WINNING IN WAR

“People must recognize that they cannot make up for failing to regulate their numbers or to care for their land by conquest in war, or by migrating into another people's territory without their consent.”—John Rawls

“To know what the problems of victory are, however, we are in dire need of a better understanding of what victory entails, what it looks like, and what it takes to achieve it.”—Gabriella Blum

Abstract: This paper argues that there is more to victory in war than mere military victory. There are moral and economic senses of war winning also. And a broad perspective on winning in war ought to take into account these senses of winning (and losing) in war.

Key words/names: Jeff McMahan; John Rawls; War; War crimes; Winning in War

Introduction

There are various kinds of wars, as “war” is often used to refer to military offensives and defensive wars, civil wars (both secessionist and revolutionary), regular and irregular wars, humanitarian interventionist wars, conventional and non-conventional (drone) wars, armed and unarmed drone wars, manned and unmanned4 drone wars. “War” is also used in non-military senses, such as when there are references to wars on illicit drugs, wars on undocumented immigration, wars on poverty, wars on crime, wars on waste, fraud, and corruption in government, etc. The focus of this paper is on conventional military wars such as that cluster of wars commonly known as World War II.

Moreover, “win” and its cognates are ambiguous concerning war. Normally, the word is associated with “victory,” having the meanings of triumph or conquest in either a total or partial sense. Indeed, “win” can even refer to a victory wherein it appears that the costs of it were rather high, as in “Pyrrhic
victory” or “Cadmean victory.” This suggests that according to normal usage, winning in wars is a matter of degree, and it seems to leave open the conceptual possibility that there are different senses of war winning. Moreover, there is often discussion of “moral victories” in times of war. This refers to a real sense in which one (perhaps out of a genuine sense of duty) tries one’s best to defeat the opponent or enemy, but in the end loses the war. This is not the sense in which I refer to the moral sense of war winning. Rather, I refer to the moral sense of war winning insofar as wars have particular moral implications: What X, being a party to a war, did was morally justified, permitted, or not, as the case may be. Insofar, then, as X’s behavior was, on balance, morally justified or permitted is the extent to which X won in war in the moral sense. It may be a difficult task to accomplish, but it is possible to win in war in the requisite moral sense, at least to a meaningful extent.

This paper is an attempt to clarify some of the dimensions of winning in war. While the Clausewitzean military sense of war winning is what I understand to be the traditional understanding of what it means to win a war (the point at which a belligerent party surrenders to her opponent5), the idea of winning in war opens up new vistas of manners in which victory in the processes of war might be realized. Thus there are different general senses of war winning: the traditional (military) sense of winning a war, on the one hand, and the moral and economic senses of winning in war, on the other. 6 I shall seek to elucidate some aspects of the moral and economic dimensions of winning in war.

**Winning in war**

What does it mean to win in war? A state or a warring group wins a war to the extent that it is victorious concerning the outcome(s) of that particular war in which the state or warring group is engaged, militarily. To win in war, on the other hand, is for a state or a warring group to be victorious in the processes of a war in particular or generally in wars in which it is engaged or in wars in general. For most, winning or victory in war is understood in its traditional military sense: when one side to the war surrenders to the military of the other, achieving a kind of reciprocity between the parties. I shall refer to this as the “military” sense of war winning. However, there is more to war winning than the achievement of military victory. There are the moral and economic senses of winning in war.

**Moral and economic senses of winning in war**

In focusing on the moral and economic senses of winning in war, a broader understanding of the victories and losses of wars will be gained. All relevant things considered, the traditional military sense of war winning fails

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5 This idea is discussed in Walzer (2000: 110f.).
6 That war can no longer be reduced to a military campaign is found in Blum (2013: 393).
to capture various senses in which wars eventuate in real benefits or losses. And while the moral and economic senses of war winning do not exhaust a comprehensive account of it, an account of war winning that is inclusive of the moral and economic dimensions (as well as the military sense) of war winning is more comprehensive than the traditional military sense. For there is more to war winning than military victory. The basics of Just War Theories (just cause, proportionality, discrimination, necessity, etc.) themselves imply that a war can be won according to certain moral rules. This would in turn imply that military victory can be achieved alongside moral victory. Or, as Michael Walzer argues, engaging in morally just combat does not rule out victory. (Walzer 2013: 441) And it is this broadened perspective that assists us in the answer to epistemic questions such as “How do we know when X has been victorious in its war with Y?” This sort of question is important to both ask and answer so that, for example, a government might know best when to withdraw its troops and war technologies from a region where it has been engaged in war.

Assuming that either a particular war or that wars in general can to some extent be morally justified, and assuming that wars are meant to be won or ceased as quickly and in as morally justified a manner as possible instead of continuing past the time in which it is necessary to, say, defeat an unjust enemy, it is important to ask who or what, if anyone or anything, wins in wars. Whereas the military sense of “win” and its cognates in the context of wars is that an agent or group of them achieves its ultimate aim of, say, ending a war by forcing through military action (or the threat thereof) the opponent’s official military surrender, I mean by “win” and its cognates a significant benefit to oneself or others. And by “benefit” I shall mean this term in its economic sense. But when I state that a war is won in the moral sense, I shall mean by this that a party to a war has all relevant things considered done the right things and in a morally virtuous manner: that it has conscientiously followed certain moral rules of warfare that are just in that they respect the moral rights of persons, treating moral innocents as ends in themselves and never as mere means to ends, respecting innocents as those having dignity and worthy of respect.

As with certain other moral categories, winning in wars in the moral sense is a matter of degree, as a military can and often will follow the moral guidelines for war as best it can, with failures along the way almost guaranteed due to human moral imperfection. It is important to note, moreover, that my account of war winning is both positive, on the one hand, and via negativa, on the other. For in discussions of winning in wars, it is vital to understand as best we can senses in which winning in wars obtains, and senses in which losing in wars occurs.

