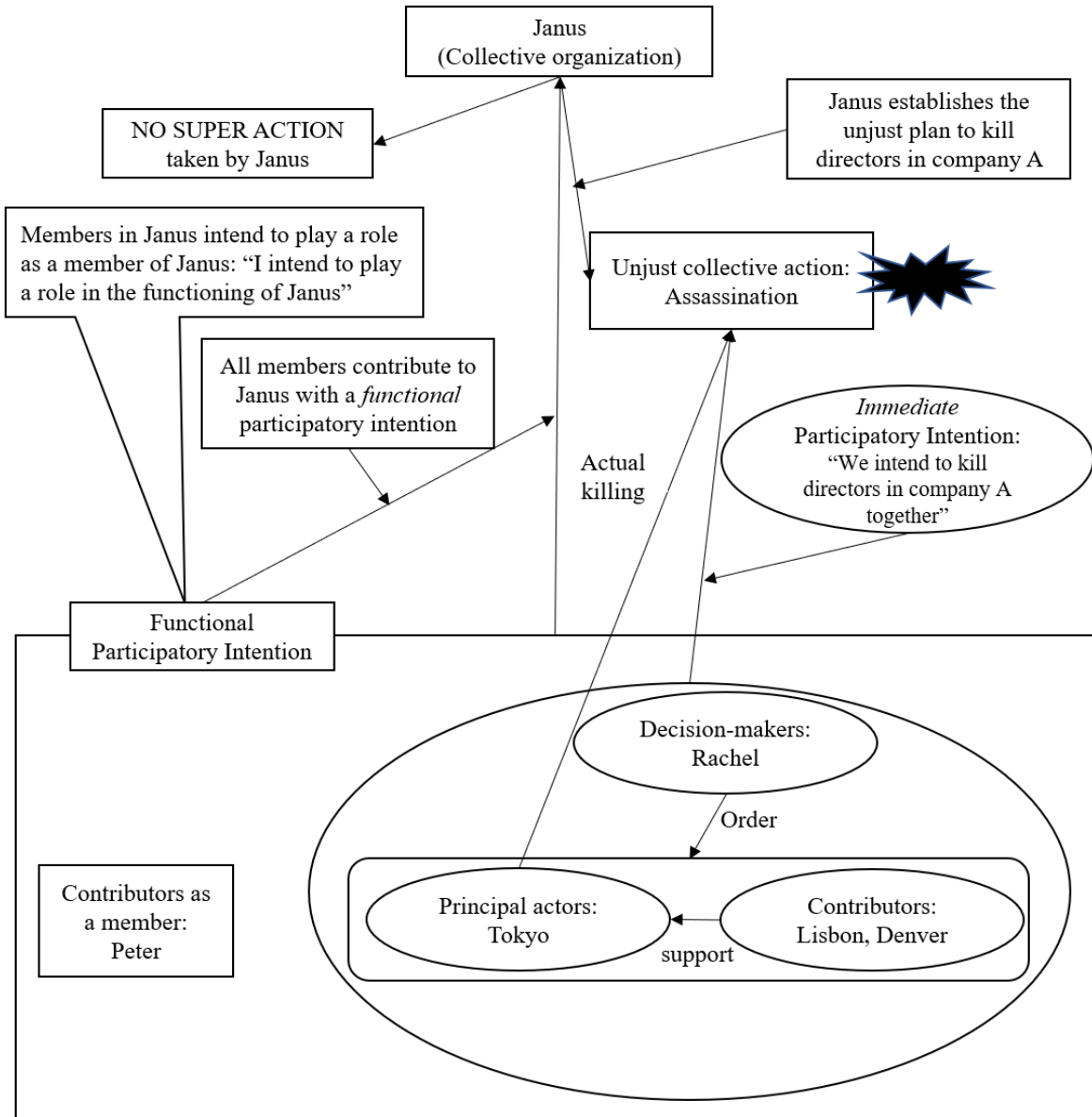


Figure 7.

This mechanism shows us that members can have a functional participatory intention directed toward the collective, regardless of whether the member actually engages in a certain collective action, and regardless of how important their role is to the collective, and regardless of whether the member has an intention to participate in an unjust collective action.

The distinction I suggest here is clearly different from the distinction between central and peripheral roles presented by Bazargan in the previous chapter. If we take the criterion of centrality, Peter's action is part of this unjust action, and he has a peripheral role, but the other members' roles are central. What I am trying to say is that Peter's role is not just peripheral to the assassination, but that his role is somehow outside of the boundaries of the assassination. He does not have the immediate participatory intention for the assassination. Moreover, he doesn't even share a broader participatory intention with Rachel, Tokyo, and Lisbon.

As a member of Janus, if Peter just has a functional participatory intention, then he is not an inclusive joint author of the unjust action. If so, he is not complicitously liable to be killed. Through the discussion so far, we can formulate a moral principle P as follows.

CL1) Individual agents who are members of a collective have an immediate participatory intention directed toward the unjust collective action, if and only if, they are an inclusive joint author of the unjust collective action.

CL2) If an individual agent is an inclusive joint author of an unjust collective action, he/she is complicitously liable to be killed.

By hypothetical syllogism, we can construct the principle as follows:

Moral Principle P) If individual agents who are members of a collective have an

immediate participatory intention directed toward an unjust collective action, then he/she is complicitously liable to be killed.

The implication of principle P is that determining whether an individual agent is the inclusive joint author of unjust collective action does not depend on how much the individual member of the collective contributes to the unjust collective action or whether the role assigned to him is peripheral or central to the unjust collective action, but depends on whether individual agents have an immediate participatory intention with respect to the unjust collective action or not.

B-2. Epistemic requirements

Let us talk about an epistemic requirement for complicitous liability. I think that it is worth considering whether an individual's liability depends on their understanding of what they are doing and the part that it plays in larger unjust action. So, this is some sort of epistemic condition. I believe that, basically, anybody who participates in an unjust action with an immediate participatory intention is liable to be killed, even if they didn't understand what they were doing or they fail to realize the action is morally wrong.

Let's recall Auction. In Auction, Tokyo and Lisbon clearly knew that the collective Janus had planned an assassination and agreed to participate in the project. In this sense, they know that the plan Janus is pursuing is an unjust aim. Also, Rachel—who is a vice president, established an unjust plan and ordered Tokyo and Lisbon—fully understands the unjust plan. Thus, Tokyo, Lisbon, and Rachel, who participated in the assassination, are fully aware of the unjust joint action. So, they all know the non-moral fact. Suppose they are nevertheless unaware that an assassination is morally wrong. Let this kind of ignorance be 'pure moral ignorance.' Can we accept that pure moral ignorance can exempt someone who

is liable to be killed from their liability? I and most people are skeptical that pure moral ignorance does exculpate someone from a complicitous liability. There are many reasons that pure moral ignorance cannot be grounds for immunity to liability.¹¹⁹ Thus, I do not regard this kind of ignorance as an epistemic consideration. The next kind of ignorance we should consider is culpable ignorance of non-moral facts. Let us add one more member, Denver, who is also a member of Janus.

Auction 2. Other things are equal to Auction. To increase the chances of a successful assassination, Rachel tells another member of Janus, Denver:

"Okay Denver, here's what I want you to do. Here's a walkie-talkie, Stand near the director of Company A's house and warn me when the police come."

But Rachel did not tell Denver that she was planning the assassination and that his role was part of this plan. Denver is a member of Janus and Rachel is planning something, and this plan is a bit questionable. But Denver just tells Rachel, "Don't tell me. I don't want to know anything." According to Rachel's request, Denver looks out at the director of the company's house. But the police or others didn't come, and Denver didn't have a chance to use a walkie-talkie. After that, the assassination was successful.

In the above case, Denver is a contributor since he played a role in supporting the assassination.¹²⁰ The difference between Lisbon and Denver is that Lisbon fully knew and participated in the specific plan for the assassination, but Denver did not know about the

¹¹⁹ We can easily agree that moral ignorance is not acceptable as a kind of appropriate epistemic consideration. Most moral discourse presupposes that murder, fraud, robbery, rape, and many other morally unjustifiable acts are wrong. I also basically have this premise.

¹²⁰ Even if, consequently, his role did not contribute to the success of the unjust plan, he plays a role as look-out.

unjust plan. We can raise the question of whether Denver is fully liable for defensive violence or not.

