Ethics as Response: A Critical Analysis of Michael Walzer's Just War Theory in the Context of Iraq

A Thesis submitted to the University of Manchester for the degree of
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Contents

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List of abbreviations

COIN	Counter Insurgency
CPA	Coalition Provisional Authority
IED	Improvised Explosive Device
IGC	Iraqi Governing Council
IR	International Relations
SCIRI	Supreme Council for the Islamic Revolution in Iraqi
TAL	Transitional Administrative Law
U.S.	United States of America
UIA	United Iraqi Alliance
UN	United Nations

Abstract

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In recent years, human rights discourse has become increasingly intertwined in the justifications presented for Western wars and interventions. The aim of this thesis is to illustrate the problems implicated in human rights based justifications of war and violence. To achieve this aim, this work makes three primary contributions to International Relations scholarship. First, the thesis provides a robust critique of Michael Walzer's conception of ethical responsibility and his rights based justification of war. Second, I describe an alternative understanding of ethical responsibility that follows from the work of Jacques Derrida, *ethics as response*. And third, I demonstrate, thorough a reading of the 2003 Iraq War, how *ethics as response* can provide us with a better understanding of what it means to act ethically in times of war.

The central argument presented in this thesis is that rights based justifications of war are predicated upon the belief that moral rules of conduct help us to resolve questions of ethical responsibility in war: moral rules tell us what the right thing to do is and show us how we can act in a morally justified way. This thesis argues that moral rules narrow our understanding of ethical responsibility by promoting adherence to the law rather than responsibility to other people. In contrast, *ethics as response* provides a model of ethical action that denies the possibility of satisfaction and, thereby, advocates sustained engagements with the consequences of violent action. Ultimately, the idea of *ethics as response* calls our attention to the uncertainty and uncontrollability implicated in violent actions justified in the name of human rights.

Declaration

I hereby declare that that no portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

Copyright Statement

Dedication

To Laura, you are my centre.

Acknowledgements

Working on a PhD is a difficult task, one in which your mind threatens to collapse in on itself from all the nagging doubts and insecurities that permeate your head on a daily basis. As most people who have successfully completed a PhD will attest, getting to the point of submission is possibly only because of the love and support offered by a group of fantastic, and patient, people.

First, I would like to thank my supervisors, Maja Zehfuss and Peter Lawler for their incremental help throughout my PhD. When I started a MA in International Relations five years ago I had no intention of going on to do a PhD: this was supposed to be a quick job, in and out in one fell swoop. It is a testament to your support, encouragement and belief in me that I not only decided to embark on a PhD, but actually completed it. I am immeasurably grateful for everything that both of you have done for me during the last five years, thank you.

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I would like to express eternal gratitude to my family and friends for dragging me through the last few years. None of this would have been possible without the love and support of my partner Laura. I am lucky to have met such a uniquely kind, caring and compassionate person, who for the past six years has been at the centre of everything good in my world. To my parents, Tom and Mary, who have been putting up with my crap for the last thirty years, I am forever grateful for you and your love. My brother Cian, you have been one of my best friends and have pushed me to become the person I am today. My sister Orla, you have grown into a fantastic person and I am proud of you in many, many ways. My grandparents, Lilly and Paddy-Joe O' Callaghan, you are the type of wonderful and loving people that I aspire to be. I would also like to thank Cillian Ó' Flathabháin, Barry Collins and Patricia White for supporting me in turbulent times. Finally I would like to thank my little boy McNulty. You're a cheeky pup (and a deviant rebel who got himself kicked out of doggy day care), but you're my cheeky pup and you have stuck right by my side through the last two years.

Introduction – Engaging with War

> *One describes a tale best by telling the tale. You see? The way one describes a story, to oneself or to the world, is by telling the story. It is a balancing act and it is a dream. The more accurate the map, the more it resembles the territory. The most accurate map possible would be the territory, and thus would be perfectly accurate and perfectly useless. The tale is the map which is the territory. You must remember this* (Gaiman 2007: 10).

Prelude

Stories of politics, society and subjectivity are inseparable from the spectre of violence. When we try to account for who we are, where we come from and the type of world we want to live in, we construct an inside (of self, nation and society) coherently separated from the outside. Violence, in this respect, represents the lingering threat that what lies outside may forcefully intrude upon our inner sanctums: the threat that others may destroy the worlds we have built. Violence is the ultimate figure of the outside-of-self, a malevolent alterity that seeks to disrupt the calm tranquillity of the inside at peace with itself. In the well versed Hobbesian narrative, the threat of violence grounds the possibility of politics: the threat posed by others necessitates the formation of an authority capable of maintaining inner peace. As such, political authority forms as a response to the ever-present threat of violence. In turn, the international realm is imagined as an arena in which violence operates unchecked by definitive political authority. The international is the threatening outside from which the state must be protected, a space marked by combustions of war. The state is formed in response to the threat of internal violence and is maintained to defend people from the threat posed by the international.

This is, of course, a mythical story. Yet, it is a mythical narrative that shapes and reshapes the world. The discipline of International Relations (IR), for example, was founded in response to the questions posed by war, seeking to reconcile the peaceful inside with the dangerous outside. Indeed, the continued importance of war to the discipline indicates a sustained interest in the links between politics and violence. In many respects, this project continues the traditional IR focus on violence and war. However, this work departs from the tradition in its aim to resituate the purported violent outside, not as a threatening menace, but as the positive possibility of ethics and politics.