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7 The normative principles of *jus post bellum* are rebuilding, retribution, reconciliation, restitution, reparation and proportionality are developed in May (2013: 316f.).

8 This implies, of course, that an orthodox version of pacifism is implausible. For philosophical discussions of just war theory, see Kamm (2011: Chapter 3); May (2008); McMahan (2009); Nagel (1979: Chapter 5); Rawls (1999: Part III); Rodin (2002); Walzer (2000), among many other sources.
Having drawn the distinction between what it means to win a war, all relevant things considered, and what it means to win in the processes of a particular war or in wars in general, it is important to ask if anyone or anything really wins in wars? If some party or another does win in wars, in what senses might this or that party win?

In order to provide answers to these questions, it is vital to ask about the conditions of winning in war. Given my construals of “win” and “war,” what are some of the necessary conditions of winning in war? One might think that the military sense of winning in war is most plausible as a necessary and sufficient condition of war winning. But military victory is neither necessary nor sufficient for winning in war. Insofar as winning in war is conjoined with a particular goal, legitimate or illegitimate and redefined during the course of war, such a goal might be achieved aside from military might. For instance, victory in war might be achieved non-militarily when the threat of severe global environmental sabotage ceases a war. A credible cyber threat by skilled and proven eco-terrorists effecting the destruction of major water supplies and much of the ozone layer can eventuate in the ceasing of military combat between rational warring parties who understand that such kinds and levels of environmental destruction are not worth risking even if one believed that they could eventually become militarily victorious over such eco-terrorists. Eco-terrorists, then, might be able to defeat or stop militarism amongst reasonable warring parties by making it not worth a military victory if what is won is a devastated environment in which military victors can live. Thus it seems that military victory in the conventional sense is not necessary for winning in war.

But neither is military victory a sufficient condition of winning in war. For a State can be victorious militarily, but not satisfy its goals in war. For example, if the goal of a warring State is to win the hearts and minds of a conquered State or group of persons in order to convert it to a particular form of government and way of life, then it might well be that military victory is achieved in the sense that the vanquished State or group surrenders militarily, but the hearts and minds of the vanquished are not won over. The conquering State might be perceived by the vanquished party as an evil empire, and several decades of terrorist acts against the “victorious” State may (or may not) ensue, coupled with years of non-cooperation with the merely militarily victorious State. Thus military victory alone is insufficient for war winning when the overall goals of the warring State are considered.

9 I borrow this notion of goals and victory in war from Blum (2013: 392, 396).
10 This counter-example to the traditional view of winning in war is hardly fanciful. It has been shown that such technological terrorism has been possible for decades: Clark (1980). It is reasonable to assume that with advances in technologies, such terrorist threats have become even more probable, and potentially devastating.
11 That a successful military campaign is neither necessary nor sufficient for victory in war is also found in Blum (2013: 394), though she makes the points in different ways than I do here: “A successful military campaign therefore is not a sufficient condition for victory, nor is it always a necessary one. Political, economic, and civic forces may all shape the longer-term outcome of the war so as to render it an overall success or failure. Moreover, if one’s goals are
Thus it would seem that as long as victory in war is seen as having relatively clear-cut parameters, with one side winning and the other side losing, then it would appear that the traditional military sense of war winning is lacking. But perhaps winning in war is not an all or nothing concept, but more complex.

Furthermore, it would seem that winning in wars is, as noted above, a matter of degree and that it is often an on balance judgment. So for X to win economically either in the processes of a particular war or in wars more generally would appear to mean, at the very least, that X obtained a net increase of benefit from a particular war effort or with respect to wars in general. Thus in order for X to win in war, X must have actualized a net increase of benefit as the result of either the war in question or with regard to wars in general. Something akin to this point is recognized by Anthony Quinton when he writes that “To say that the war of 1939 was the real cure for the depression of the 1930s is to say that the countries that had been economically depressed in the 1930s recovered when and because many of them started to go to war with each other.” (Quinton 1975–1976: 1) Quinton recognizes, then, that certain countries such as the U.S. won in that cluster of wars that we refer to as “WWII” to the extent that the U.S. experienced significant economic recovery as a result of its participation in WWII. Furthermore, X might not even engage in war militarily (except in some rather indirect or remote sense) yet profit most from it compared to other parties somehow affected by said war(s). Examples of this sort of winning in war would be the various countries that did not participate in WWII in some military sense, yet benefited because they might have eventually been invaded, occupied and annexed had the Allied Forces not in the end been victorious. Had the ambitious goals of the Nazi regime been realized, then by now the entire world population might have been under its vicious control.12

Alternatively, such States might have benefited greatly in economic terms because some of their businesses manufactured some weapons of war for, or otherwise significantly assisted in, the war effort of other States. In turn, these businesses created relatively lucrative employment opportunities for many thousands of its State's citizens. And it need not be the case that such States declared war or officially entered the war, or cluster of wars, that we call “WWII”. In this sense, then, we might state that such States joined or participated in the war effort, though they did not officially enter or declare any war associated with WWII. In any case, winning in war in this manner is construed in terms of benefiting economically from a war, even though said States do not officially and perhaps militarily enter a war in some direct sense.

Additionally, winning in war in the all relevant things considered and on balance senses requires a tabulation of every aspect in which a war affects a party to one degree or another. And given the complexities of war, it is unlikely effective deterrence through a credible threat of retaliation, victory can be attained without one drop of blood being spilt.”

12 On this matter, one is reminded of Francis Kamm's discussion of the deterrent justification of war in order to prevent a worse harm from occurring to a people (e.g., Nazi victory) than what a war (e.g. against Nazi Germany) would likely cause to them. (Kamm 2011: 146).
that one party wins in war in any of these senses comprehensively. For example, to win in war, *morally speaking*, is to engage in the activities of war such that one does the morally right things, say, in accordance with the best overall construal of some of the basic precepts of the Just War tradition, including the satisfaction of the just cause condition and the minimization of collateral damage in terms of persons and, I would add, non-persons. At least this is part of what I assume herein. The likelihood of any warring party winning in war in such a way that it does not violate any of the rules of just war is very low indeed. This factor alone makes it unlikely that any party to a war will win in the comprehensive sense.