Someone might argue that Denver does not have any participatory intention since he does not know about the unjust plan for the assassination. Bratman (1993), Gilbert (1990), and Tuomela (1991) argue that in order to be a collective action, there must be epistemic considerations as a requirement of collective action and members of a collective should satisfy certain epistemic conditions. I agree that there might be certain epistemic conditions for collective action. For example, for members of the UCSB Philosophy Club to hold an academic conference, club members may successfully hold the conference only on the condition that they both know the non-moral facts, such as the place and time of the conference, and that they know the other members know that.

However, in ordinary life, when deciding whether to do something that is required of us as a member of a collective, we are often unaware of all the relevant facts. In this case, we usually make judgments based on the available evidence and decide whether to act or not. In Auction 2, Denver does not know how his action fits into some plan, but he might know that there is some joint action taken by others who play a role in unjust actions. There was ample evidence that should have led him to at least suspect that his role was one part of an unjust action. Thus, I think his ignorance is a sort of culpable ignorance. Denver should at least have a suspicion that Rachel will do something with an unjust aim. Here I don't mean that Denver has an intention towards the action under the description of an unjust action because he doesn't realize it is unjust. He just has to be intending to play his role in this action, which as a matter of fact, turns out to be an unjust action. There are two parts to the explanation about why Denver is liable to be killed. The first part is that he has a

participatory intention in an action that, as a matter of fact, is unjust. The second part is, although he is ignorant, it is culpable ignorance, so his culpable ignorance of the unjust action does not exempt him from complicitous liability.¹²¹ So, I argue that Denver is complicitously liable to be killed.¹²²

I think that there is sometimes non-culpable ignorance of what we are doing or how we are doing it in large, organized collective actions. In the large and organized collectives, there are cases that some individuals cannot be expected to realize they are participating in unjust actions.

Suppose that James is working at the restaurant in Janus. So he is a member of Janus. He plays a role as a chef. However, this business is owned by Janus and its function is money- laundering. Also, the laundered funds are essential to Janus' unjust plan. There are a lot of restaurant activities, such as cooking, serving, and so on. James doesn't realize that his role is actually a part of an unjust plan. He is contributing to money laundering and his role is central to money laundering. Put differently, James is not just supporting the people who are engaged in unjust operations such as money-laundering, but he is actually playing a crucial role in the money-laundering operation. If so, can we argue that James is complicitously liable for the money-laundering by Janus? I don't think so, since James's ignorance is not culpable. In a fact-relative sense, James took part in the unjust joint action

¹²¹ I also believe that even if members are not fully aware that they are participating in the unjust plan, they are obliged to have rational consideration based on the available evidence given to them. I haven't introduced the discussion of moral obligation, but I think it's worth considering later.

¹²² As I mentioned, if a person has an immediate participatory intention, that person is an inclusive joint author.

of money-laundering by playing his role.¹²³ This means that he has an immediate participatory intention concerning money-laundering. There is no way he can reasonably expect that his role is central to or part of the unjust plan.¹²⁴

If the member could not have been expected to realize that the project he/she was contributing to was unjust, then he/she is not liable for the unjust collective action.¹²⁵ Thus, I argue that, even if the individual agent has an immediate participatory intention for the unjust collective action, non-culpable ignorance of collective unjust action exempts the individual agent from complicitous liability.

C. Complicitous liability in war and combatants

C-1. War as collective action

As our discussion so far has concerned the nitty-gritty of complicitous liability based on reductive collectivism, it is worth recalling what we set out to show in this chapter. The aim was to evaluate the liability of both unjust combatants and unjust noncombatants in war. We need to evaluate whether or not the moral principle P I constructed that passes the requirement 3—For the application to the context of war, the moral principle P should

¹²³ Derek Parfit distinguishes the fact-relative sense and evidence-relative sense of wrongness as follows. Parfit (2011) pp.150-151.

- 1) Evidence-relative sense: “Wrong in the evidence-relative sense just when this act would be wrong in the ordinary sense if we believed what the available evidence gives us decisive reasons to believe, and these beliefs were true.”
- 2) Fact-relative sense: “Wrong in the fact-relative sense just when this act would be wrong in the ordinary sense if we knew all of the morally relevant facts.”

¹²⁴ If we take the criteria of the liability that Bazargan suggests, James is complicitously liable for the assassination. This is because his role is not peripheral to the unjust plan.

¹²⁵ I want to emphasize that non-culpable ignorance is not an epistemic condition on having participatory intention.

justify killing in war and yield appropriate outcomes.¹²⁶ So before we apply moral principle P to the context of war, we need to have an understanding of the collectivity of war. In this regard, I mentioned S2)- S4) in the introduction earlier.

S2) The state, which is a highly organized collective in ordinary life, sometimes resorts to unjust war.

S3) An unjust war is one instance of the unjust collective actions taken by a state.

S4) All combatants and noncombatants are members of the state.

I think that most people agree with the above statements. There are several scholars who argue about the collective nature of war. For example, Noam Zohar argues that “[W]ar is perceived and described properly only when we see it as being waged between nations rather than simply between two hosts of individual soldiers” (Zohar, 2004, p.739). Also, Jean-Jacques Rousseau says that “War is not, therefore, a relationship between man and man, but between state and state, in which individuals become enemies only by accident, not as men, nor even as citizens, but as soldiers; not even as members of their own nation, but as its defenders. Furthermore, each state can be enemy only to other states, and not to men, given that between things diverse in nature no true relationship can be established” (Rousseau, 2002, pp.160-161). According to Zohar and Rousseau, the basic structure of war is a collective action and cannot be explained by mere relationships between individuals.¹²⁷

I agree with them. The important point for us is to understand the features of

¹²⁶ Here, the conditions for an appropriate result are as follows: The first condition is that most unjust combatants are legitimate targets in war and the second condition is that most unjust noncombatants are not.

¹²⁷ Some other scholars also argue that understanding war as a collective action is appropriate for combatants engaging in combat together (Kutz 2005; Bazargan 2013). I agree with that, but the most appropriate way to understand war as a collective action is to understand war as a collective action involving noncombatants and not just combatants.

collective action derived from the collective nature of war. I mentioned earlier that large-organized collective actions have diversity and complexity. War is also a collective action carried out by a highly organized collective such as the state, and the individuals participating in it do not play the same role. For example, combatants are deployed to the battlefield to actually fight the enemy, while noncombatants are not deployed to the battlefield and act as citizens of the state. Also, it is difficult to regard the political leaders who decide whether or not to go to war as general noncombatants like ordinary citizens. In addition, we could enumerate the diversity of members of the state and the complexity of its structure in relation to war. The important point is that war should be recognized as a large, organized collective action rather than a mere collective action. This implies that if the state starts an unjust war, the relationships of its collective members to that unjust war vary according to a number of factors. Therefore, in the discussion that follows, I will elaborate more on the distinction between combatants and noncombatants and then evaluate their liability by applying the moral principle P based on this.

C-2. Unjust effective combatants

Someone might think that killing a combatant in war does not require any justification since the license to kill in war attaches directly to the role of the combatant. However, this is wrong. The reasons can be varied, but the most important reason is that war does not require special moral permission or principles to distinguish it from ordinary life. It is an unacceptable claim that no justification is needed for someone to kill another person just because he/she belongs to a hostile collective in ordinary life. If so, we need some justification for killing combatants in war.

I argued that individual agents in the collective could be liable for an unjust

collective action if they have an immediate participatory intention directed toward an unjust action. Therefore, an important point we should explore is to evaluate whether unjust combatants have an immediate participatory intention for unjust war.

First, let us talk about unjust effective combatants. Combatants fight in war according to the decisions of the state's political leaders, not their own goals. If political leaders decide to begin an unjust war that cannot be justified for any reason, the combatants will engage in the war by doing their part. Let's recall Chris, who is one of the unjust effective combatants.

Chris. Combatant Chris was drafted into the army and participated in an unjust war. As an infantry combatant, he used a rifle and combat knife as useful tools to kill just combatants.

Chris is an infantry combatant, and his role is directly killing opposing combatants, by doing so, he participates in unjust action as long as the war cause of the state he belongs to is unjust. I argued that if an individual member participates in an unjust action as a principal actor, then he has an immediate participatory intention. Unjust effective combatants are principal actors who implement unjust collective action by actually attacking the other side in war.

Combatants might individually have an intention "I intend to kill the enemy" in combat since their role is to kill enemies using weapons in combat. However, combatants can have other broad intentions that differ from "I intend to kill the enemy." When one combatant is killing an enemy, there are not only other effective combatants who are killing the enemy *together* in combat but also ineffective combatants who support their killing. Thus, in combat, effective combatants have a more extended content of intention "We (I and

you) intend to kill the enemy together.” This is not just an individual's intention; this is a sort of shared participatory intention that figures in collective action in combat.¹²⁸ They clearly intend to participate in the wrongness of the state.