Situating the Argument

This project offers three main contributions to contemporary IR. First, the thesis provides a robust critique of Michael Walzer's conception of ethical responsibility and his justification of war. Second, I describe an alternative understanding of ethical responsibility that follows from the work of Jacques Derrida. And third, I illustrate how this alternative account of ethical responsibility can help us understand and respond to the 2003 invasion of Iraq and its legacy.

Michael Walzer was chosen as the basis of this critique because there is something valuable in his work: Walzer is, as will be outlined in the next chapter, saying something unique and interesting about the relationship between ethics and war. Walzer's work, in important ways, retains a sense of tension between the purported moral necessity to endorse certain violences and the realisation that war often reaps devastating consequences. Perhaps more importantly, Walzer's work is a direct attempt to reframe our understandings of war in a way that is attentive to ethical responsibility. In the preface to his primary discussion on war, *Just and Unjust Wars*, Walzer declares his intention to "recapture the just war for moral and political theory" (2006a: xxii). What is paramount to Walzer's reclamation is the idea that critical judgments about war should not be the province of political leaders who often deploy violence as a means to achieve their own strategic ends. Instead, Walzer contends that ordinary people who suffer from war's consequences should be empowered to make moral judgments. In this sense, Walzer is arguing that questions of war should be democratic imperatives rather than the privilege of elite opinion.[1] Walzer's overarching ambition to stimulate active public discussions about war remains both admirable and desirable because it articulates the belief that people should be engaged and concerned with questions of war. The following argument aims to challenge Walzer's response to the questions of war and justice, while retaining the fidelity of his reconceptualisation of war in terms of active political and ethical engagement.

[1] In this respect, Walzer's argument is not entirely distinct from Kantian liberalism. For example, see Andrew Linklater, *Men and Citizens in the Theory of International Relations* (London, Palgrave Macmillan, 1982).

There have been a number of influential critiques of Walzer's work in recent years. Jeff McMahan's *Killing in War* (2009), for instance, challenges Walzer's principle of 'moral equality between combatants,' and the traditional just war separation of *jus ad bellum* (just recourse to war) and *jus in bello* (just conduct in war). More directly, Veronique Pin-Fat (2010) provides a critical examination of Walzer's depiction of ethics, subjectivity and politics from a postructural perspective. This work, however, moves beyond the recent critiques of Walzer's work. In the case of McMahan, this project, as will be explained, rejects the rule based system of morality that McMahan employs to justify war. On the other hand, while this thesis largely agrees with Pin-Fat's critique of Walzer, Pin-Fat does not engage with Walzer's just war theory or provide an illustrative account of how Walzer's morality relates to the 'real world'. In contrast, this thesis emphasises the links between Walzer's communitarian based morality and his justification of war, and draws upon examples from the Iraq War to help frame and inform the critique.

Walzer's conception of justice in war broadly fits within human rights discourses that, in varying ways, justify war in terms of the defence of individual or collective rights.[2] In this sense, Walzer's understanding of war provides an exemplary, and robust, account of the relationship between human rights discourse and the possibility of justified violence. While Walzer undoubtedly articulates a unique and particular account of this relationship, his exposition helps us to illustrate a number of more generalised problems in human rights based justifications of war. In turn, the preceding discussion on the 2003 invasion of Iraq affords us with a valuable platform to begin talking about the relationship between human rights and contemporary justifications of violence.

As a Westerner born in the 1980s, Iraq has become the defining symbol of war in my lifetime. Although I have vague memories of the Gulf War in 1990, the 2003 invasion coincided with

[2] For example see, Alex Bellamy, *Responsibility to Protect* (Cambridge: Polity Press, 2008), J.L. Holzgrefe and Robert O' Keohane, *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), Mary Kaldor, *New and Old Wars Organised Violence in the Global Era* (Cambridge: Polity Press, 1999), James Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (Oxford: Oxford University Press, 2012), Thomas Weiss, *Humanitarian Intervention (War and Conflict in the Modern World)* (Cambridge: Polity Press, 2012), and Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

the start of my undergraduate degree and, as such, represented the first time when I began to think critically about the ethical and political implications of war. To most of my peer group and me (undoubtedly influenced by Noam Chomsky), the United States of America's (U.S.[3]) invasion of Iraq was an amoral and illegal attack upon Iraq and its people. However, there was a simultaneous recognition that Saddam Hussein's rule was predicated upon the brutalisation of a large proportion of the Iraqi people. The fact, that the U.S. was morally wrong in their actions did not nullify the injustices inflicted by the Ba'ath regime: it did not undo the mass repression of Iraqis, the systematic state torture, the mass starvation of Iraqis, or justify the thousands of Kurds and Shi'a killed in the aftermath of the Gulf War. The 2003 invasion, in this respect, retained a pervasive ethical tension: my rejection of the U.S. justifications for the war was coupled with the knowledge that ordinary Iraqis were being repressed on a daily basis. This was a morally wrong war against a morally wrong regime, and Iraqi lives and liberties would be violated regardless of outcome. Iraq posed difficult ethical decisions. Did we have a responsibility to save Iraqis from Ba'ath repression? Did we have a responsibility to stop the U.S. war? And how could we condemn the U.S. war without endorsing the Ba'ath government and their persistent violations of human rights? Iraq brought together the problematic relationship between humanitarianism and the spectre of war: how could we defend the rights of Iraqi people without violent intervention. More importantly, Iraq illustrated how politicians could justify, or at least attempt to justify, war as a defence of human rights.