But there is at least one sense in which winning in war need not entail that the winner is morally right or good. I have in mind here the purely military sense of war winning. History is replete with examples of empires that conquer others, including the United States of America and its lengthy train of colonialism and otherwise militarily invading and occupying various other countries or societies for its own gain and in often terms of the benefits it brings to certain U.S.-based businesses. I refer here to the current invasion and occupation of Iraq and Afghanistan by the U.S.. There is a sense in which the U.S. is winning the “wars” in these countries, if by this one means that it demonstrates military superiority over/within them. However, such displays of military superiority must be weighed against the moral and economic facts, namely, that the U.S. has invaded and occupied these countries in severe violation of just war principles, and has allowed itself to be plunged into multi-trillion dollar debt as a result. Thus while the U.S. might be winning those “wars” militarily, it is losing them in terms of ethics and economics.

Furthermore, the Allied Forces of WWII won in war in the moral sense in many (but not all) respects, not the least of which was their ultimate military defeat of Nazi Germany which brought an end to the Nazi killings and other forms of brutality. However, even such a great victory in that cluster of wars and battles was marred, morally speaking, by the Allied retaliatory bombings of German civilian targets (by this I do not mean to include the strategic military targeting of businesses supportive of the German war machine, but rather the targeting of German civilian housing in particular, such as the British and US bombings of Hamburg in 1943 and of Dresden in 1945, and of course there were the unnecessary and unjustified US bombings of Hiroshima and Nagasaki, Japan on 6 August 1945 and on 9 August 1945, respectively, quite subsequent to the US's crippling of Japan's military). No attempt to either break the will of the enemy to continue to fight or to exhibit the extent of one's military might or to flaunt vengeance—even when one is on the side of justice in war (i.e., has a just cause)—can justify the intentional targeting of even relatively innocent non-combatants.

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13 See Jeff McMahan’s discussion of these atrocities wherein he argues that even those fighting on the most just side of a war are sometimes liable to morally justified defensive attack when they perform morally unjustified actions, such as the intentional bombing of a civilian target: McMahan (2009: 16).
Collateral damage can never be morally justified, though it might constitute the best alternative course of action in a given circumstance. Moreover, if it can ever be morally permitted, it is permitted only to the extent that it prevents a greater harm. I concur with Thomas Nagel when he writes of the bombing of Hiroshima by the US that “In attacking the civilian population, one treats neither the military enemy nor the civilians with that minimal respect which is owed to them as human beings.” (Nagel 1979: 69) Indeed, Jeff McMahan is correct in arguing that in such cases otherwise just combatants become legitimate targets of defensive attack to the extent that they engage in warfare that deliberately targets noncombatants. (McMahan 2009: 16) Thus considerations such as these show that a reasonable moral assessment of the Allied Forces militarily winning Germany’s surrender in WWII is tempered by its bombings of civilian targets. The U.S. might have won in most of its conduct in WWII in the military sense when considering the final military outcome of WWII. But its conduct in the war limited the sense in which it was victorious, morally speaking.

Not only did the U.S. lose WWII, morally speaking, to the extent that it engaged in such bombing behavior of noncombatants, it also failed the Just War tradition requirements of necessity and proportionality. For it was unnecessary that such bombings occur in order to secure the surrenders of Germany and Japan, respectively, and the degree of lethal force employed was significantly beyond what proportionality permitted—even if the targets were combatants. There is a moral sense, then, in which the U.S. did not win that cluster of wars that we refer to as “WWII.” This is especially the case if surrender could have been achieved by simply holding a meeting with German and Japanese emissaries at a U.S. atomic bomb testing site in Nevada wherein “the bomb” was tested before their very eyes. The emissaries having witnessed for themselves the effects of the “mushroom” clouds caused by the detonation of the bomb, it is plausible to think that such a meeting would have resulted in the expeditious surrenders of each Germany and Japan. Or, as John Rawls argues, it was a failure of statesmanship that led to such atrocities during WWII (Indeed, the needed but absent statesmanship might well have involved an invitation to witness the results of the bomb-testing to which I just alluded). And what perhaps made that failure possible, Rawls argues, was the public failure to take seriously principles of the Just War tradition. (Rawls 1999: 102) Rawls concludes: “...there is never a time when we are excused from the fine-grained distinctions of moral and political principles and graduated restraints.” (Rawls 1999: 103)

One necessary condition of winning a war in the broad sense is that the winning party/ies conduct itself/themselves in a morally just manner in all relevant things considered and on balance senses. In order for a party to win in war in the broad sense, it must do so morally speaking. However, there is an economic consideration often overlooked by just war theorists, one that can be tied to the moral argument. It is morally problematic, I shall argue, for a State to enter into a war that will pose undue economic hardship on itself or other States that are undeserving of such hardship. Some cases of genuine self-defense constitute exceptions to this rule, including some cases of defense of innocent
third parties. The claim here is not only that wars eventuating in the economic hardship of innocent targeted civilians of another State are morally problematic. It is also that the warring States themselves, insofar as they enter into wars and pose serious economic threats to their own citizens, are morally problematic. For economic hardships significantly affect the manners in which decent peoples can live. This implies, for instance, that insofar as the U.S.'s invasion and occupation of Iraq poses undue costs to its own citizens and to the citizens of Iraq, said invasion and occupation is morally problematic.

