

# BOOK SYMPOSIUM

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## *Killing in War*

By JEFF McMAHAN

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### Summary

JEFF McMAHAN

According to the traditional account of the just war, the principal just cause for war is national self-defence against wrongful aggression. The morality of self-defence in relations between states is thought to be the same as the morality of self-defence in relations between individual persons, in that it is asymmetrical between the wrongful aggressor and the innocent victim. But the traditional theory applies this understanding *only* to the action of states in the resort to war. In the conduct of war by individual combatants, the morality of self-defence is claimed to be *symmetrical* between those who fight for a just cause ('just combatants') and those who fight without a just cause ('unjust combatants'). Whether it is permissible to kill enemy combatants is thus independent of the *reasons* for killing them – that is, of the goals of the war. This understanding of the morality of violent conflict has no other application, except in activities such as boxing in which all those who fight freely consent to be attacked by their opponents. The traditional theory thus implies that a different set of moral principles comes into effect in conditions of war. The moral rights that people hold against one another in peacetime may simply disappear in war.

*Killing in War* attempts to demonstrate that this traditional understanding of the just war is mistaken. I argue that war is morally continuous with other, lesser forms of conflict and that the moral principles that govern the conduct of war are the same as those that govern the morality of individual self-defence and third party defence of others. I argue that just combatants do not forfeit their right not to be attacked unless they fight by impermissible means, so that acts of war by unjust combatants inevitably violate the prohibition of the intentional killing of people who are not liable to be killed. Unjust combatants can also seldom avoid violating requirements of proportionality and necessity. In general, acts of war that do not support the

achievement of a just cause are morally impermissible and it is wrong to fight in a war that lacks a just cause.

There are nevertheless many mitigating conditions that apply to the conduct of unjust combatants so that it is often inappropriate to blame them merely for participating in an unjust war. I also argue that there are various reasons why it would be wrong to hold them legally liable to punishment except for specific offenses identified as war crimes. I argue, in other words, that while the morality of war is asymmetrical between just and unjust combatants, the law of *jus in bello* should remain, at least for the present, neutral between them. But in general unjust combatants are not exempt from moral responsibility for their participation in an unjust war and are thus, unlike just combatants, morally liable to intentional attack.

If the view for which I argue in the book were to become widely accepted, that could have a good effect of considerable practical significance. If people were to believe that it is seriously morally wrong to fight in an unjust war, many soldiers would become more reluctant to fight in wars they had good reason to believe were unjust. They would be more likely to refuse, on conscientious grounds, to fight in such wars, and this could make it more difficult for the rulers of states to initiate unjust wars.

The fifth of the book's five chapters discusses the issue of civilian liability. The account of the morality of war that I defend implies that certain civilians can in principle be liable to attack. But I devote that last chapter to explaining why it very rarely licenses deliberate attacks on civilians. I will elaborate on those arguments in my responses to the following commentaries.

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## *Excuses for the Moral Equality of Combatants*

GERALD LANG

Traditional Just War Theory, whose structure is in large measure replicated in international law, consists of two components: *jus ad bellum*, which is concerned with the permissibility of declaring war, and *jus in bello*, which is concerned with permissible and impermissible conduct within war.

In the interpretation of one of Just War Theory's most influential contemporary advocates, Michael Walzer, these two components are entirely