There has already been a rich critical response to the Iraq War within the IR community. Chomsky (2004), for example, argues that Iraq represents the symbolic reassertion of U.S. power on the global stage, John Mearsheimer and Stephen Walt (2008) claim that Iraq provides evidence of the U.S.'s misguided foreign policy programme in the Middle East driven by its alliance with Israel, and David Harvey (2005) points toward U.S. economic concerns as the primary motivation behind the 2003 invasion. Perhaps most interestingly, Derek Gregory (2004) presents the invasion of Iraq as a component of a much larger contemporary colonial project. Gregory's central argument is that the invasion is driven by logics and strategic goals that tie into the broader aim of enforcing Western moral, political

[3] I employ the term U.S. rather than America to denote the United States of America where possible. However, the terms America and American are used when either directly quoted by Walzer or other authors, or if it is directly related to concepts Walzer employs.

and legal authority throughout the Middle East. While critical responses have undoubtedly expanded our knowledge and understandings of U.S. motivations and the wider socio-political contexts surrounding the invasion, they do not necessarily help us understand some of the most pressing ethical questions that Iraq raises. Fundamentally, they have very little to say about the tension between the ethical desire to help Iraqis and the implications of using war as a tool to achieve this aim.

This thesis is, in part, a response to my own anxieties about the ways in which our sense of ethical responsibility toward other people can help to justify particular forms of violence. I am primarily concerned with the relationship between the moral justifications of war and the consequences that follow from these justifications. In this respect, this work is an attempt to open discussions on justice and war to alternative understandings of what it means to act ethically. The overarching aim of this thesis is to unpack a conception of ethical responsibility that challenges models of wartime morality that attempt to resolve the ethical questions posed by war. In response to these models, this project argues that we must reject the desire to seek ethical satisfaction. Instead, we must move toward more sustained and active engagements with the consequences of violent actions without seeking definitive or conclusive ethical satisfaction.

A Deconstructive Approach to the Just War Tradition

In Kirby Dick and Amy Ziering Kofman's 2003 documentary on Jacques Derrida, Derrida makes an illustrative admission about his work. Derrida is sitting in his study, which is dominated by a large book shelf containing hundreds of volumes and Kofman inquires if he has read all these books, Derrida's replies, "No, only four of them. But I read those very, very carefully". Although Derrida's remark is clearly farcical and flippant it tells us something important about deconstructive methodologies. Originally this thesis was intended to include a much broader critique of human rights discourse and its relation to the contemporary just war tradition. The desire to say something far reaching in its importance drives an inclination, especially in critical theorists, to strive toward a general target of attack, be it a particular school of thought, a discursive framework, or the entire Western metaphysical tradition.

However, the impetus to produce a general critique presents a number of problems. For example, the risk that the subject of the critique dominates the work, or, perhaps more problematically, that opponents are reduced to caricatures. I soon realised that I could not possibly do justice to the subject matter within the scope of a single thesis. The just war tradition is too vast and diverse to facilitate a singular, coherent and sustained critical engagement.[4] In addition, a sustained critique of the just war tradition would leave little space to articulate an alternative account of ethics and discuss the impacts of human rights discourse in the practical context that I desired. As such, this project offers an in-depth reading of one of the most important just war protagonists in the field of IR as a means to open a larger engagement with the just war tradition and other humanitarian based justifications of war. I focus on Walzer's work, but I have read it very, very carefully.

This thesis employs a careful reading of Walzer's justifications of war as a means to posit an alternative understanding of ethical responsibility in war. This aim follows Derrida's (1997) claim that deconstruction must strive toward productive readings that attempt to open discourses toward new approaches and understandings. Derrida maintains that productive readings are a negotiation between the author's intended meaning and the reader's interpretation. Derrida argues that traditional criticism focused on uncovering the true intended meanings in a text, and that this focus derived from the fear that without this orientation, critics could say almost anything (1997: 158). However, the traditional focus on discovering the intended meaning protects rather than opens a text. Derrida contends that the problem with the traditional approach is that the ideal of faithful representation often serves to protect a particular reading and, therefore, conserve a particular understanding of the text. There is, however, the simultaneous, and competing, responsibility to do justice to the author's argument, and this responsibility must be taken into account in a critical reading. In other words, we are faced with dual responsibilities: the responsibility to open the text to alternative interpretations and the responsibility to give an honest account of the author's arguments. Deconstructive methods, in this respect, aim to negotiate an opening between these dual responsibilities. Deconstructions aim to do this by demonstrating why the author is unable to accomplish what they want to accomplish, highlighting the fractures, tensions and

[4] For an attempt to map the history of the tradition see, Alex Bellamy, *Just Wars: From Cicero to Iraq* (Cambridge: Polity Press, 2006).

inconsistencies contained within the internal logics of the text. In short, deconstruction aims to show how the argument undoes itself. In this thesis, I attempt to point toward an alternative understanding of the relationship between justice and violence by highlighting why Walzer's argument does not function in the way he wants it to.