We can conclude that Chris, an unjust effective combatant, has an immediate participatory intention for an unjust war, and by doing so, Chris is complicitously liable to be killed in war.¹²⁹ One possible objection here could be that unjust effective combatants may not be aware that they are participating in an unjust war. Zupan contends that the ignorance of the cause of war is a general feature in war. Zupan says, “[T]he ignorance of combatants is such a common feature of their experience, even in wars that, from an objective point of view, are much less controversial. Being under orders, trusting in his superiors, focusing on the mission at hand are such a part of the ordinary experience of being a soldier that ‘knowing’ his or her war to be unjust turns out to be something he or she literally cannot do” (Zupan, 2007, p.45).

I partially agree with Zupan, since unjust combatants not always but occasionally don't know that their war is unjust. It seems to me that we can say some unjust combatants do not know that their war is unjust. However, the fact that Chris simply did not know that he was participating in the unjust war is not sufficient to undermine his liability. I argued that members in a collective who don't understand the unjust plan because of culpable ignorance are also liable to be killed. If an individual agent is to kill someone under the direction of someone or in a role required as a member of a group, then in the context of that

¹²⁸ Note that each combatant has first-person singular intentions “I intend to kill the enemy” towards an unjust war and most combatants also share the first-person singular intentions together. Thus, this counts as a shared participatory intention directed towards an unjust war.

¹²⁹ I think that Chris is analogous to Tokyo who is a member of Janus I mentioned in the previous section.

he is obliged to make his own moral evaluation of his actions. In particular, if one is acting as a principal actor in the process of unjust action, it is necessary for one to consider what one is doing as a moral agent.¹³⁰

Thus, unjust effective combatants in war are required to consider whether their killing as principal actors is just or unjust. They should be aware that they are performing the action in question. To sum up, unjust effective combatants have an immediate participatory intention in that they play the role of killing by directly fighting for an unjust war, even if they did not know they were fighting for an unjust cause.¹³¹ Therefore, they are complicitously liable to be killed in war.

C-3. Unjust ineffective combatants

As mentioned earlier, not all combatants in war directly attack or kill the enemy in war.¹³² Unjust ineffective combatants, unlike effective combatants, do not participate directly in combat. Thus, they do not pose an unjust threat to their opponents but instead act as contributors to support unjust combatants. Let's recall Bob.

¹³⁰ Faber argues that combatants should consider their own high probability of committing wrongness when joining the military. She says, “[G]iven that most wars are unjust and known to be so, agents who agree to join the army can reasonably be expected to realize that they are incurring a very high risk of wrongfully killing some other combatants. Under conditions of uncertainty and on the plausible assumption that one ought to err on the side of not acting wrongfully, particularly when lives are at stake, agents ought to have a justifiably high degree of confidence that the war in which they are asked to participate is just, as a condition for joining it” (Fabre, 2009, p.48).

¹³¹ I mean that so long as combatants' ignorance is culpable, which it usually is in war, they are still liable to be killed.

¹³² In Chapter II, I introduced the ratio of effective and ineffective combatants on footnote 54.

Bob. Combatant Bob doesn't kill just combatants directly with a weapon like Chris does. He is a combatant who only serves in supporting roles, such as providing food and maintaining weapons.

It may be questioned whether Bob is liable to be killed or not, because he does not directly kill enemies in war. In ordinary life, sometimes an individual member does not directly pose a threat himself but only support to the unjust threat posed by other members. There might be a moral distinction between directly *killing or attacking* person A and *only supporting* others to kill person A. These two kinds of action coincide with the action of the principal actor and the action of the contributor as an accomplice, respectively. If liability only attaches to principal actors although they (principal actors and contributors) collectively cause unjust threat, then contributors are not liable to be killed. If so, Bob, an unjust ineffective combatant, is not liable to be killed. I think, however, that unjust ineffective combatants are complicitously liable to be killed as well as unjust effective combatants. I argued that if an individual member has an immediate participatory intention for unjust action, then this member is an inclusive joint author of unjust action. And if an individual member is an inclusive joint author, then she/he is complicitously liable to be killed, assuming he is not non-culpable ignorant of the injustice of the collective action. So, we need to pay attention to whether Bob, unjust ineffective combatant, has an immediate participatory intention for unjust war or not.

Although unjust ineffective combatants neither directly engage in combat nor kill their opponents, their actions are closely linked to those of unjust effective combatants who are principal actors. As I mentioned, unjust ineffective combatants are not pulling the trigger on the enemy, but they are supporting unjust effective combatants. So, unjust ineffective

combatants have an intention “I intend to contribute to the collective war effort by supporting other unjust combatants.” This intention is not the intention that unjust effective combatants have since unjust effective combatants might have the intention “I intend to pull the trigger to kill the enemy.” One could point out that ineffective combatants with non-combat functions do not have the same kind of participatory intention as “We intend to kill someone.” However, their actions are not independent from effective combatants but rather one part of an action in a military operation or an unjust collective action in a state.

Here, in terms of intention, there are two possible readings. The first reading is the individual sense that ineffective combatants themselves intended to support effective combatants by doing non-combat functions. The second reading is the collective sense that we (I and effective combatants) intend to kill the enemy together. Here, we don't need to consider the military as an agent. I mean that, regardless of whether the combatant's role is direct or indirect, effective or ineffective in combat, each of the combatants can have the content of the intention “We are killing or attacking the enemy together.” If so, by the second reading, there is a broader intention that most ineffective combatants in the military share, which is the participatory intention that “We intend to kill the enemy together” in war. In this sense, I argue that all unjust ineffective combatants have an immediate participatory intention for unjust war. If so, they are an inclusive joint author for unjust war.

One might raise epistemic limitation issues; such that unjust ineffective combatants may also be unaware that they are supporting an unjust threat. The important point, however, is that although some unjust ineffective combatants do not clearly know that they are participating in an unjust war, they could know (or reasonable expect to know) that they are still supporting killing. They are clearly aware that they are supporting someone to kill,

and they are in circumstance to obtain available evidence to judge whether their action is closely related to killing or attacking someone in combat.¹³³

This has been explained in detail in the Lisbon and Denver cases presented in the previous section. Lisbon clearly knows that her actions contribute to unjust collective action and has an immediate participatory intention to participate. On the other hand, Denver does not know how specifically that his actions contribute to unjust collective action, but he has available evidence to conjecture that the actions required of him are likely to be unjust or immoral, such as killing or robbery. So if Denver does not realize that the collective action he is participating in is unjust or immoral, his ignorance is certainly culpable.

I do not deny that there are some cases in which unjust ineffective combatants do not know that their actions contribute to unjust war. Nevertheless, their ignorance does not mean that they don't have a shared participatory intention for unjust war. They intentionally become part of the plan by playing their roles and taking unjust actions with the other combatants, even if those ineffective combatants have no specific knowledge of the unjust war. Which means that they still have a shared participatory intention "We intend to kill the enemy together" with other members participating in combat. Even if they do not realize that the war, they are fighting for has an unjust cause, their ignorance of the causes of war will almost certainly be culpable.¹³⁴

¹³³ Frowe interprets the fact that ineffective combatants accept assigned roles as pursuing unjust war. "Most ineffective combatants mutually accept authority structure that assigned individual roles, and integrates tasks. So, these ineffective combatants may be considered to collectively pursue unjust war aims" (Frowe, 2014).

¹³⁴ I argued that there are two parts, when we say '[A] person, who is culpable ignorance, is liable to be killed.' The first part is that he has a participatory intention in an action that, *as a matter of fact*, is unjust. The second part is, although he is ignorant, it is culpable ignorance, so his culpable ignorance of the unjust action does not *exempt* him from complicitous liability.

Therefore, in conclusion, if the state has the unjust cause and invades another state, all unjust combatants belonging to this state are inclusive joint authors of the unjust war regardless of whether they are effective or ineffective combatants. So, they are complicitously liable to be killed in war.

C-4. Evaluation on MEC

In Chapter I, I introduced the MEC as the most controversial thesis. For the sake of discussion, let us briefly recall MEC. ‘Moral Equality of Combatants’ (MEC) is the thesis that both just and unjust combatants are morally *equal* and have the same liabilities, and constraints, irrespective of whether their cause is just or not. Thus, in the context of war, all combatants, both just and unjust, are permissible targets. This means that in war, combatants can kill each other regardless of whether they are just or unjust combatants, and their actions are morally justified.

