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<td>Family Name: Frowe, Given Name: Helen, Division, Organization: University of Kent, School of European Culture and Languages, Address: Cornwallis Building, Canterbury, CT2 7NZ, United Kingdom, Email: <a href="mailto:H.Frowe@kent.ac.uk">H.Frowe@kent.ac.uk</a></td>
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McMahan, Jeff

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Jeff McMahan’s political philosophy is primarily developed within the context of just war theory. Over the past 20 years, McMahan has challenged many of the assumptions of orthodox just war theory, most notably the claim that even an unjust war can be justly fought. Underpinning his account of the ethics of war is a wider conception of global justice that makes claims about human rights, the nature of states, international law, and our obligations to people in other countries. McMahan defends an individualist perspective of collective action that leads him to draw novel, and often controversial, conclusions about what justice requires.

Individualism and War

Those who defend a collectivist view of war argue that war is to be understood as a relationship not between persons, but between political collectives (usually states). We must thus treat the actions of combatants as undertaken on behalf of this collective, which means that we cannot judge their actions by the standards we apply to individuals. Collectivists tend to think that political groups have special rights that allow them to engage in what would be impermissible violence if it were carried out by individuals or nonpolitical groups. Collectivism has been the historically dominant view among just war theorists, who have generally approached war as an exception to the moral prohibitions that govern ordinary life.

Individualists, in contrast, argue that the moral rules governing the behavior of states in war are the same moral rules that govern interactions between individuals in ordinary life. McMahan defends an individualist account of the ethics of war that draws on his account of self-defense to develop a radical account of just war. McMahan denies that killings carried out by political groups acquire a privileged moral status simply because they are perpetrated by those groups (or rather, by individuals acting on behalf of those groups). What may be done in the name of a group is nothing more or less than may be done by the individuals who compose that group. So, in order to establish what a nation may do to defend itself during war, we must establish what it is permissible for individuals to do in self-defense.

McMahan understands permissible defense as a question of justice. A theory of self-defense should tell us who ought to bear harm, given that someone has to bear it. To this end, McMahan develops an account of moral liability to defensive harm. A person is liable to the infliction of harm if she would not be wronged by that harm, and could not justifiably complain about its infliction. A person becomes so liable if harming her will avert a proportionate unjust threat for which she is morally responsible. So, a culpable murderous attacker is liable to lethal defensive harm if this is the only way to avert the unjust threat that he poses to his victim. Because the attacker is so liable, McMahan’s view holds that he may not defend himself against the defensive harm. McMahan’s account thus defends a strong asymmetry between those who are morally responsible for unjust threats, and those who are morally responsible for just threats. A person who acts in justified self-defense does not threaten unjustly, and is not herself a legitimate target of defensive force. The attacker’s moral responsibility for the fact that his victim can avoid a lethal harm only by lethally harming him means that, as a matter of distributive justice, he ought to suffer the harm rather than his victim.

The Moral Equality of Combatants

It is this asymmetry of McMahan’s account of self-defense that generates the most important claim of his account of killing in war. Orthodox just war theory holds that there is a strong independence between the ad bellum justice of a war (whether the war has a just cause), and the in bello justice of a war (whether combatants fight in accordance with the rules of war). The rationale behind this putative independence is that it would be unfair to morally condemn combatants on the basis of their leaders’ wrongful decision to wage an unjust war. Combatants are not...
responsible for the justness of wars they are ordered to fight, but only for the manner in which they conduct themselves on the battlefield. Because of this alleged unfairness, most just war theorists have defended the principle of the moral equality of combatants. Endorsed by international law, this principle holds that combatants do no wrong in fighting wars even if they fight on the unjust side. Combatants on the unjust side of a war (unjust combatants) are thus said to be the moral and legal equals of those on the just side (just combatants).