The overarching aim of a deconstructive reading is to open toward alternative configurations while striving to accurately portray the subject of critique, a doubling of texts that negotiates a new opening. A discussion on Derrida's conception of 'nontranscendent' reading will help us explain the doubling of commentary implicated in deconstruction. Derrida challenges the assumption that the act of reading is a communicative transportation of unified meaning from the author to the reader. Principally what Derrida rejects is the ideal of the reader uncovering and accurately representing the intended meaning embedded by the author in the text (1988: 1).[5] Instead, Derrida purposes an understating of reading in which both author and reader are implicated in a negotiated formulation of the text's meaning. In Maja Zehfuss's words, "Both reader and writer are engaged in writing, together and simultaneously against each other" (2007: 25). This reconceptualisation of the act of reading positions the reader as an active participant in the construction of the text's meaning and, perhaps more importantly, suggests that the reading of any text produces a singular, and modified, articulation of the text's meaning.

Derrida claims that the reader must take account of the author's intended meaning while simultaneously rewriting the work through their own interpretation, thereby producing a singular and unique experience of the text (1992: 69-70). In other words, the reader's interpretation of the text both combines with, and contests, the author's intended meaning producing a new account. This image of reading is linked to the concept of a negotiated opening: the reader must try to faithfully represent the intended meaning while contesting this supposedly fixed configuration in an attempt to open the text to the possibility of alternative understandings. Derrida uses the term 'nontranscendent reading' to describe the process of reading (1992: 44-45). Derrida contrasts nontranscendent reading to the ideal of transcendent

[5] A broader discussion on the implications of Derrida's understanding of communication will be outlined in Chapter 2.

readings that claim to preserve the intended meaning that the author has inscribed within the text. In this respect, nontranscendent reading should not be understood as an alternative to finding the intended meaning, it is not a case that some readers locate the intended meaning and other readers produce new meanings. Rather, what Derrida is arguing is that any possible reading of a text is underpinned by deviation from the intended meaning. In Jean Luc Nancy's words, any communicable text is dependent upon the interpretation of others and, therefore, every communicated text must risk reconfiguration (1991: 78-79). In this sense, writing can never escape the possibility of nontranscendent reading if it is communicated to others.[6] As Neil Gaiman's quote on map making suggests, the most faithful reading of the text is no longer a reading because it would duplicate the original without adding anything. If a reader wants to produce anything new they must necessarily, in some ways and some respects, alter the original text: every reading is necessarily contaminated by the interplay between reader and author. Reading is not a neutral unveiling of the text's 'true' meaning, it is a political act in which every reader emphasises certain aspects, marginalises others, and excludes some things altogether.

Derrida's maintains that to read a text is to reconfigure it in some meaningful way: it is to describe a story by telling it. Zehfuss explains that nontranscendent readings are not concerned with the illusionary ideal of finding the intended meaning and, instead, the goal is to tease out the multiple interpretations and implications that can be found in a text (2007: 23). What is important is Zehfuss's contention that every text contains multiple significations: there are multiple ways in which the story of a text can be told. In other words, texts do and say things other than their authors intended. Again, what is paramount is the negotiation between conservation and alteration. The reading of Walzer presented throughout this thesis does not attempt to misrepresent him or attribute, to him, things that he has not said. Nor does it seek to protect a particular reading of Walzer that reinforces the overarching justifications of war he provides. Instead, this project seeks to demonstrate, through an attentive reading of Walzer's work, that the arguments he wants to make – the models of justice, community, and war he presents us with – leave him with no option but to risk saying something other than what he intends to say. As such, the purpose of this work is, in part, to illustrate why

[6] Writing here is best understood in the context of Derrida's *Of Grammatology* (1997) which reconceptualises writing as any possible form of communication.

Walzer's conception of justified violence collapses under the weight of its own tensions, inconsistencies and assumptions. However, this reading does not aim to completely renounce Walzer's understanding of war. Rather, it suggests that the failings in Walzer's argument, and more importantly our responses to these failings, can help us formulate new understandings and new answers to the questions of violence and justice.

History and the Problem of Representation

In *Just and Unjust Wars* Walzer emphasises the importance of history[7] to the model of wartime morality he wants to express: "Since I am concerned with actual judgements and justifications, I shall turn regularly to historical cases" (2006a: xxiv). Walzer explains that historical examples demonstrate how just war theory illuminates the moral reality of war (2006a: 15). In other words, Walzer uses history as evidence to illustrate why the arguments he is making are directly applicable to the real world: "… I am reporting on experiences that men and women have really had and arguments that they have really made" (2006a: xxiv). This project wants to tentatively embrace history while simultaneously attempting to challenge Walzer's understanding of historical analysis. More specifically, I want to retain Walzer's engagement with the real world consequences of war while questioning the assumption that history provides a form of unproblematic evidence.

Historical analysis is, in certain respects, an important facet of our engagement with the subject of ethical responsibility war. Prominent here is my belief that most people who begin to think about their present-day responsibilities toward those living in conditions of war, or those at risk from war, are to some extent inspired to do so because they are aware of the devastating consequences war has inflicted upon people in the past. In this sense, our exposure to the historical realities of war stimulates a desire to reduce suffering in the present day; our exposure to the horror of war provokes the call for an ethical response.[8] This work

[7] In this thesis a historical account is defined as any account that attempts to accurately depict a real world event.
[8] Historical analysis is not the only way through which we can engage with war, or deepen our understandings of war as a phenomenon. For example, we could look at literary depictions that tell us something about how we imagine war, see Maja Zehfuss, *Wounds of Memory: The Politics of War in Germany* (Cambridge: Cambridge University Press, 2007) and Cynthia Weber, *Imagining America at War: Morality, Politics and Film* (London: Routledge, 2005) , or we could attempt to discuss war through analythical modelling, for example see David

looks at the U.S. invasion of Iraq as a means to contextualise the relationship between human rights discourse and the justification of war because Iraq provides an example of a war in which human rights discourse was employed in an attempt to justify violence. Following this, looking at historical examples from Iraq can help us understand the problematic ethical consequences implicated in the purported humanitarian aims of contemporary Western war fighting.