I have previously introduced the views of scholars who reject MEC and analyzed them. In particular, the attempts of reductive individualists to refute the MEC, although attractive at first glance, have exposed other non-trivial problems. I think MEC is basically wrong. It seems to me that there are two different ways to show that MEC is false. The first is to show that the conclusion of MEC is not correct. The second is not only to show that the MEC is not correct, but also that the methodology to justify MEC is wrong. To this end, I will justify why the MEC is a false thesis based on the principle P, which I suggested.

I argued that if an individual member has an immediate participatory intention for unjust collective actions, then he/she is complicitously liable to be killed. I have previously argued that all unjust combatants are complicitously liable to be killed since they all have an immediate participatory intention to engage in unjust war. Thus, in order to determine

whether the MEC is right or wrong, we need to evaluate what kind of participatory intentions just combatants have.

I think that basically all combatants have a sort of conditional intention towards war. In particular, regardless of whether the combatants are just or unjust, everybody in the army has the intention “I will attack the enemy if we go to war.”¹³⁵ That is a *prospective* immediate participatory intention directed towards a prospective action. When combatants have this prospective intention for potential future action, we are not able to determine who is morally liable to be killed because this future action is so unspecified, it is not yet just or unjust. So we don't have just or unjust combatants. However, once war is about to happen and some evidence gets detailed enough to show that the war is in progress or shortly to be in progress, the war's moral character has now emerged.¹³⁶ For example, suppose that there are Russian combatants, and they haven't started an unjust war, but they all predict that the unjust war could be happening shortly and maybe they have been given orders. In this case, they have an immediate participatory intention towards an unjust war. If so, their intentions are not just conditional. Then we can evaluate the combatants' liability.

The crucial point is that just combatants are not fighting for an unjust war. Even if they intend to kill the enemy, their intention is not directed towards an unjust war. Thus, just combatants do not have an immediate participatory intention in an unjust war, thereby, they are not complicitously liable to be killed in war. Additionally, we need to note that my view does not entail those just combatants are not ever liable to be killed. If they play a role in

¹³⁵ The content of this intention is different from the intention “I'm going to be killing the enemy now.”

¹³⁶ I think that even though they are not fighting that moment we can still say they have the intention “I'm going to be killing Ukrainian combatants soon.” For example, if I say, “I intend to go to LA tomorrow,” it is actually true “I do intend to go to LA.”

any unjust actions—slaughter, destruction, rape, etc.—against civilians, they are liable to be killed in virtue of this participation. It is obvious that all combatants have moral and legal obligations, regardless of which side they belong to. Therefore, all combatants still need to comply with *Jus in bello*. What I want to emphasize is that just combatants are not complicitously liable to be killed simply in virtue of participating in the war and are not morally *equivalent* to unjust combatants in this respect.

This conclusion can be extended to deny the independence thesis. Walzer claims that *Jus ad bellum* and *Jus in bello* are logically *independent*, which is called the independence thesis. According to the independence thesis, the moral status of combatants is independent of the cause of the state in war. If the independence thesis is right, the moral status of individual combatants in war must be determined solely by their individual conduct.

However, the actions of combatants in war are not purely independent, and as members of the state, their actions must be understood as part of a collective action. In addition, as long as combatants have an immediate participatory intention in unjust war, they are not independent individual agents, but rather inclusive joint authors in unjust war. Therefore, regardless of how effective the combatants are in actual warfare, their liability is determined by whether the state they belong to is fighting a just or an unjust war. My claim here is clearly against the independence thesis.

D. Complicitous liability and Noncombatant

D-1. Ordinary noncombatants and PNI

Let's turn our discussion now to evaluate whether noncombatants are not liable to be killed in war. As previously introduced in Chapter I, PNI is the principle that noncombatants

are not permissible targets in war. Specifically, in the context of war, PNI states that the moral status of combatants and noncombatants in war must be clearly distinguished. The traditional defense of this principle is that, unlike combatants, noncombatants have done nothing to render themselves liable to be killed. On the contrary, unjust combatants pose an unjust lethal threat to others, and by doing so, they are liable to be killed.

I think that most people intuitively believe that attacking or killing noncombatants is not morally justified. But what matters to us is how to morally justify this intuition. To clarify this, we first need to discuss why noncombatants are not liable to be killed. Let us recall Emma, who is an ordinary citizen.

Emma. Noncombatant Emma is a civilian who works at a firm of accountants. As a citizen, she pays taxes to her state and votes in the elections of national political leaders.

Emma is just a citizen of the state who pays her taxes and votes in elections. Emma does not directly participate in war and does not participate in the development and research of any war-related materials. But even if her contribution to an unjust threat is very slight and indirect, it is possible to say that her financial or political contributions are one kind of source of an unjust war. Lazar says:

In a modern state we all make contributions, however small, to the capacity of our government to act. When our government goes to war, especially in liberal democracies, we are to some degree responsible for the threat that it poses. If this is enough to ground liability to lethal attack, then few besides children will escape liability. (Lazar, 2010, p.188)

As Lazar points out, in contemporary war, most noncombatants contribute to their

state through their roles as citizens: paying taxes, voting, and economic activity. If this state begins an unjust war, it is true that most citizens have a minimal contribution to enabling that unjust war. Moreover, the contributions of scientists to developing new weapons that can be used in warfare and the collective contributions of employees working in munitions factories to unjust war are not consequently marginal.¹³⁷ Without sufficient contributions to the state by noncombatants, the state cannot successfully wage war. Put differently, we can say that noncombatants are integral parts of a war machine.¹³⁸ If so, can ordinary citizens also be considered liable to be killed for their contribution to unjust threats?

Intuitively, it is hard to accept that most noncombatants are liable to be killed. So, as I mentioned, several contemporary scholars have tried to defend PNI. Among reductive individualists, McMahan and Fabre explicitly appeal to the idea that the marginal contribution of an unjust noncombatant as an individual is not sufficient to render him/her liable to be killed (McMahan, 2009, p.225; Fabre, 2009, p.58). Also, Rodin argues that noncombatants' contributions to unjust threats are causally remote compared to combatants' contributions to unjust threats and claims that the degree of causal remoteness in unjust threats protects PNI (Rodin, 2008, pp.44–68). In Chapter II, I already showed that their ideas fail to defend PNI. Also, I showed that how Bazargan's reductive collectivist account of liability also had difficulty justifying the PNI. The idea was that it is possible to argue that most noncombatants might be inclusive joint authors in unjust war. For example, David is the scientist in state. When it comes to his participatory intention towards the collective

¹³⁷ The reason why it is referred to as 'consequential' here is that it is the contribution of the unjust attribute only on the premise that the state initiates an unjust war. If the state does not initiate an unjust war, their contributions are considered neutral or general contributions.

¹³⁸ In this regard, I have already given a detailed explanation in Chapter II.

actions of state, he is intending to design weapons since his role is to design weapons. It is obvious that the weapons he designed enable the military of his state to fight more effectively in warfare. Also, Emma intends to play her role in the general functioning of her state and part of what her state is fighting on war. So, when she has an intention to play a role in the activities of the state that include an unjust war, we can say that Emma intends to play a role to support an unjust war which is one part of collective action in state. Bazargan fully understand such problems and attempts to resolve this problem, but I argued that his solution faces the centrality dilemma.¹³⁹

Hence, I think that the efforts to defend the PNI discussed so far do not show why ordinary citizens like Emma are not liable to be killed. In my view, there is another way to show why unjust noncombatants are not liable to be killed, even though their contributions to unjust wars are not significantly different from those of ineffective combatants.¹⁴⁰

Let me give my view on how to defend PNI. I think that Emma can be compared analogically to Peter in Janus. As I mentioned, Peter is a member of Janus and was cooking in the kitchen in the cafeteria. Peter can still be considered one of the contributors because there is a kind of casual contribution to support Janus in some ways. For instance, Peter is working to support other members—Rachel, Tokyo, and Lisbon—who perform unjust actions. If so, we can imagine that as long as Peter plays a role as a chef in Janus, his actions are part of Janus, and Peter contributes, at least indirectly, to the assassination. However, he doesn't really play a role in any particular criminal plans. Rather, he just runs the kitchen

¹³⁹ Please see Section E in Chapter III.

¹⁴⁰ Even if I argue that ordinary citizens are not liable to be killed, it does not necessarily follow that all noncombatants cannot be held morally liable to be killed. I will show later that some noncombatants are complicitously liable to be killed if certain conditions are met.

into the cafeteria. Even if Peter's actions actually made a marginal contribution to unjust collective action, this is not sufficient to show that Peter is complicity liable for the assassination.