Furthermore, with regard to WWII, who or what generally won that cluster of wars? Bearing in mind McMahan's disambiguation of “war” especially with respect to WWII, it is unclear that anyone won that war effort if it even makes sense to call “it” a war. Rather, McMahan insists, we refer to “WWII” as a conglomeration of wars between Great Britain and Germany, the Soviet Union and Germany, the United States of America and Germany and Japan, etc. (McMahan 2009: 5) While it appears that he is correct about this latter point, there is still a general on balance sense in which we can reasonably hold that WWII was won and lost by particular parties and in particular senses. Thus McMahan is incorrect when he writes of WWII that “This war as a whole was not a just war, though neither was it an unjust war. War as the sum fighting of all the belligerents can be neither just nor unjust.” (McMahan 2009: 5) McMahan provides no argument for this claim. But I shall provide an analogy that suggests that his claim is dubious.

I take it that what McMahan is challenging is the idea that a conglomeration of parties can be rightly said to engage or not in a just or an unjust war. But consider an athletic tournament competition between several teams. Not only does it make sense to say that within the tournament Team A played Team B, that Team C played Team D, etc, but it also makes sense to say that, say, Team A won Team B, and that Team C won Team D, etc., on the way to the tournament championship. Furthermore, it makes sense to say that A defeated B, and that B defeated C, and that D defeated B in eliminating B from the tournament requiring, say, double elimination. However, it also makes sense to say that, at the end of the tournament competition between the various teams, a particular team won according to a particular standard of evaluation (in this case, the rules of the sport). And this is true of the winning of the tournament as well as with respect to particular matches during the tournament. Matches are won or lost in both senses. A difference between WWII and the athletic tournament competition imagined is that in WWII there were three countries (Germany, Italy, and Japan) who mostly independently fought against Allied countries in an “as events happened” manner and the Allied countries were coerced by circumstance to both enter the event of WWII in order to defend against the offensive wars of Germany, Italy and Japan, whereas in the athletic tournament teams play each other voluntarily according to a prearranged schedule or draw

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14 This point is implicitly supported in Rawls (1999: 8). More explicitly, Rawls states that “Decent peoples also have a right to war in self-defense” and “…any society that is nonaggressive and that honors human rights has the right of self-defense.” (Rawls 1999: 92).
at least in the first round of competition wherein the rules of the game are not only acknowledged by all parties but consistently followed by them. But the more important point here is that each context includes a conglomeration of parties participating in a larger event. Furthermore, it makes sense to say both that a particular party or a conglomorate of parties won the war (referring to WWII as a whole) just as it makes sense to say that a particular team won the tournament. And this is true not only in the broad on balance sense but in the senses of particular categories of evaluation. Thus it makes sense to say that the Allied Forces won the war against the Axis Forces insofar as the former engaged in military force to the extent that it needed to in order to achieve a military victory that cost as few lives as possible—especially concerning the lives of non-combatants, and was as environmentally destructive only as necessary, etc. The Allied forces triumphed militarily over Germany, Italy, and Japan. So McMahan seems to be wrong about neither party to that cluster of wars being victorious. A conglomeration of states or warring parties can be victorious over another conglomorate of states or warring parties. What is correct about his above claim is his drawing our attention to the particular wars between states within the larger picture of WWII.

With McMahan’s point about the ambiguity of “war” in mind, then, we might say with regard to who won which wars of WWII that there is little question that Great Britain lost its war with Germany both in terms of about half a million soldiers and civilian losses and in terms of its post-war economy being in shambles. Many surrounding countries fared similarly as the result of their WWII-era wars with, or invasions by, Germany. Overall, about 55 million lives were taken, about 40 million became homeless, and much of the global cultural and material wealth was laid to waste. (Rodin 2002: 10) Perhaps the Soviet Union won its war with Germany in terms of controlling much of Eastern Europe during several decades following the war, and the U.S. seemed to thrive economically and in terms of its spreading its military, economic and political tentacles throughout much of Europe as a result of its war with Germany. However, many Allied soldiers were killed, and on the Soviet side in particular, millions of non-combatants were also killed as they were forced to defend their homeland from German military invasion. (Rodin 2002 10–11) Insofar as on balance and all relevant things considered judgments of winning in WWII against Germany are concerned, it is difficult to imagine how entire countries won, morally speaking, in that cluster of wars due to the fact that so many human lives were taken. On balance, it seemed that each of the Allied countries and each of the Axis ones lost the war(s) due to the fact that each side experienced tremendous numbers of human casualties. And one need not be a pacifist to appreciate this point. The idea here is that there is a number of human lives lost that is simply beyond the pale of the broad sense of victory in war—no matter how morally just the cause and no matter how decisive the military victory. After that number of lives taken is calculated, whatever senses of victory in war become significantly, though perhaps not entirely, Pyrrhic.
Nonetheless, it is coherent to say that the Allied Forces to some extent and in certain senses won in the event of WWII in that they defeated the expansionist attempts of Germany, Italy, and Japan, and that they stopped the killings of various peoples deemed undesirable by the Nazi regime. And for that military defeat the world is forever grateful. While millions of lives were taken for and no just cause given that the offensive military expansions of Germany, Italy and Japan were morally unjustified, it was morally the right thing to do to militarily defend against—indeed, to eventually defeat—such military attacks and advances. In a real sense, lives of soldiers that could have and should have been spent in the normalcy of everyday experiences of love, compassion, and dignity were sacrificed in order to stop the evils that were part and parcel of the event of WWII. Morally speaking, WWII was a “lose-lose” event for all relevant parties in that of the seemingly incalculable loss of lives. But are there senses in which WWII was won other than in the traditional military sense?

