Chapter 5

Asymmetric Warfare and Morality: From Moral Asymmetry to Amoral Symmetry?

Carl Ceulemans

Introduction

When it comes to war, there is, according to Clausewitz, only one real objective: to impose your will on the enemy. Whether such a military endeavor will be successful depends, still according to Clausewitz, in a considerable degree on the military capacity one has at one’s disposition. In the context of such a military confrontation, it is thus of the utmost importance to take into account one’s own and the opponent's advantages and weaknesses. It is simply not a good idea to seek a direct confrontation with a military superior adversary, who is allowed to make full use of that superiority. In such a situation of strategic asymmetry it is, on the contrary, quite sensible to circumvent or undermine the opponent’s strengths, while, at the same time, exploiting his weaknesses.

But what if one of the parties focuses its efforts on creating and exploiting moral asymmetry? When faced with an enemy who acts ruthlessly in the pursuit of what it perceives as a righteous cause, one cannot but wonder whether it is a good idea to continue to fight well (i.e. in accordance with the in bello restrictions). From an operational point of view, such an observation might seem sufficient to justify a downward leveling of the ‘moral playfield’. By downplaying the in bello restrictions to mere operational liabilities, it seems that those who defend the preservation of an ethically proper conduct in warfare are put on the defense. If war is about winning, why accept rules that limit your military capacity, especially when your opponent rejects any form of ethical restriction? The basic argument of those who go firmly against this clausewitzian logic is that it is simply wrong to harm non-combatants. War is indeed about winning, but not at any price. Intentionally jeopardizing the lives of non-combatants is precisely what distinguishes ‘us’ from ‘them’.

But putting the burden for the preservation of an ethical conduct in a situation of moral asymmetry on the duty not to harm non-combatants requires us, however,
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to argue why such a duty is so important. Simply saying that it is a self-evident moral truth isn't enough. If we want to refuse, and more importantly continue to refuse, imitating the immoral behavior of our opponent, we need to be convinced by strong and persuasive arguments. It is indeed very tempting to reciprocate in order to level the moral playfield. Only good reasons can keep us from doing that. Now, because non-combatants seem to be especially vulnerable in wars involving unconventional forces, we will, in the rest of this article, develop a comparative moral argument. First, we look into the reasons put forward to defend non-combatant immunity in a paradigmatic warfare scenario (war involving only conventional armed forces). Secondly, the analysis focuses on whether the non-combatant immunity arguments developed within a paradigmatic context maintain their moral force in a non-paradigmatic scenario (war involving conventional and unconventional forces).

1. Arguing Non-combatant Immunity in a Paradigmatic Warfare Scenario

From the moment two political communities, say state A and state B, enter into a state of war, the citizens of both A and B are divided into dichotomous categories: that of the combatants and that of the non-combatants. The persons who belong to the former category can be the legitimate object of an armed attack, whereas the persons belonging to the latter should never be intentionally harmed. Like any form of discrimination, the combatant/non-combatant distinction needs to be justified. A fortiori, the need to argue this specific form of status inequality is all the more pressing because it is literally a matter of life and death. So why do those persons belonging to the non-combatant category enjoy immunity from intentional attack but those being labeled as combatants do not? It is possible in this respect to distinguish between a convention-based and a moral-based argument.

Let us take a look at the convention-based argument first. Suppose state A and state B have a dispute about, say, a piece of territory both A and B claim. As both countries are not able to work out this problem peacefully, they decide to settle the affair by force. Now in order to minimize the number of casualties on both sides, the two opponents might agree to decide the issue by the outcome of an individual combat (both A and B designate a champion who will represent them). That way, the combatant/non-combatant distinction is fairly clear. The champion is the combatant and the rest of the population belongs to the non-combatant category. The trouble with an individual combat as a means of taking care of collective disputes is that the ‘defeated’ party isn’t always prone to submit itself to the final outcome of the individual combat. The risk even exists that a full blown war might ensue, where no limiting conventions are in place. Why bother coming up with ‘new’ limiting conventions, one might argue, when the opponent hasn’t bothered respecting the outcome of the initially agreed duel in the first place?

In order to avoid such an ‘all-or-nothing’ situation, George Mavrodes proposes to adopt a more realistic combatant/non-combatant convention that will have a better chance of being respected than the individual combat.3 The belligerent states A and B

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