This thesis focuses on U.S. military operations and conduct in Iraq, and the response of Iraqis to invasion and subsequent occupation. The reason I focus on U.S. actions, rather than that of other coalition forces, is primarily because the U.S. government was the driving force behind the invasion, and U.S. troops constituted the largest military force in Iraq during the invasion and occupation. The main historical sources that this thesis draws upon are journalistic and combatant firsthand accounts of the invasion and occupation. These accounts, as Mike Hoyt and John Palattella remind us in the introduction of their anthology, *Reporting Iraq*, come from people who have "lived and studied 'the situation' closely … They know things" (2007: 10). This idea is linked to classical anthropology's suggestion that first-hand exposure opens the possibility of a faithful representation. Claude Levi-Strauss, for instance, defines the methodology of classical ethnography as the aim to record as accurately as possible the respective mode of life of various groups through first-hand exposure (1974: 2). The logic underpinning this understanding of human engagement with the world contends that the closer one is to the subject/object of investigation, the more accurate the portrayal will be. In regard to the present discussion, it suggests that those with first-hand access to Iraq are best positioned to provide us with a clear picture of the conflict. In turn, this understanding of historical analysis is directly related to Walzer's belief that first-hand narratives provide evidence of the links between just war principles and the moral reality of war.

Derrida (and others including Levi-Strauss) reject this conception of representation because it excludes the implications of the broader social contexts that underpin our engagements with the world. The Derridean critique of this model suggests that drawing upon first-hand

Rodin, *War and Self-Defense* (Oxford: Oxford University Press, 2005), and Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2009).

portrayals of the Iraq War does not provide us with a form of unproblematic evidence because the complex relationship between representation and interpretation complicates the picture. First-hand accounts, in this sense, are contextually dependent interpretations of the events rather than cold hard facts. The journalists, soldiers, politicians, academics and others who have relayed stories from Iraq to those of us outside the conflict zone are presenting narratives based on the contexts of their engagements: who they are, where they come from, why they are telling the story, and so on. In other words, the possibility of telling any story about Iraq is underpinned by the narrator's interpretation of their limited experiences of the war, and the ways in which they reconstruct this interpretation into a communicable narrative. As journalist Anthony Shadid maintains, no account can convey the complex intricacies and confusion of the Iraq war, the only thing witnesses can do is tell stories (2006: 12). Relaying the reality of war is, therefore, another instance of textual interpretation. The Iraq War is a text that has been interpreted in various ways, and subsequently transformed into narratives that are relayed to, and interpreted by, others. The reality of Iraq moves between a multiplicity of authors and readers within a textual structure.

In *Of Grammatology* Derrida provocatively declared that "*There is nothing outside of the text*" (1997: 158, original italics). Derrida's provocation is often read as a denial that material reality exists outside language, and a privileging of the ideational world over the world of objects.[9] However, Derrida's argument is far more concerned with the idea of mediated engagement: it is not that the material, or real, world does not exist abstracted from language, rather, interaction with material reality is predicated upon a cognitive apparatus that necessitates language. In other words, language is necessary to render the world of objects meaningful and, therefore, the possibility of engagement with the real world is underpinned by the existence of language. Derrida clarifies his argument in the afterword to *Limited Inc* (1988). Derrida explains that the term 'text' can be reread as context, and context should be understood the entire "real-history-of-the-world" (1988: 136-137). What Derrida wants to emphasise is that the contexts through which we begin to engage with the world have important implications for how we engage, interpret and make sense of our realities. In this sense, to refer to the 2003 Iraq War as a text implies that our engagement with the events of the war is mediated through the contexts in which we encounter them. It means that our

[9] For example, see Perry Anderson, *In the Tracks of Historical Materialism* (London: Verso, 1983).

understanding of the 2003 invasion is dependent upon who *we* are (the prior assumptions and understandings that we bring into our engagement), why we are engaging with the war, and the mediums through which we garner information about the war from. The contexts surrounding our engagements with Iraq, in important respects, are implicated in the ways in which we interpret the events and the stories we tell about them.

In the case of this project, the contextual interpretation of Iraq's text is important in a number of respects. For example, Journalists who reported on Iraq can broadly be divided into two distinct groups: those embedded with U.S. troops like Evan Wright (2005) and David Finkel (2009), and those who operated independently like Shadid (2006) and Dahar Jamail (2008). Both of these avenues restricted reporters' access to the Iraqi text. On one hand embedded reporters (as well as combatant authors) could only travel with troops and were often obliged to submit their work for military approval before publication. While, on the other hand, the movement of independent reporters was often restricted due to security concerns and they were ultimately dependent on the testimony of locals, who interpreted events in their own ways. Narratives about the Iraq War, therefore, represent a limited, contextually dependent, interpretation of a much bigger picture. Even when we combine accounts, as this thesis does, we are unable to circumvent the problems of context and representation. Combined accounts merely provide a collage that needs to be reassembled by the reader based on the particular context of their engagement and interpretation. As such, first-hand narratives do not unveil the truth of Iraq, they provide us with a contextually restricted interpretation of the truth.