I attempted to draw the distinction between a functional participatory intention and an immediate participatory intention. A functional participatory intention is the intention that a member of the collective intends to play a role as a member of the collective. Peter just has a functional participatory intention to play his role in Janus rather than having an immediate participatory intention concerning the assassination. Nor does Peter share a broader immediate participatory intention with Rachel, Tokyo, and Lisbon concerning any large (super) action of which the assassination is a component.

Likewise, Emma's financial or political contributions are one kind of source of unjust war. However, her role in the state is not sufficient to make her complicitously liable for an unjust war. She just works at a firm of accountants. Emma just has a functional participatory intention by playing her role as a citizen. Perhaps the majority of citizens engage in social activities to fulfill their personal goals. It is very rare that noncombatants have the intention "I intend to play a role in supporting an unjust war" or "I'm going to support killing or attacking in war". Also, they don't have the shared participatory intention that "We are killing or attacking the enemy together" in war. What I want to say is that the role of ordinary citizens is not just peripheral in the unjust war, but his/her role is outside of the boundaries of the unjust war.¹⁴¹ They don't have the immediate participatory intention

¹⁴¹ This point shows exactly the difference between Bazargan and me regarding the liability of noncombatants. As I mentioned in Chapter III, in order to defend PNI, Bazargan earlier attempts to differentiate between noncombatants and combatants according to whether the roles assigned to them are central or peripheral to the unjust threat. He argued that the role

for unjust war. As members of the state, noncombatants just have functional participatory intentions, so they are not inclusive joint authors of the war. If so, they are not complicitously liable to be killed. Thus, most noncombatants are impermissible targets in war, even if they are members of a state that produces unjust harm.

D-2. Different types of noncombatants and liability

It should be noted that not all noncombatants are ordinary citizens like Emma. Fabre presents the following cases where noncombatants may be considered to be participating in war.

Although noncombatants are often thought to encompass all civilians, the latter (as has often been noted) often participate in the war: as citizens, they sometimes vote for warmongering political leaders; as taxpayers, they provide the funds which finance the war; as journalists, they can help sway public opinion in favor of the war; as political leaders, they take the country into war. Last, but not least, as workers, they provide the army with the material resources without which it could not fight, such as weapons, transports, construction units, but also food, shelter, protective clothing, and medical care. (Fabre, 2009, p.36)

As Fabre suggests, not all noncombatants play the same role. Some have a significant impact on warfare, for example, policymakers and weapon developers. Also, there are cases where some noncombatants do war-related work as employees in munition

of citizens in general unjust collective threat is peripheral whereas unjust combatants are central, so unjust combatants are liable to be killed but citizens belonging to the unjust side are not liable to be killed.

factories or deliver food to the military. They are certainly different from ordinary citizens like Emma. Let us call these noncombatants “ambiguous noncombatants.” I think that it is worth discussing whether ambiguous unjust noncombatants are liable to be killed since it helps to show my thoughts on PNI more clearly.

Let's first discuss the political leaders among the ambiguous noncombatants.

Political leaders make important decisions regarding states. Determining the cause and execution of a war is also included in the important decisions they make. Political leaders do not actually pose an unjust lethal threat such as killing the opponent. Thus, under a threat-based account, they are not liable to be killed. However, the problem is not that simple. As mentioned earlier, many reductive individualists, including McMahan, reject threat-based accounts. According to McMahan, a person is liable to be killed if and only if he or she is morally responsible for contributing to an unjust threat (McMahan, 2009). McMahan noted that political leaders make decisive decisions in launching an unjust war, and if they decide to execute an unjust war, their contributions are clear in terms of planning and controlling the unjust war. Although they are not killing or attacking someone in the war, they are morally responsible for their decisions (contributions) to wage an unjust war. Thus, McMahan concludes that political leaders are liable to be killed (McMahan, 2009, p.61).

Tony Coady also argues that noncombatants are liable to be killed if they are included in the chain of agency of an unjust threat provoked by combatants. He says:

Some civilians will be legitimate targets (and hence ‘combatants’ in my sense) if they are actively directing or promoting unjust violence. The fact that political leaders and senior public servants who are planning and controlling war are not themselves in uniform or bearing arms provides no

principled barrier to their being legitimate targets, though, as noted earlier, there may be particular or general prudential reasons for refraining. (Coady, 2008, p.162)

According to Coady, political leaders are permissible targets in war. Their contributions are sufficient in that they actively and directly promote an unjust threat, although they do not wear uniforms like combatants. I agree with Coady and McMahan that the political leaders are liable to be killed. But I disagree with their reasons for justifying the liability of political leaders. In particular, I made it clear that I reject the individual liability-based account proposed by reductive individualists such as McMahan. So, for the sake of consistency, I have to justify the liability of political leaders in other ways.

Let me clarify why I argue that political leaders are complicitously liable to be killed in war. I've argued that if an individual member has an immediate participatory intention for an unjust lethal action, then she/he is complicitously liable to be killed. So, we need to evaluate what kind of participatory intention political leaders have in an unjust war.

Let us recall Rachel, who is a vice president of Janus. Rachel makes key decisions in running Janus. She and other members made a decision to kill the directors of company A in order to win the auction. She ordered Tokyo and Lisbon to assassinate the directors of company A in order to win the auction. She might have the intention "I intend to kill directors in the company A." Furthermore, although she did not directly engage in the assassination, she had a shared participatory intention with Tokyo, who directly carried out the assassination, and Lisbon, who supported it. Thus, as I said, Rachel has an immediate participatory intention for the assassination. I think that political leaders are analogous to Rachel. This is because, while political leaders do not directly participate in war, they are

decision-makers about the cause of war. Of course, the political decision-making process is more complex and is not the same as the decision-making process of board members in organizations like Janus. However, the important point is that when a collective jointly commits some kind of unjust action, leaders make an important decision about it, and in this respect, they have a shared participatory intention. Hence, I think it is plausible to say that political leaders have an immediate participatory intention in an unjust war, and by doing so, they are complicitously liable to be killed in war. Another sort of noncombatant to consider as an ambiguous noncombatant is scientists working on weapons development. Let us recall David.

David. Noncombatant David is a researcher who works in the defense industry. For his nation's security, he has made a very effective bomb that maximizes killing and causes mass destruction in war. David's state purchased his company's weapons and used them. As a result, the bombs that David researched and developed were very effective in killing just combatants.

It is obvious that the weapons David researched are very effective in war. A small number of noncombatants like David can have a decisive effect on the scale of killings in warfare.¹⁴² In fact, it seems quite likely that David's contribution to unjust threats is more significant than those of many combatants, such as Chris and Bob.¹⁴³ However, David does

¹⁴²Haque also argues that a small number of noncombatants have a significant impact on warfare (Haque, 2017, p.74).

¹⁴³As mentioned earlier, according to Bazargan's account, David really has a central role in designing weapons for the military, so David is liable to be killed. Or Bazargan could say that the significance of David's role is equivalent to that of effective combatants like Chris. Then David, although he is a noncombatant, is liable to be killed due to the centrality of his role.

not directly engage in combat. David, like Emma, does not directly kill or attack anyone in war although he has a significant causal effect on the unjust threat. As mentioned earlier, simply saying that an individual makes a large contribution to unjust war is not appropriate as a basis to justify liability.

In my view, we need to think about what kind of participatory intention David has for unjust war. His role as a member of the state is to develop advanced weapons and to perform his assigned role. He might have an intention “I intend to develop advanced weapons.” His development of advanced weapons may have arisen out of pure scientific curiosity, but at the same time, David has available evidence to predict how his actions will affect war. If the state to which he belongs initiates an unjust war, he can conjecture that his actions contribute to producing serious unjust results. Furthermore, the important point is that his role directly concerns enhancing the war-fighting capability of his state’s military. Hence, I think that David can have a shared participatory intention with other combatants, and by virtue of that, he is an inclusive joint author of an unjust war.

Someone might argue that David does not intend to contribute to the unjust war, he has only played his role as a scientist, and he does not have a shared participatory intention with other combatants. Of course, before the unjust war began, David had a functional participatory intention to play a weapon development role as a scientist, and he is not liable to be killed. However, given that after an unjust war has occurred and the nature of his role causes killings on a potentially significant scale, his activity as a scientist is not just an independent research activity but an activity closely linked to combatants in war. Therefore, I argue that scientists who conduct research related to weapons development have an immediate participatory intention directed toward the unjust war. I am not saying that the

mere fact that David developed a weapon that contributed greatly to the war renders him liable to be killed, but rather he is an inclusive joint author in the unjust war. It might be interesting to consider Fisher, who is a noncombatant. Let us recall Fisher.