While WWII was a losing proposition in the moral sense because of the millions of innocent lives that were taken, certain persons and the businesses some of them own or manage profited particularly well during that cluster of wars. Certain automobile manufacturers both in at least, for instance, the U.S. and Germany benefited tremendously from it, incurring essentially guaranteed profits from government sponsored sales of vehicles of war. Certain munitions manufacturers also benefited significantly from the wars. Moreover, in the cases of such businesses, it is unclear that overall victory in war is even a desire, except of course, insofar as victory might tend to breed a further willingness of many civilians to enter additional wars. After all, oftentimes victory serves as the basis for additional attempts at certain behaviors. Also, more profits can be realized if a war were to continue than if military victory is achieved in some traditional sense. So there are parties to a war effort that might not publicly express their desires that a war continue, perhaps even indefinitely for the sake of self-serving profits. Nonetheless, they stand to win considerable profits the longer a war continues. In yet other cases, such as the United Fruit Company in the mid–20th century, a business might serve as a primary influence on a government to go to war in order to overthrow another government so that the business in question stands to profit. (McMahan 2009: 214) McMahan is correct, it seems, when he argues that such cases admit of some degree of civilian complicity in wars and thus bear a degree of liability to defensive military attack. So, in a sense, economic winning in war is oftentimes accompanied by a moral loss in terms of liability to military attack, and, I would add, to becoming a morally justified target of terrorism.15

War and Terrorism. Moreover, winning the war on terrorism is typically construed in the U.S. as the U.S. Government’s assigning its military to defeat terrorism by way of high technology and military might while simultaneously devoting more than a trillion dollars on a system of homeland security to

15 For an analysis of the conditions of morally justified terrorism, see J. Angelo Corlett, Terrorism: A Philosophical Analysis (Dordrecht: Kluwer Academic Publishers, 2003), Chapter 5.
defend against terrorist attacks both domestic and abroad. However, these methods of addressing terrorism normally: (i) ignite and inspire more terrorism, (ii) eventuated in hundreds of thousands of innocent Iraqis being killed and maimed mostly by U.S. military action in Iraq, (iii) cost U.S. taxpayers trillions of dollars that could be better utilized elsewhere in the U.S. budget, (iv) fail to recognize that some in the U.S. are thoroughly deserving of the harshest kinds of violence and death, and (v) have been roundly deemed by security experts to be ineffective in making U.S. citizens safer overall.\footnote{This fifth point is made in Clarke (2004).} So the U.S. is losing its war on terrorism, both in the moral and economic senses.

Moreover, the comprehensive moral, economic and political costs to the U.S. for countering what a relative few terrorists have done to the U.S. in response to U.S. support of Israel and U.S. global military hegemony are astronomical, suggesting that the U.S. is losing and perhaps has already lost the war on terrorism. For even if the U.S. were to secure a final military victory over terrorism, the costs incurred seem already too high when the comparative numbers of lives taken on each side is calculated: U.S. casualties from 9/11 and troops lost in Iraq and Afghanistan amount to several thousand, while Al Qaeda has lost only dozens of members. There may not sufficient numbers of terrorists to equal the numbers of U.S. citizens killed and maimed by terrorism, not to mention the increasing and exorbitant costs of fighting the “war on terror” in terms of the technologies and human resources required. The moral costs of losing thousands of U.S. lives and hundreds of thousands of innocent Iraqi lives is a moral cost too high to pay under such circumstances, as is the trillion-dollar cost of such military measures. Not all wars can be won when all relevant factors are considered.

Another manner by which to address the moral question of who wins in wars is to consider McManan’s challenge to Walzer’s principle of the moral equality of combatants. (McMahan 2009: 4f.; Walzer 2000) I have in mind McMahan’s statement “that combatants who fight for a cause that is just or good but whose war is nevertheless unjustified do not have the same moral status as just combatants.” (McMahan 2009: 6) If McMahan is correct in challenging the veracity of Walzer’s principle, then something vital has been lost in the participation in war by both governments and individual citizens who participate in an armed conflict that is not, on balance, morally just. Here I refer both to those who sincerely believe that the cause for which they fight is morally just, and those who do not believe so but who, for whatever reasons, choose to enter the conflict. In the first case, one’s sense of morality is askew to the extent that she, say, cannot or does not understand the unethical nature of her participation in the war effort in question perhaps due to a psychological aversion to cognitive dissonance with regard to her socially-instilled beliefs from her childhood and early education. In the latter case, whatever circumstances brought her to participate in the unjust war—a draft, economic need, social status, racism, nationalism or a perverted sense of patriotism, etc.—led her to
participate in an unjust war. In either case, a deep sense of personal and perhaps even collective moral responsibility is lost. For in neither case does the soldier in question sufficiently consider the moral ramifications of the war in question and her participation in it. And if this is true, then it is not likely that societies as a whole would fare much better insofar as collective responsibility for war-making decisions is concerned. So insofar as there is an unjust party to a war, that party has combatants who for various reasons support an unjust cause and lose in war, morally speaking, to the extent that they support the unjust war effort. Not doing the morally right things in war and avoiding the morally wrong things in war are surely ways of losing in that war.

But this is precisely what is in part problematic about war. All too often, it victimizes normal citizens by using them as mere means to the promotion of some economic gain or political agenda without disclosing and discussing the actual motivations for going to war (e.g., for a particular economic cause or political agenda). One obvious reason for this is to shield the fact that the war in question is, say, desired for personal financial gain by munitions manufacturers and a plethora of military-related contractors, or for political reasons of reelection, among other underlying reasons such as the forcible taking of another country’s natural resources. But as the above epigraph from Rawls reminds us, war cannot be morally justified to the extent that it is motivated by theft of another country’s natural resources. To the extent that such things occur in war (including pre-war activities), the party to the war that commits such wrongs loses, ethically speaking.