History and Revolution

Despite the problems inherent to any account of the Iraq War, Derridean thought reminds us this is the only means we have of engaging with the world. In other words, if we want to garner any understanding of the invasion and occupation of Iraq, we have no option but to engage with contextually limited narratives. The question then becomes, how do we engage with real world sources without treating them as unproblematic empirical evidence? Walter Benjamin's (1999) understanding of historical analysis provides an interesting response to this question. Benjamin suggests that history is a ground of political contestation, an arena in

which multiple interpretations are possible, and can be used to emphasise contrasting political objectives. David Campbell's (1998) reading of the Bosnian conflict, for instance, emphasises the contemporary dimensions of the civil war, whereas Robert Kaplan (1993) describes the animosities that arose during the 1990s as deep rooted historical antagonisms. In this sense, drawing upon historical sources is not a neutral act of recollection, it is a political act of interpretation. To recall history is to present a particular interpretation of events that are linked to particular political interests and agendas.

Benjamin's "Thesis on the Philosophy of History" attempts to reframe historical enquiry in terms of political engagement. Central to Benjamin's conception of history, is the idea that reading historical sources implies engagement with a past that is never settled as historical truth. Importantly, Benjamin argues that the interpretation of history is a political tool that can help us respond to present concerns (1999: 247). For example, when military intervention is presented as a possible response to the repression of a set of people, we turn to historical cases to help us construct our arguments for or against the proposed military action. In this regard, Benjamin argues that history is infused with what he calls, "the presence of the now" (1999: 253). What this implies, is that the political power of history does not reside in its ability to recall the past as past, but in its ability to politically mobilise an interpretation of the past in a way that relates to a present context. For example, recent arguments in favour of intervention in Syria have promised that it will not become 'another Iraq'.[10] In turn, Benjamin contends that historical analysis has revolutionary potential because we can interpret history in a way that helps produce the possibility new socio-political formations. Nevertheless, Benjamin does not forget that the political dimension of historical analysis also means that history can be interpreted in a way that preserves existing socio-political configurations (1999: 247).

Benjamin unpacks his understanding of historical analysis under the concept of Monad. Benjamin describes a monad as an aspect of history that can be redeployed as a revolutionary opportunity to produce new understandings:

[10] See Daniel Politi, "Obama: Syria 'Would not be another Iraq or Afghanistan,'" *Slate*, September 7 2013, http://www.slate.com/blogs/the_slatest/2013/09/07/barack_obama_weekly_address_president_makes_case_for_syria_strike_ahead.html

> Where thinking suddenly stops in a configuration pregnant with tensions, it gives that configuration a shock, by which it crystallises into a monad. A historical materialist approaches a historical subject only where he encounters it as a monad. In this structure he recognises the sign of a Messianic cessation of happening, or, put differently, a revolutionary chance in the fight for the oppressed past (1999: 254).

Benjamin argues that history is not encountered in the form of a resolved empirical truth. Instead, history is approached in an interpretative process through which particular readings aim to bring about particular changes in the present. Importantly, history is itself uncertain and pregnant with tensions that create the possibility of diverse interpretations. In other words, historical narratives remain textual constructs that contain the possibility of preserving or destabilising particular meanings and understandings. In this sense, the multiple narratives of the Iraq War contain within the structure of their texts the possibility of conserving Walzer's model of wartime morality, while simultaneously offering the possibility of opening alternative understandings of justice, violence and war. The text of the Iraq War is a political arena in which different readings can potentially encourage different responses to the questions of justice and war.

This work approaches accounts of Iraq in terms of a revolutionary opportunity, it engages with historical narratives as a means to open discussions on justice and war to alternative possibilities. In this respect, the Iraq War is interpreted in a way that emphasises the inadequacy of Walzer's account of justice, and draws our attention to possibilities offered by Derridean thought. The method of historical engagement outlined here does not correspond to a linear relationship between theoretical argument and historical evidence. It does not suggest that the reading offered here, or any reading, can be definitive, conclusive or wholly faithful to the subject of discussion. In contrast, this thesis is an ethico-political strategy designed to impress the need for alternative understandings of what ethical responsibility entails in the context of war through a particular, albeit careful, reading of numerous accounts of the invasion of Iraq and its aftermath. Historical analysis is, in this way, rejoined with the deconstructive method: I offer a respectful reading of first-hand accounts of the Iraq War that

is, nonetheless, strategically focused upon opening discourses concerned with the ethical consequences of war to merits of alternative positions.

Structure of the Thesis

This thesis can roughly be divided into two main sections. The first two chapters present a critical reading of Walzer's conception of justified violence followed by a discussion on the Derridean inspired response to these justifications. The next three chapters attempt to ground the theoretical/philosophical debate in the context of the Iraq War and its aftermath. In this respect, the thesis is divided in terms of a philosophical discussion on the relationship between violence and ethical responsibility followed by a more empirically based exposition on how the philosophical debate relates to the 2003 invasion and occupation of Iraq.

The first chapter provides a critical examination of Walzer's conception of wartime morality. The central aim of this chapter is to illustrate why Walzer's justification of war fails to function in the way he wants it to. I contend that Walzer justifies war because he believes that violence is necessary to defend communal self-determination. As such, Walzer's justification of war is intimately related to his broader communitarian project. The main argument presented in this chapter is that Walzer's is unable to justify war as a defence of self-determination because this justification is founded upon inadequate accounts of community and morality.