But as McMahan points out, an unjust war is simply an unjust attack on a grand scale. And thinking about individual defense shows that those who perpetrate unjust attacks are not the moral equals of those who justly defend themselves against such attacks. In McMahan's terminology, unjust combatants render themselves liable to be killed, such that killing them will no longer wrong them as it usually would. Just combatants, in contrast, remain morally innocent as long as they adhere to the in bello rules. They therefore retain their usual rights against attack. Killing them does wrong them. Thus, the doctrine of the moral equality of combatants is false.

McMahan argues that the importance of not killing innocent people means that combatants must refuse to fight in unjust wars. Many people have therefore objected to McMahan's account on the grounds that it would produce widespread instability in military institutions, which crucially depend upon the obedience of their troops. Once we start telling combatants to question the justness of what their superiors are telling them to do, we threaten to unravel the military's ability to fight wars at all. But McMahan is skeptical that even an overall just military institution—that is, one that usually fights just wars—can demand the unfailing obedience of its troops in the pursuit of unjust goals. Even if protecting just institutions can generate some obligations, it cannot generate an obligation (and hence a right) to kill innocent people. The fact that things might be worse for us if our military is weakened cannot justify fighting in an unjust war, since this unfairly shifts the cost of our state's malfunction onto other people. And thus, even those who are confident in their military's overall justness cannot invoke this as a justification for partaking in an unjust war.

Humanitarian Intervention

The central insight of McMahan's account of war is that it matters a great deal whether or not one's war is just. The paradigm just cause for war is self-defense; indeed, many just war theorists think that this is the only just cause for war. But McMahan argues that there can be others, such as the need to prevent or halt humanitarian crises in other countries. If a persecuted group is suffering rights violations sufficiently severe to justify its engaging in armed resistance, third parties may be permitted to wage a war of humanitarian intervention, provided that the persecuted group would welcome such assistance (McMahan argues that one reason against regarding the 2003 invasion of Iraq as an act of intervention is that there was insufficient evidence that ordinary Iraqis wanted American help).

Wars of intervention are controversial, not least because they seem to conflict with the sovereign rights of the state in which the abuses are being perpetrated. When so much of international law is geared toward protecting sovereignty, the onus is on those who favor intervention to explain why we can ignore sovereignty in some circumstances. Critics of intervention allege that undermining a state's sovereignty violates its right to self-determination. Even when states undergo violent power struggles, it is important that these struggles are settled internally, and not by outsiders. McMahan agrees that this is sometimes the case. But he also claims that the sorts of states in which intervention is necessary are often those in which several different ethnic or national groups live side-by-side, sometimes as a result of failed “nation-building” that artificially grouped them together as a single state (he cites the former Yugoslavia as an example). These kinds of multinational states are often too fractured for us to make sense of the citizens as a single collective with a single right of self-determination. If so, the government cannot plausibly claim a right of self-determination that gives it authority over all the subordinate groups. Rather, the government usually represents only one of a number of groups making what are often mutually incompatible attempts at self-determination. And when one group's attempt involves genocide or other atrocities, it goes beyond what can be permitted by a right of self-determination. Intervening to prevent these atrocities, therefore, does not violate anyone's right of self-determination, since the perpetrators render themselves liable to intervention. Moreover, the individualist perspective that McMahan defends holds that states' rights to sovereignty are derived from their citizens' individual rights to noninterference. So, if the persecuted group waives its rights against noninterference by consenting to intervention, and if the persecuting group forfeits its rights against noninterference by perpetrating abuses, the right to sovereignty simply ceases to exist. Justified intervention does not conflict with sovereignty, as the critics allege, because when the intervention is justified, there is no right of sovereignty.