Winning in war, punishment, and racism

*Winning in War and Retributive Justice.* This matter leads to another important moral consideration concerning winning in wars: the *holding accountable and proper punishment of war criminals (those who commit war crimes and crimes against peace).* For the world wins in wars to the extent that this form of justice is accomplished in a reasonably just manner. I assume here that the world wins when due process-based justice is achieved, including retributive justice. By this I mean that humanity wins when those who, being duly convicted and deserve it are punished in approximate proportion to their harmful wrongdoings. For to the extent that war criminals are brought to justice is the extent to which the world wins with regard to what occurs in war, including the declaration of morally unjust wars (normally categorized as a crime against peace). Here I do not mean the bringing to bear of political and economic power to punish whom one sees fit, as has been the case in some instances wherein those who were punished were punished by powerful States that were hardly in moral positions to do so. Rather, I mean the bringing to justice of those who are via due process of law found to be genuinely guilty of war crimes. In this way, the world wins in wars—even when the wars themselves are, on balance, unjust. So long as reasonable justice is sought and achieved regarding war crimes, the
world to some meaningful extent wins in wars even in cases where, on balance, wars are lost. And this is true even though the world (or at least this or that State attacked in the wars) suffered greatly. This is because a genuine sense of collective responsibility for the war in question is realized, a responsibility aimed at giving war criminals what they deserve based on their degrees of retroactive liability responsibility for their role(s) in the war in question. The matter of reasonable or approximate justice is no mean result when it can be achieved after such atrocities. For it provides appropriate responses of States to war criminals because they deserve it based on their respective levels and degrees of responsibility for their war crimes. It also functions to distance humanity from such atrocities, disavowing them publicly.\(^{17}\) And if the punishments genuinely fit the crimes in question, they might even serve to deter to some meaningful extent future attempts at such crimes. Retributive justice is essential to conduct after each instance of war as a means of achieving, retrospectively, winning in wars. For it is the winning in war, morally speaking, in terms of the reasonable meting out of retributive justice.

Let us not forget that one of the initial phases of the de-Nazification of Germany post WWII was the trial and punishment of some of the leading Nazis captured alive by the Allied Forces. Good reasons for not trying war criminals are that they either escape capture (alive), or that there is inadequate evidence to prosecute them. Good reasons for not punishing them are, of course, that they are innocent or are excused for their actions, inactions, or attempted actions, as the case may be. When war criminals are duly punished, they must be sentenced with due diligence considering possible factors of mitigation. But when such factors are absent in any meaningful sense, there should be no apology for the proper punishment of war criminals subsequent to reasonably rapid due process.

Walzer advocates a different view on the meting out of retributive justice post war: “Doing justice, in the legal sense, isn’t always the right thing to do.” (Walzer 2000: 117) But this is because he holds a utilitarian view of such matters. For him, seeking trials and punishments for war criminals seems to require total defeat of an aggressor State, which prolongs a war and increases casualties, including collateral damage. So the benefits of trying and punishing war criminals must be weighed against such costs. (Walzer 2000: 119–121)\(^{18}\)

But while Walzer’s words have a ring of truth and practicality to them that should not be taken lightly, it is also true that saving innocent lives for the sake of not punishing war criminals in the ways they should be punished is hardly a roadmap to genuine peace. The Nuremberg Trials, despite the fact that they were founded on \textit{ex post facto} law in that there was no law at that time against genocide, represented at least an attempt of the Allied States to bring some Nazi leaders to justice for their respective war crimes. For such trials not to be

\(^{17}\) For an account of the expressive functions of punishment in general, see Feinberg (1970: Chapter 5).

\(^{18}\) To his credit, Walzer writes that such war criminals are “enemies of the world” for whom “the hell of war is their crime”: “And if it isn’t always true that their leaders ought to be punished for their crimes, it is vitally important that they not be allowed to benefit from them.”
held would be an affront to justice and to any State’s system of justice that is applied to legal criminals. Why should war criminals not be punished for their wrongdoings? Should the fact that the extension of wars is required for trials and punishments of war criminals deter States from executing justice on those who deserve it for their war crimes? Perhaps Walzer has just gotten this entire matter wrong regarding genuine victory in war. Rather than using an implicit utilitarian perspective to view winning in war, perhaps one ought to adopt a genuinely retributivist perspective wherein winning in war entails bringing justice to the war criminals, and that unless and until this is able to be accomplished with reasonable accuracy in justice the war is not over (assuming, of course, that there is sufficient evidence to prosecute war criminals). Winning in war, in other words, requires, among other things, the ability of and willingness to bring retributive justice to war criminals no matter who they are and no matter what consequences it might bring to attempts at reconciliation and social harmony. Nor should the desire of a government to gain information from certain scientists or military personnel who commit war crimes a sufficient reason to fail to prosecute them.\textsuperscript{19} We must bear in mind that no post-WWII German citizen was in a moral position to complain about the trials and punishments of war criminals—at least not in principle. So if this is true, then on what grounds should we heed Walzer’s concern about prolonging wars for the sake of retributive justice? It is not prolonging a war that is the issue. Rather, it is the finalizing of the war and all that that means. And part of what it means to win in war is to be in a position to bring retributive justice to war criminals under conditions of due process. And any German citizen post-WWII who would dare complain that executing retributive justice against Nazi war criminals would pose difficulties with post-war German social well-being is hardly a person with whom any reasonable person having self-respect should want to reconcile. Thus Walzer’s reasons for foregoing retributive justice against war criminals are utilitarian-based, and have little or no justification in the context of concerns with justice and war crimes.

More specifically, those primarily responsible for and duly convicted of harsh war crimes that result in the intentional\textsuperscript{20} deaths of innocents must be executed insofar as there are no mitigating conditions attending their crimes. But they

\textsuperscript{19} Here I have in mind the U.S. government’s failure to prosecute many Nazi scientists and military leaders because of the information those Nazis possessed in dealing successfully with the Soviet Union in war. Such Nazis were permitted to live rather well alongside U.S. citizens, often without the knowledge of the U.S. citizenry at that time.