The second chapter unpacks an understanding of ethical responsibility that challenges Walzer's justification of war. This model of responsibility draws upon Derrida's work, and I call it *Ethics as Response*. The primary aim of this chapter is to highlight why our desire to help others, to respond toward other people, necessitates a simultaneous affirmation and sacrifice of ethical responsibility. The central argument posited in this chapter is that war cannot be justified, in the way Walzer suggests, because it must risk unintended and unforeseeable consequences. In this respect, ethical responsibility is repositioned as a negotiation between our desire to help people and our acknowledgement that war necessarily

risks adversely effecting or affecting others; a negotiation between responsibility and irresponsibility.

The third chapter focuses on Walzer's justification of the killing of combatants. Walzer declares that the right of combatants to kill or be killed is the foundation of his rules of war (2006a: 136). As such, the possibility of justifying any act of war depends upon this justification. The main argument presented here is that Walzer's conception of noncombatant immunity fails on its own terms and, more importantly, that it is unable to account for the ethical implications of sending men and women into an arena in which they are expected to kill or be killed. Through a discussion on Walzer's theoretical arguments, and a reading of U.S. combatant narratives from Iraq, this chapter illustrates why the experiences of U.S. combatants in Iraq confirms the Derridean account of ethical responsibility: Walzer's conception of just war is possible only by sacrificing our responsibilities toward combatants.

The fourth chapter engages with the just war doctrine of double effect, Walzer's justification for the 'unintentional' killing of noncombatants. Walzer argues that the killing of civilians is justified so long as it is an unintentional consequence of a legitimate act of war. This chapter argues that Walzer is unable to sustain his conception of intentionality because it splits responsibility from its unintended consequences. Drawing upon *Ethics as Response*, I contend that the risk of unintended and unforeseeable consequences is integral to the possibility of any action and, as such, Walzer can not exclude unintentional effects as a means to justify the killing of civilians. This chapter concludes by suggesting that the decision to go to war is itself an instance of double effect because it risks changing the socio-political landscape in unintended and unforeseen ways.

The fifth chapter builds upon the contention that war is an instance of double effect. The central claim in this chapter is that Walzer's understanding of just resolution fails because it operations under the assumption that we can control the consequences of war. Walzer (2012) justifies war on the grounds that it can either protect or create communal self-determination. Underpinning this ideal is Walzer's belief that war and intervention do not necessarily alter

self-determination. Through an analysis of Shi'a religious populism and Sunni resistance in Iraq, this chapter illustrates how war changes the socio-political contexts through which self-determination and politics takes place. This chapter argues that resolution is better understood in terms of perpetually deferred justice. Justice is not signalled in the intention to protect or create self-determination. Rather, we are required to take responsibility for the new socio-political formations created by violence.

Conclusion

The underlying argument presented in this thesis is that questions of ethical responsibility in war remain irresolvable. This represents an important departure from the types of arguments traditionally associated with IR discussions on ethics in war. Traditional discussions have been largely focused upon designing general rules, laws and norms that portend to solve the questions of when war is morally justified and what it means to act responsibly in war. In other words, the goal of traditional discussions is to that tell us what is morally right and morally wrong when it comes to war, and Walzer's work provides an influential example of this form of argument. While these discussions remain an important aspect of our understandings of the relationship between ethical responsibility and violence, they, nevertheless, endorse an ideal of ethico-political and critical disengagement. Attempts to solve the questions raised by war ask us to situate our thinking within particular frameworks and, more importantly, they equate responsibility to acting in accordance to moral rules, laws and norms. In other words, acting responsibly means following the moral law rather than responding to the needs and demands of other people.

Ethics as response is an attempt to explain what it means to ethically respond to other people in the absence of definitive rules and norms. As such, it is an attempt to describe an understanding of ethical responsibility and action in which we are never certain what is the right or wrong thing to do. Importantly, *ethics as response* is a call for us to remain critically invested in the difficult questions raised by the relationship between ethics, politics and violence, without the possibility of resolution or cessation. It is a conception of ethical responsibility that refuses to satisfy itself in the adherence to rules and, instead, demands that

we stay involved, and remain involved, in the consequences and new contexts that our responses help create.

Chapter 1 – Michael Walzer's Morality

Introduction

Michael Walzer's central works on war provide an interesting example of the ways in which violence is justified in relation to moral necessity, not least because of his influence upon contemporary academic discourse. Walzer is often positioned as a canonical figure in the re-emergence of the just war tradition within contemporary IR scholarship. According to Jean Bethke Elshtain, Walzer gave just war theory a new lease of life and put it back on the map of contemporary social and political theory (1992: 2). In turn, *Just and Unjust Wars* has been described as a "modern classic" (Boyle 1997; Hendrickson 1997; Knootz 1997; Nardin 1997; and Smith 1997), and has become a standard, if not the standard, text on courses on morality and war alongside Walzer's more recent contributions (Pin-Fat 2010: 89-90). In addition to his importance in regard to academic discussion, Walzer's work has also been directly incorporated within U.S. military doctrine and strategy guides. For example, in the 2007 U.S. Army and Marine Corps Counterinsurgency Field Manual, Sarah Sewall (a consultant on the manual) informs us that Walzer restored our ability to think clearly about war and explains that the manual aims to apply Walzer's conception of "fighting well" to the terrain of counterinsurgency (Petraeus et al 2007: xxii). As such, Walzer's understanding of morally justified warfare has become a common component of discourses on war, particularly in a U.S. context.