Are wars of humanitarian intervention not only permissible, but also obligatory? On McMahan's view,
this depends on the nature of the intervention. Sometimes, the costs of an intervention might be so high as to render it an act of supererogation on the part of an intervening nation. He thus denies that whenever a cause is sufficiently important to warrant intervention, it follows that states have a duty to intervene. But it is possible, on McMahan’s view, that the cause is so important that intervention is required. Indeed, he thinks that interventions are obligatory much more often than is generally assumed. McMahan suggests that we arrive at a distorted view of our obligations to prevent humanitarian abuses abroad because we begin with a mistaken baseline, namely our thoughts about what we are obliged to do to relieve poverty resulting from “natural” causes in poor countries. Most of us think (or act as if we think) that our duties to provide such aid are fairly weak. And so, even if we think that our duties to prevent humanitarian abuses are much more stringent, we think that they must still be only mild or moderate. McMahan argues that this view is mistaken in several ways. It is false that our duties to prevent “manned” evils are much more stringent than our duties to alleviate natural misfortunes – these duties are pretty much on a par. But it is also false that we have only very weak obligations to alleviate natural misfortunes. On the contrary, we have very stringent duties to relieve suffering in poor countries. Thus, we also have very stringent duties of humanitarian intervention.

Wars of humanitarian intervention have also thrown up new questions about the appropriate distribution of risk between combatants and noncombatants. In the 1993 Kosovo intervention, NATO used a campaign of aerial bombing that inflicted considerable damage on the civilian population, but minimized the risks to NATO forces. Such a distribution of risk flies in the face of the orthodox view that combatants ought to shoulder greater risks in order to protect noncombatants from harm, known as the doctrine of the priority of noncombatants. But McMahan argues that we ought to distinguish between noncombatants who are neutral in a conflict — that is, those who are mere bystanders — and noncombatants who are the beneficiaries of a conflict. NATO’s tactics may have inflicted losses upon Albanian Kosovars. But it is the Albanian Kosovars (and not NATO troops) who stood to benefit from success in Kosovo. It was therefore permissible to make them bear at least some of the risks involved in the intervention.

Again, McMahan argues that this view is supported by our thoughts about obligations that arise in individual defense. If rescuing you from mortal peril requires that I either break your arm, or break my own arm, it is not unjust that I break your arm. After all, you are the beneficiary of my rescue attempt, and you will be better off with a broken arm than if I do nothing. With respect to humanitarian intervention, then, it seems permissible for intervening forces — who do not themselves stand to gain from the intervention — to impose costs upon the beneficiary noncombatants rather than bear those costs themselves. But McMahan does not argue that this means that combatants may impose all the costs of war upon noncombatants. The importance of their beneficiary status is tempered by the professional obligations that combatants incur in virtue of their office, and by the morally significant distinction between killing and letting die. That a combatant may fail to save a noncombatant because to do so would risk his own life does not show that he may kill noncombatants rather than risk being killed himself. Thus, while the distribution of risk during wars of intervention may be different from the distribution in a war of defense, it is impermissible for combatants to force even beneficiary noncombatants to bear all the costs of their rescue.

The Ethics of Occupation

Some of the most difficult questions in the field of global justice are those concerning what we ought to do in the aftermath of an injustice for which we are (partly) responsible. These questions arise in relation to our obligations to countries where imperialism and unfair business practices have contributed to ongoing poverty, and in relation to our obligations to those suffering the adverse effects of climate change. They also arise in the context of the recent war in Iraq. McMahan argues that the invasion of Iraq by US forces in 2003 was unjust. But, he says, it does not follow from this that, once they toppled Saddam Hussein’s Ba’ath regime, the USA should have immediately withdrawn. McMahan argues that even when an initial invasion is unjust, subsequent occupation can be morally justified if it is the lesser of two evils. Having unjustly removed the Iraqi government from power, the USA owed it to the Iraqi people to establish some kind of alternative government and thereby prevent a descent into further chaos and bloodshed (although McMahan is arguing here for a short, purposeful occupation, and not the protracted counter-insurgency that followed the war). But, while justified as a lesser evil, such an occupation is still fundamentally unjust, because it imposes burdens upon people who are not liable to bear such burdens. Given this, the USA should shoulder all of the costs of the occupation, making all possible sacrifices to try to ensure a quality of life akin to that before the unjust invasion.
Related Topics

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- International Justice
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References