\textsuperscript{20} Issues of intentionality in philosophy of law loom large. I do not want to address them here. What I mean by intentionally killing innocents is not that the court ought to consider the defendant’s own subjective view about whether or not s/he believed such military targets to be innocent. Rather, it pertains to the agent’s state of mind with regard to the killings themselves. So Adolf Hitler may have truly believed that those he targeted militarily deserved death. But this hardly suggests that he is not responsible for their deaths, or that such victims indeed deserved death. So the supposition that Hitler and his henchmen thought that they were doing the right thing by committing genocidal acts hardly serves as an excuse or even a meaningfully mitigating factor regarding their guilt and responsibility for those war crimes. The declaring of an unjust war is a crime against the peace and, as I see it, a war crime of ultimate proportions insofar as it is an intentional act in the sense just elucidated.
must also be stripped of all of their financial assets in order to pay some measure of reparations to her victims. This is consistent with Walzer’s vague claim that “Reparations are surely due to the victims of aggressive war.” (Walzer 2000: 297) But Walzer is unclear about precisely to what such reparations amount. Are they compensatory reparations? Are they non-compensatory in nature? His brief statement about reparations being “distributed through the tax system” implies that he means compensatory reparations. However, Walzer’s scheme of compensatory reparations is a tax-based one wherein the public of the oppressor State pays the compensation for what the wrongdoer did. While this form of compensatory reparations is often justified and essential, Walzer states nothing about the wrongdoer herself paying the compensation to her victims prior to any tax-based system of reparations being enacted. Moreover, his assertions along these lines are so vague that they make no reference to how much ought to be paid, and why. Such calculations about human worth are made daily in criminal and tort proceedings in the U.S., where wrongful death suits routinely garner settlements and rulings of several millions per wrongful death. Should we not think that the same basic values ought to apply in cases of war crimes? If not, why not? Is there something about war crimes that ought to shield war criminals from such harsh compensatory and reparatory fines? Furthermore, Walzer does not seem to address the issue of non-compensatory reparations to the victims of war crimes.21

Even if approximate retributive justice accrues to the kinds of war criminals in question and they are executed and their assets seized in order to compensate, however partially, their victims, there remains the matters of non-compensatory reparations of undoing the unjust laws and policies enacted by the unjust regime, the renaming of monuments and streets and buildings and such, effectively altering the State’s culture that was changed to reflect the values of the unjust regime. This is an important part of reparations, and it is a sign that victory in war has been achieved as it is a sign that the aggressor State is changing for the better. Its leaders who declared the unjust war are dead (where due process has uncovered no excuse or mitigation) or otherwise punished harshly (where due process has revealed mitigating circumstances obtaining) and possess no power and have no financial assets whatsoever, victims have to some extent been compensated, and the State can begin to change itself toward justice and fairness and provide further compensatory reparations to the victims.

A utilitarian concern with this retributivist approach to war crimes as part of what it means to win in war is to question the probability of reconciliation between the oppressed and the citizens of the aggressive State. Larry May writes that “Prosecuting a state’s leaders for aggression or war crimes is of major importance, but it can sometimes make the achievement of a just and lasting peace much harder than before.” (May 2013: 320–321) Moreover, he writes, “If there is to be any hope of achieving post-war reconciliation, then retribution and

21 For comprehensive philosophical accounts of reparations to American Indians and U.S. blacks by the U.S., see J. Angelo Corlett, Heirs of Oppression (Lanham: Rowman & Littlefield Publishers, 2010).
other acts that would provoke bitterness or reprisals need to be limited.” (May 2013: 323) Central to May’s approach to post war events is the achievement of peace, which he identifies as a “utilitarian value.” (May 2013: 322)

But why should one think that oppressed peoples even want to or should want to reconcile with their oppressors? Would not respect for the oppressed (and self-respect of the oppressed) leave it up to the oppressed themselves to decide whether or not they want to be reconciled with the citizens of the oppressor State, assuming, of course, that they had a pre-existing relationship wherein reconciliation between them is even relevant? Utilitarian presumptuousness concerning reconciliation between previously warring parties has little or no place in an attempt at genuine justice and lasting peace. For without true and holistic (including retributive) justice, there can be no genuine peace. In the case of post-WWII Germany, German citizens must be made to bear the reparative brunt of what their Nazi government did to millions of victims in for form of in perpetuity compensatory and non-compensatory reparations, without any expectation whatsoever of reconciliation with those their previous government oppressed. For the presumption of forgiveness and reconciliation has no place as a requirement of winning in war, morally speaking. It has little, if any, place as a requirement of justice and fairness. For reconciliation requires forgiveness. But forgiveness requires a genuine apology, which in turn requires, among other things, compensatory justice. But there is no moral obligation to forgive, even if there is a genuine apology. It is a victim’s moral prerogative to do so. (Corlett 2014: Chapter 8)

When it comes to war and post-war contexts, there is little, if any, place for the presumption of peace without justice. For genuine peace can only be achieved by way of justice, including retributive justice. Even if this were not the case, it is far from obvious that the peace of which Walzer and May write is a valid moral value in circumstances of extreme injustice and oppression. But the doctrine of peace assumed therein demands justification, as peace (absent justice) enjoys no morally privileged position in philosophy. What is needed here is a detailed philosophical analysis of the nature of peace and the conditions for its possible moral justification. For the concept of peace is not a self-justified basic moral belief.