Fisher. Noncombatant Fisher is a citizen who works for a food production company. His company has a contract with the military to provide and deliver food for combatants.

Fisher works as a food factory employee. The food he produces is directly distributed to the combatants in the military. His contribution to an unjust threat is not just peripheral—somewhere between David and Emma’s contribution—and is similar to Bob’s contribution. Then, the question arises as to whether Fisher, an unjust noncombatant, can be said to be liable to be killed like an unjust ineffective combatant, Bob. Bob and Fisher both belong to the same state, and as contributors, they contribute to the unjust war to an equal degree. Also, they do not directly kill enemies in war. A characteristic distinction between Bob and Fisher is that Bob is an ineffective combatant belonging to the military, whereas Fisher is a noncombatant not belonging to the military. I argued that Bob is complicitously liable to be killed since he has an immediate participatory intention directed toward the unjust war. By providing food, he is doing a kind of support for the unjust war.

It seems to me that, in the context of war, it is implausible to hold that Fisher is liable to be killed since he does not have an immediate participatory intention for an unjust war. Surely, even if Fisher plays a minimal role in the unjust war, his role is not part of the unjust war but rather part of the company.¹⁴⁴ The crucial idea is that his role is outside of the unjust

¹⁴⁴ If we consider his company is not just a privately owned company but rather one part of the military objective, then it is possible to say he plays a role in an unjust war. However, this is not a case I consider here.

war. He knows that his role contributes to the military, but it does not mean that he intends to play a role in the unjust war. The content of his intention might be “I intend to deliver food to my company’s customers” but he does not have the shared participatory intention “We intend to fight the war together.” He just has a functional participatory intention “I intend to play a role in the functioning of the company.”

However, I think that Sara, who is a munition worker, is different from Fisher. She produces weapons that kill the enemy. It is clear that her contribution to the unjust war is not significant. There are two potentially relevant differences between Fisher and Sara:

The first one is that providing food is a much more generic sort of support for the military’s actions than is providing weapons. People must eat regardless of what sort of actions they are engaged in. The second difference is that Fisher’s company just happens to be selling food to the military—it has, or at least could have, other customers as well. Fisher intends to play a role in his company’s action of delivering food to its customers. The company has no special interest in who buys the food or in what activities the food will enable the customers to perform. But the purpose of Sara’s company, such as munitions, is arguably to enable the state’s military to fight more effectively. Thus, it seems to me that she might have an immediate participatory intention: “We intend to fight the war together.” If so, in the context of war, it is plausible to hold that Sara is liable to be killed. I agree that her production of weapons, such as several guns and bombs, cannot make a big difference to how many enemies will be killed. However, the important point is that she plays her role to produce weapons and bombs to support combatants who engage in the unjust war, and by doing so, she is an inclusive joint author of the unjust war. Thus, even if Sara is a noncombatant, she is complicitously liable to be killed. Based on the discussion so far, we

can make the following diagram:

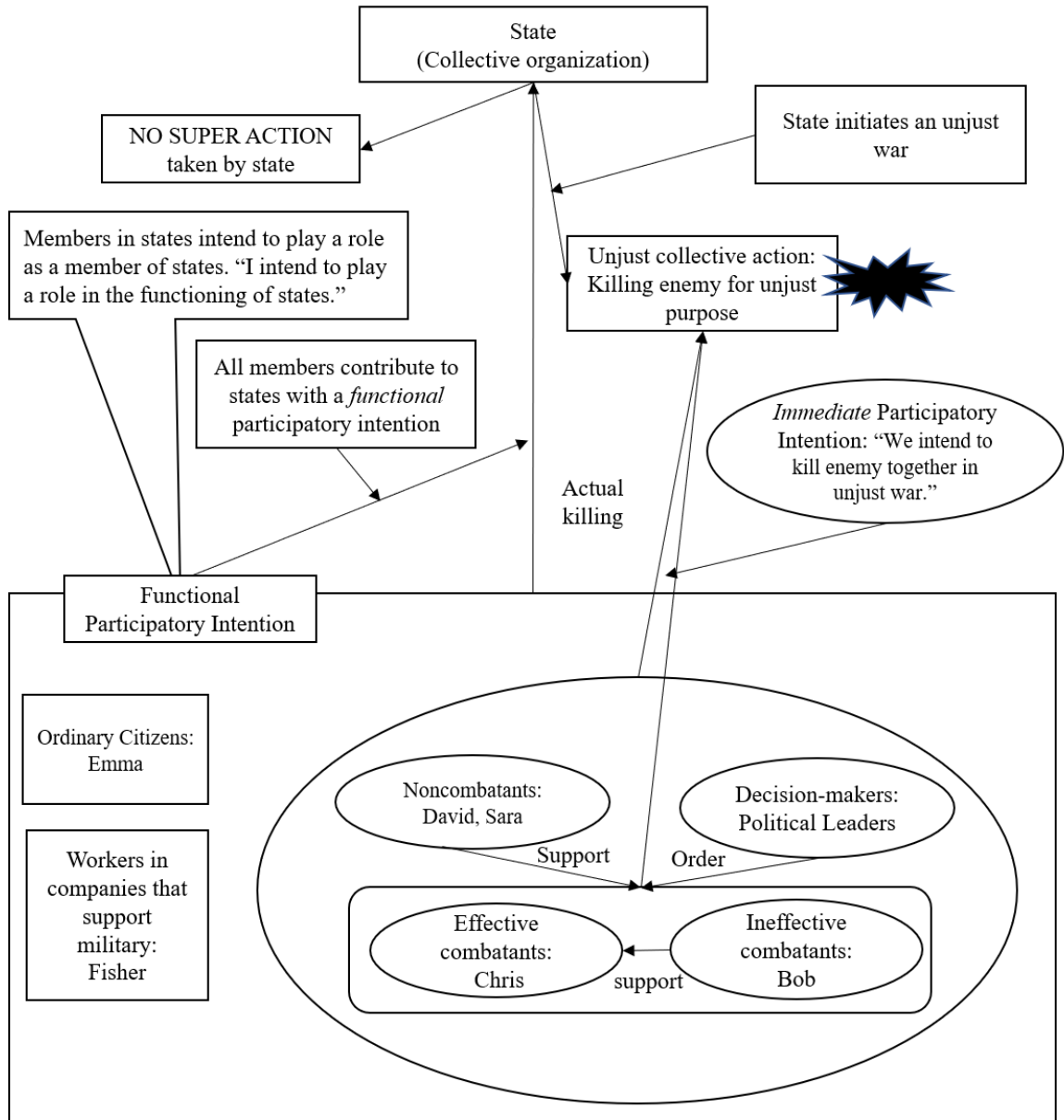


Figure 8.

E. Conclusion

Earlier, I argued that moral principle P should satisfy three requirements. Here I give a concrete explanation of whether the moral principle P I have constructed passes requirements 1 and 2. Let us recall both requirements.

Requirement 1) To satisfy reductivism, the moral principle P should potentially justify killing in non-war circumstances (ordinary life).

Requirement 2) To satisfy collectivism, the moral principle P is not based on individualism but rather is based on collectivism.

Firstly, I think that the principle P satisfies requirement 1 in the following sense: I did not derive the principle P from the context of a war, but constructed it out of a collective action that could exist in ordinary life, which means that the principle P is not a special moral principle to justify killing in war. Thus, the principle P is based on a reductivism. I also presented participatory intention as a central concept in constructing principle P and divided functional and immediate participatory intentions as intentions that individual members can have. These two kinds of intentions can be understood as one sort of intention that individual agents have in ordinary life. Thus, the principle P potentially justifies killing in non-war circumstances.

Secondly, I think that the principle P also satisfies requirement 2 in the following sense: According to the principle P, an individual agent is complicitously liable to be killed if that agent is a member of the collective and has an immediate participatory intention. Thus, even if individual agents do not threaten anyone, if they have an immediate participatory intention directed toward an unjust action, they become liable to be killed for an unjust collective action that others do. The implication of the principle P denies that the

liability of individual action can be only determined by what individuals do, but rather states that individual actions that compose a collective action cannot be adequately evaluated prior to, and independently from, the evaluation of that collective action. Therefore, the principle P is based on collectivism.

Lastly, I believe that the principle P satisfies requirement 3 in the following sense: According to requirement 3, for the application to the context of war, the moral principle P should justify killing in war and yield appropriate outcomes—most unjust combatants are permissible targets in war and most unjust noncombatants are not. By applying the moral principle P to the context of war, I concluded that most unjust combatants are complicitously liable to be killed in war, regardless of how much combatants individually contributes to an unjust war, regardless of whether the role assigned to him is peripheral or central to the unjust war. However, most unjust noncombatants are not liable to be killed, regardless of whether their state begin just or unjust war. Even if I've argued that some noncombatants such as political-leaders and scientists who developed weapons are liable to be killed, it is difficult to call them ordinary noncombatants in the full sense. Thus, I conclude that the principle P satisfies requirement 3 as well as requirement 1 and 2.

References

- Baker, A. (2016). Simplicity, *The Stanford Encyclopedia of Philosophy* (Winter 2016 Edition), Edward N. Zalta (ed.).
<https://plato.stanford.edu/archives/win2016/entries/simplicity>
- Barry, L. (2018). ‘He was wearing street clothes, not pyjamas’: common mistakes in lawyers’ assessment of legal capacity for vulnerable older clients. *Legal Ethics*, 21(1), 3–22. <https://doi.org/10.1080/1460728x.2018.1493070>
- Bazargan, S. (2013). Complicitous liability in war. *Philosophical Studies*, 165(1), 177–195.
<https://doi.org/10.1007/s11098-012-9927-2>
- Bazargan, S. (2017). Complicity. In Marija Jankovic & Kirk Ludwig (eds.), *Routledge Handbook on Collective Intentionality*. Routledge University Press.
- Benbaji, Y. (2008). A Defense of the Traditional War Convention. *Ethics*, 118(3), 464–495.
<https://doi.org/10.1086/533506>
- Bratman, M. E. (1992). Shared Cooperative Activity. *The Philosophical Review*, 101(2), 327. <https://doi.org/10.2307/2185537>
- Bratman, M. E. (1993). Shared Intention. *Ethics*, 104(1), 97–113.
<https://doi.org/10.1086/293577>
- Bratman, M. E. (2014). *Shared Agency: A Planning Theory of Acting Together* (1st ed.). Oxford University Press.
- Campbell, L. (2017). Two notions of intentional action? Solving a puzzle in Anscombe’s *Intention*. *British Journal for the History of Philosophy*, 26(3), 578–602.
<https://doi.org/10.1080/09608788.2017.1396959>

- Coady, T. (2008). The Status of Combatants. In David Rodin & Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers*. Oxford University Press
- Cook, L. (2007). Michael Walzer's Concept of "Supreme Emergency." *Journal of Military Ethics*, 6(2), 138–151. <https://doi.org/10.1080/15027570701381948>
- Copp, D. (2020). Collective Obligations and the point of Morality. In Bazargan-Forward, Saba & Tollefsen, Deborah (eds.), *The Routledge Handbook of Collective Responsibility*. Routledge. Ch. 7.
- Chant, S. R. (2007). Unintentional collective action. *Philosophical Explorations*, 10(3), 245–256. <https://doi.org/10.1080/13869790701535246>
- Chant, S. R., & Ernst, Z. (2008). Epistemic Conditions for Collective Action. *Mind*, 117(467), 549–573. <https://doi.org/10.1093/mind/fzn033>
- Crawford, N. C. (2007). Individual and Collective Moral Responsibility for Systemic Military Atrocity. *Journal of Political Philosophy*, 15(2), 187–212. <https://doi.org/10.1111/j.1467-9760.2007.00278.x>
- Dill, J., & Shue, H. (2012). Limiting the Killing in War: Military Necessity and the St. Petersburg Assumption. *Ethics & International Affairs*, 26(3), 311–333. <https://doi.org/10.1017/s0892679412000445>
- Estlund, D. (2007). On Following Orders in an Unjust War. *Journal of Political Philosophy*, 15(2), 213–234. <https://doi.org/10.1111/j.1467-9760.2007.00277.x>
- Fabre, C. (2009). Guns, Food, and Liability to Attack in War. *Ethics*, 120(1), 36–63. <https://doi.org/10.1086/649218>
- Fabre, C. (2012). *Cosmopolitan War*. Oxford University Press.

- Feinberg, J. (1970). *Doing and Deserving: Essays in the Theory of Responsibility*. Princeton University Press.
- French, P. (1984). *Collective and Corporate Responsibility*. Amsterdam University Press.
- French, P. (2020). Types of Collectives and Responsibility. In Bazargan-Forward, Saba & Tollefsen, Deborah (eds.), *The Routledge Handbook of Collective Responsibility*. Routledge, 9–22.
- Frowe, H. (2014). *Defensive Killing: An Essay on War and Self-Defence*. Oxford University Press.
- Frowe, H. (2018). The Just War Framework. In Helen Frowe & Seth Lazar (eds.), *Oxford Handbook of Ethics in War*. Oxford University Press, 41–58.
- Gardner, J. (2012). Criminals in Uniform. *SSRN Electronic Journal*.
<https://doi.org/10.2139/ssrn.2081697>
- Gilbert, M. (2002). Considerations on joint commitment: Responses to various comments. In Georg Meggle (ed.), *Social Facts and Collective Intentionality. Philosophische Forschung / Philosophical research*. Dr. Hänsel-Hohenhausen, 1–73.
- Gilbert, M. (2008). Two Approaches to Shared Intention: An Essay in the Philosophy of Social Phenomena. *Analyse & Kritik*, 30(2), 483–514.
<https://doi.org/10.1515/auk-2008-0208>
- Gilbert, M. (2009). Shared intention and personal intentions. *Philosophical Studies*, 144(1), 167–187. <https://doi.org/10.1007/s11098-009-9372-z>
- Gilbert, M. & Priest, M. (2020). Collective morally responsibility and what follows for group members. In Bazargan-Forward, Saba & Tollefsen, Deborah (eds.), *The Routledge Handbook of Collective Responsibility*. Routledge. Ch. 2.

- Glover, J. (1977). *Causing Deaths and Saving Lives*. Penguin Books.
- Gross, M. L. (2010). *Moral Dilemmas of Modern War: Torture, Assassination, and Blackmail in an Age of Asymmetric Conflict* (Illustrated ed.). Cambridge University Press.
- Grossi, D., Royakkers, L., & Dignum, F. (2007). Organizational structure and responsibility. *Artificial Intelligence and Law*, 15(3), 223–249. <https://doi.org/10.1007/s10506-007-9054-0>
- Haque, A. A. (2020). *Law and Morality at War (Oxford Legal Philosophy)*. Oxford University Press.
- Hurka, T. (2005). Proportionality in the Morality of War. *Philosophy & Public Affairs*, 33(1), 34–66. <https://doi.org/10.1111/j.1088-4963.2005.00024.x>
- Hurka, T. (2007). Liability and Just Cause. *Ethics & International Affairs*, 21(2), 199–218. <https://doi.org/10.1111/j.1747-7093.2007.00070.x>
- ICRC. (1977). Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125 U.N.T.S. 3. (1977, June 8). *International Committee of the Red Cross*. https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321
- Isaacs, T. (2011). *Moral Responsibility in Collective Contexts* (1st ed.). Oxford University Press.
- Jenkins, R., Robillard, M., & Strawser, B. J. (2018). *Who Should Die?*. Oxford University Press.
- Kamm, F. (2004). Failures of Just War Theory: Terror, Harm, and Justice. *Ethics*, 114(4), 650–692. <https://doi.org/10.1086/383441>

- Kutz, C. (2000). *Complicity: Ethics and Law for a Collective Age (Cambridge Studies in Philosophy and Law)* (Illustrated ed.). Cambridge University Press.
- Kutz, C. (2005). The Difference Uniforms Make: Collective Violence in Criminal Law and War. *Philosophy & Affairs*, 33(2), 148–180. <https://doi.org/10.1111/j.1088-4963.2005.00028.x>
- Lazar, S. (2010). The Responsibility Dilemma for Killing in War: A Review Essay. *Philosophy & Public Affairs*, 38(2), 180–213. <https://doi.org/10.1111/j.1088-4963.2010.01182.x>
- Lazar, S. (2013). Associative Duties and the Ethics of Killing in War. *Journal of Practical Ethics*, 1(1), 3–48.
- Lazar, S. (2016a). Complicity, Collectives, and Killing in War. *Law and Philosophy*, 35(4), 365–389. <https://doi.org/10.1007/s10982-016-9257-1>
- Lazar, S. (2016b). Method in the Morality of War. *Oxford Handbooks Online*. <https://doi.org/10.1093/oxfordhb/9780199943418.013.25>
- Lazar, S. (2020a). *Sparing Civilians* (Reprint ed.). Oxford University Press.
- Lazar, S. (2020b). War, *The Stanford Encyclopedia of Philosophy* (Spring 2020 Edition), Edward N. Zalta (ed.), <<https://plato.stanford.edu/archives/spr2020/entries/war/>>.
- Lazar, S., & Frowe, H. (2018). *The Oxford Handbook of Ethics of War (Oxford Handbooks)*. Oxford University Press.
- List, C., & Pettit, P. (2011). *Group Agency: The Possibility, Design, and Status of Corporate Agents* (1st ed.). Oxford University Press.
- Ludwig, K. (2016). *From Individual to Plural Agency: Collective Action: Volume 1* (1st ed.). Oxford University Press.