However, when significant injustices occur in war, including the injustice of the declaration of an unjust war, there is in general at least a double-effect of loss. The first is when the injustices in war occur. The second is when such war crimes and crimes against peace are not adequately punished or compensated. An example of each of these kinds of loss in the commission of war crimes and in the evasion of justice by those most primarily responsible for them are found in the most recent military invasion and occupation of Iraq by the U.S.. For not only is that “war” in significant violation of basic just war principles (Corlett 2014: Chapter 12), it led to a conglomeration of violations of human rights and anti-war crimes statutes found in the Geneva Convention, such as the unlawful detention, lack of legal representation for the accused and
detained, and torture of terrorist suspects by the U.S. government often by way of the contracting of private companies to perform the “services” so that those contractors would not be legally bound to the same legal restrictions as agents of the U.S. government (such as U.S. soldiers). Yet even to this day as many in the former Bush administration are being sued for war crimes, they continue to evade prosecution in U.S. courts, thereby realizing their immunity for such crimes. I have in mind, not only George W. Bush, along with his top cabinet members who strongly supported and campaigned for the invasion and occupation in question, but the “Bush 6” who are the lawyers who effectively redefined the legal understanding of “torture” in such a manner such that what happened to many suspected terrorist detainees in Guantanamo Bay and in various other locations throughout the world with U.S. government knowledge and approval no longer constituted torture under U.S. law.22

The world loses morally when war criminals are not brought to justice. Not only is the right thing not done to them in terms of holding them accountable and punishing them as appropriately as possible, but insofar as they go unpunished or significantly under-punished they may continue to serve as threats to national and international security.

It is vital that war criminals are provided due process of law. But when they are duly convicted absent meaningful mitigating circumstances, they must be punished in approximate proportion to the harms they wrought on others. In the case of those who declare unjust wars, any punishment short of execution and seizure of all personal financial assets in order to provide some meaningful measure of compensatory reparations to the victims of the unjust war is itself unjust as it violates considerations of justice in proportional punishment. It is bad enough that war crimes are committed. But added to these evils is the shrinking from the responsibility to impose what justice requires on war criminals because there is a lack of moral fortitude—often disguised as utilitarian concerns for peace, forgiveness and reconciliation—to do the right thing in terms of punishing such war criminals. Winning in war requires, morally speaking, the bringing to justice of those most responsible for the worst crimes of war and against peace.

Racism and losing in war. Furthermore, societies lose in wars to the extent that racist stereotypes are often created during war and tend to survive, and even thrive, during post-war eras. Consider the anti-Japanese racism of many whites in the U.S. during WWII. This racism is expressed in some U.S. children’s cartoons of that era and no doubt made politically and socially acceptable (to many) the establishing of the internment camps in California in which thousands of Japanese-American citizens, and even many who morphologically appeared to many white U.S. citizens to be Japanese, were forced to work without pay. Many lost their businesses, jobs, etc., only to be compensated in terms of reparations in the amount of only about $10,000 per family imprisoned. Whatever might be morally permitted in war, it is hardly justified to create and sustain racist

22 For further discussion of this matter, see Gordon (2014).
stereotypes that can and often do last for generations—adversely affecting those who were not even born at the time of the initial incident that led to the stereotypes in the first place. Wars are often breeding grounds for racist attitudes and behavior. Morally speaking, no one wins in war where racism thrives. Of course, ultimate expressions of such racism in wars include the genocide of American Indians by the Spanish conquistadors, the British, the French, and the U.S. governments and their armed forces in recent centuries, as well as Germany’s genocide of Jews, homosexuals, gypsies and certain others deemed by the Nazis to be “undesirable,” just prior to and during the WWII era.

Of course, there are other losses in wars. Ordinary soldiers do not win in wars. Here I have in mind those conscripts and others who serve on the front lines predominantly out of a sense of economic necessity, as opposed to career military types who often serve out of a sense of genuine patriotism. While it is true that some soldiers and their loved ones may derive some level of satisfaction out of military heroism, the fact remains that serving as a soldier robs one of a far more productive life they could have enjoyed had they not been either conscripted or had they not enlisted in the military in order to engage in war. Wars involve seemingly countless cases wherein postal workers, peace officers, firefighters, contractor apprentices, etc., had their careers or their more ambitious career prospects placed on hold, and most never return to them or even have an opportunity to pursue them. Instead, their lives are in essence taken from them just as they begin adulthood. They are often forced by less than optimal economic circumstances to serve as warriors, and if they return from war, several experience the curse of suffering from post-traumatic stress syndrome, and being some of the last ones to be hired even in a good economy. So they endure the social stigma and psychological struggles that accompany most war veterans, and the remainder of us do not even notice them. Many become homeless, unproductive and substance abusers. Most soldiers do not benefit in war in the on balance and all relevant things considered senses. If they are not killed in war, they often wish they had been killed in battle once they return home to experience the anxiety and depression that await them.

Does the citizenry of a warring State win in wars? As mentioned, they can benefit when the military invasion of their country is avoided due to war. However, many women are raped in war, either female troops by fellow troops or non-combatants by troops. Moreover, the hard-earned taxes that paid for the costs of the building of infrastructure is often decimated, thereby essentially wasting the time and effort that went into the building and maintenance of those important roads, bridges, schools, colleges and universities, parks, libraries, museums, etc. Furthermore, non-human animals often suffer and die in a myriad of ways, either by being used as means of war or by being the victims of war in other ways. War displaces many, psychologically harms, often destroys entire ecosystems, and there are orphans of war: both human and non-human.
Conclusion

In sum, I have argued that the traditional military sense of victory in war is incomplete, and that it needs to be supplemented by a more comprehensive account of what it means to win in war. That more comprehensive sense of winning in war includes (but is not exhausted by) the economic and moral senses of victory in war. Economically, there are various parties that stand to gain from the processes of war. So they tend to benefit from war. In this sense, they are winners. But morally speaking, winning in war means that a party to war follows the rules of just war as best it can. Furthermore, winning in war in the moral sense requires, among other things, the trial and, if duly convicted, approximate proportionate punishment of war criminals or criminals against peace. Moreover, compensatory and non-compensatory reparations are also required for the moral sense of winning in war to accrue. It is not my argument that winning in war entails victory in only the military, economic and moral senses. Rather, it is my argument that a more comprehensive account of the nature of winning in war requires that such factors be incorporated into it.

While it is possible for States to win in war and for some businesses to win in war each in the broad sense, most instances of war eventuate in an on balance net loss for all relevant parties when all relevant things are considered both moral and economic. And this is true of even those defensive war efforts of which we can be most appreciative.

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