- Ludwig, K. (2017). *From Plural to Institutional Agency: Collective Action II* (Illustrated ed.). Oxford University Press.
- McGrath, J. J. (2007). *The Other End of the Spear: The Tooth-to-Tail Ratio (T3R) in Modern Military Operations (Long War Series Occasional Paper)* [E-book]. Dept. of the Army.
- McMahan, J. (2004). The Ethics of Killing in War. *Ethics*, 114(4), 693–733.
<https://doi.org/10.1086/422400>
- McMahan, J. (2005a). Just Cause for War. *Ethics & International Affairs*, 19(3), 1–21.
<https://doi.org/10.1111/j.1747-7093.2005.tb00551.x>
- McMahan, J. (2005b). The Basis of Moral Liability to Defensive Killing. *Philosophical Issues*, 15(1), 386–405. <https://doi.org/10.1111/j.1533-6077.2005.00073.x>
- McMahan, J. (2006). On the Moral Equality of Combatants. *Journal of Political Philosophy*, 14(4), 377–393. <https://doi.org/10.1111/j.1467-9760.2006.00265.x>
- McMahan, J. (2007). Collectivist Defenses of the Moral Equality of Combatants. *Journal of Military Ethics*, 6(1), 50–59. <https://doi.org/10.1080/15027570601183295>
- McMahan, J. (2008). The morality of war and the law of war. In David Rodin & Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers*. Oxford University Press, 19–43.
- McMahan, J. (2009). *Killing in War*. Oxford University Press.
- McMahan, J. (2011). Who is Morally Liable to be Killed in War. *Analysis*, 71(3), 544–559.
<https://doi.org/10.1093/analys/anr072>
- McMahan, J. (2015). Proportionality and Time. *Ethics*, 125(3), 696–719.
<https://doi.org/10.1086/679557>

- Meisels, T. (2013). Assassination: Targeting Nuclear Scientists. *Law and Philosophy*, 33(2), 207–234. <https://doi.org/10.1007/s10982-013-9181-6>
- Meisels, T. (2014). Fighting for Independence. *Social Theory and Practice*, 40(2), 304–326. <https://doi.org/10.5840/soctheorpract201440218>
- Mellema, G. (2006). Collective responsibility and contributing to an outcome. *Criminal Justice Ethics*, 25(2), 17–22. <https://doi.org/10.1080/0731129x.2006.9992199>
- Miller, S. (2001). Collective Responsibility. *Public Affairs Quarterly* 15 (1), 65–82.
- Miller, S. (2016). Social Ontology and War. *A Companion to Applied Philosophy*, 196–210. <https://doi.org/10.1002/9781118869109.ch14>
- Mollendorf, D. (2008). Jus ex Bello. *Journal of Political Philosophy*, 16(2), 123–136. <https://doi.org/10.1111/j.1467-9760.2008.00310.x>
- Otsuka, M. (2016). The Moral-Responsibility Account of Liability to Defensive Killing. *The Ethics of Self-Defense*, 51–68. <https://doi.org/10.1093/acprof:oso/9780190206086.003.0003>
- Parfit, D. (2011). *On What Matters (2 Volume Set)* (1st ed.). Oxford University Press.
- Parry, J. (2015). Just War Theory, Legitimate Authority, and Irregular Belligerency. *Philosophia*, 43(1), 175–196. <https://doi.org/10.1007/s11406-014-9577-z>
- Parsons, G. (2012). PUBLIC WAR AND THE MORAL EQUALITY OF COMBATANTS. *Journal of Military Ethics*, 11(4), 299–317. <https://doi.org/10.1080/15027570.2012.758403>
- Pasternak, A. (2020). Collective Responsibility in the State. In Bazargan-Forward, Saba & Tollefsen, Deborah (eds.), *The Routledge Handbook of Collective Responsibility*. Routledge, Ch. 27.

- Quong, J. (2020). *The Morality of Defensive Force*. Oxford University Press.
- Ramsey, P. (2011). *War And The Christian Conscience: How Shall Modern War Be Conducted Justly?* Literary Licensing, LLC.
- Rodin, D. (2002). *War & Self-Defence*. Oxford University Press.
- Rodin, D. (2008). The Moral Inequality of Soldiers: Why Jus in Bello Asymmetry Is Half Right. In David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers*. Oxford: Oxford University Press, 44–68.
- Rodin, D., & Shue, H. (2008). *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (1st ed.). Oxford University Press.
- Rousseau, J. J. (2002). *The Social Contract and The First and Second Discourses* (S. Dunn, G. May, R. N. Bellah, D. Bromwich, & C. C. O'Brien, Eds.; 1st Edition). Yale University Press.
- Sagan, S. D., & Valentino, B. A. (2019). Just War and Unjust Soldiers: American Public Opinion on the Moral Equality of Combatants. *Ethics & International Affairs*, 33(4), 411–444. <https://doi.org/10.1017/s0892679419000431>
- Searle, J (1990). Collective Intentions and Actions. In Philip R. Cohen Jerry Morgan & Martha Pollack (eds.), *Intentions in Communication*. MIT Press, 401–415.
- Shue, H. (2008). Do We Need a "Morality of War"? In David Rodin & Henry Shue (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers*. Oxford University Press, 87–110.
- Strawser, B. J. (2011). Walking the Tightrope of Just War. *Analysis*, 71(3), 533–544. <https://doi.org/10.1093/analys/anr070>
- Story, D. (2019). Interpersonal Moral Luck and Normative Entanglement. *Ergo, an Open*

- Access Journal of Philosophy*, 6(20201214).
<https://doi.org/10.3998/ergo.12405314.0006.021>
- Tadros, V. (2014). Orwell's Battle with Brittain: Vicarious Liability for Unjust Aggression. *Philosophy & Public Affairs*, 42(1), 42–77. <https://doi.org/10.1111/papa.12025>
- Tadros, V. (2020). Distributing Responsibility. *Philosophy & Public Affairs*, 48(3), 223–261. <https://doi.org/10.1111/papa.12163>
- Tadros, V. (2020b). *To Do, To Die, To Reason Why: Individual Ethics in War*. Oxford University Press.
- Toner, C. (2010). The Logical Structure of Just War Theory. *The Journal of Ethics*, 14(2), 81–102. <https://doi.org/10.1007/s10892-010-9072-0>
- Tuomela, R. (1991). We Will Do It: An Analysis of Group-Intentions. *Philosophy and Phenomenological Research*, 51(2), 249. <https://doi.org/10.2307/2108127>
- Tuomela, R. (2007). *The Philosophy of Sociality: The Shared Point of View* (1st ed.). Oxford University Press.
- Tuomela, R., & Miller, K. (1988). We-intentions. *Philosophical Studies*, 53(3), 367–389. <https://doi.org/10.1007/bf00353512>
- Tuomela, R & Mäkelä, P. (2020). A We-mode Account of Group Action and Group Responsibility. In Bazargan-Forward, Saba & Tollefsen, Deborah (eds.), *The Routledge Handbook of Collective Responsibility*. Routledge, 65–77.
- Walzer, M. (2006). *Just And Unjust Wars: A Moral Argument With Historical Illustrations* 4th (forth) edition. Basic Books.
- Zohar, N. J. (1993). Collective War and Individualistic Ethics. *Political Theory*, 21(4), 606–622. <https://doi.org/10.1177/0090591793021004003>

Zohar, N. J. (2004). Innocence and Complex Threats: Upholding the War Ethic and the Condemnation of Terrorism. *Ethics*, 114(4), 734–751.

<https://doi.org/10.1086/383444>

Zupan, D. (2007). The Logic of Community, Ignorance, and the Presumption of Moral Equality: A Soldier's Story. *Journal of Military Ethics*, 6(1), 41–49.

<https://doi.org/10.1080/15027570601183386>