However, the primary importance of Walzer's work, in relation to this thesis, is in regard to the way he positions his understanding of ethical responsibility in war. First, Walzer wants to detach his work from the just war tradition's theological heritage by positing a system of morality underpinned by human rights rather than divine salvation. And second, Walzer differentiates his argument from liberal ideals of right (1990), presents an explicit opposition to realist and utilitarian justifications of violence, and questions the pacifist rejection of violence (2006a). In this sense, Walzer is attempting to present distinct moral justifications for violence: justifications that do not claim to derive from divine right, individual rights, economic calculations, or realist necessity. In short, Walzer is trying to provide an alternative account of the relationship between morality and war. Walzer's argument attempts to bridge the gap between, what he describes as, pacifist moral naivety and the realist emphasis on

power politics and strategic necessity.[11] More specifically, Walzer wants to provide a historically plausible defence of the moral necessity of war.

The central focus of this chapter is to explain and critique Walzer's conception of ethical responsibility and his justification of war. Walzer's conception of ethics is auto-affective. This means that Walzer believes that morality can only emerge within the stable boundaries of self-determining subjects. As such, the way in which we relate to other people is predicated upon a movement from self to other that begins with the self: we start with separated and internally coherent subjects who can subsequently engage with their outside. In turn, this model of ethical responsibility is mirrored in Walzer's depiction of morality. For Walzer, we start with morality produced within particular communities and this creates the possibility of producing inter-communal, sometimes universal, codes. In other words, we start with separated, internally coherent communal subjects and this opens the possibility of ethical engagement between communities. This understanding of ethics is important to Walzer's conception of just war because he maintains that violence is justified only when it is necessary to protect the self-determining communal subject. In this sense, this chapter highlights why it is important to understand Walzer's theory of war within the context of his wider communitarian project. By situating Walzer's war writings within the communitarian arc we can more clearly see his justification of war in terms of a defence of communitarianism.

My challenge to Walzer's auto-affective ethics follows from a Derridean understanding of the relationship between meaning, subjectivity and responsibility. This model of ethics will more clearly be articulated in the next chapter. Nonetheless, to understand the critique presented within this chapter, it is important that I explain the Derridean concept of *the law of supplementary commencement*. Derrida (1997) argues that when we attempt to locate a singular and definitive ontological origin what we actually find is a chain of supplementary origins, what Derrida describes as a nonorigin. What the supplementary nonorigin indicates is that the foundation we hope to locate was always already in motion and, therefore, there is never a clear starting point through which we can ground ontology. As will be illustrated

[11] In this sense, Walzer's argument is closely related to Hedley Bull's (2002) understanding of international politics. It must be noted, however, that Walzer is far more dismissive of the role international institutions play in the administration of justice.

throughout this chapter, supplementary commencement challenges auto-affection by highlighting the relational dimensions implicated in the emergence of a coherent inside, in particular the constitutive role of alterity in the production of the communal subject. Walzer's model starts with the assumption that self-determining, internally coherent subjects exist prior to their relationship with the outside. The Derridean critique, however, contends that the relationship with alterity is constitutive of subjectivity itself. In this sense, the self-productive model of subjectivity, community and meaning implicit to Walzer's argument constitutes an inadequate account of the foundation of ontology.

By destabilising the foundations of this ontological system, and paying close attention to the necessity of alterity in its production, we can grasp the theological dimension necessarily retained within Walzer's supposedly secular argument. I contend that the universal morality necessary for the foundation of Walzer's laws of war embodies a form of what I term 'secular theology'.[12] By this I mean that Walzer's ontology is punctuated by, unacknowledged, transcendental appeals to faith, without which he would be wholly unable to establish or sustain his system of morality. Reading Walzer's morality in terms of secular theology allows us to re-present Walzer's 'moral reality of war' as the unfounded imposition of a particular interpretation of morality as ontological fact. In this way, Walzer's wartime morality is reconceptualised as a socio-political strategy rather than the definitive exposition of ethical responsibility in war. Importantly, the critique of Walzer's ontology challenges the justification of war as a defence of self-determination.

There is a Thin Man inside Every Fat Man

Walzer's seminal work on war, *Just and Unjust Wars*, was primarily a response to what he perceived to be an ethical debasement of the subject spearheaded by realist thinkers. What is perhaps most interesting about Walzer's response is that it challenged realism on its own terms. Foregoing the traditional liberal stance that morality was something that needed to be worked into the mechanics of war, Walzer argued that morality was already, and always had been, a tangible component of the reality of warfare. In this way, Walzer challenged realism,

[12] 'Secular Theology' should also be understood in terms of a supplement. It indicates a model that is neither properly secular nor theological, yet borrows from both as a means to co-found Walzer's ontology.

not with what could simply be dismissed as moral naivety or good intentions, but with reality itself, claiming that the reality espoused by realism constituted a crude fiction used to justify immoral actions, "we do not have to translate moral talk into interest talk in order to understand it; morality refers in its own way to the real world" (2006a: 14). In this statement Walzer hints at the central role language plays in his conception of morality. As will be explained, shared language marks the possibility of common rules, values and norms in Walzer's argument. In other words, shared language is fundamental for the possibility universal morality.

In contrast to the deceptive language of realism, Walzer describes the language of just war theory, at various junctures, as: the ordinary language of war (2005: 8), a common heritage (2005: xi), the most available common moral language (2005: 7), and a moral doctrine that everyone knows (2006a: xix). Walzer's underlying argument is that, when we discuss the issue of war we "talk the same language," the language of just war, and only the wicked or the simple would reject its terms (2006a: xxiii). In this respect, although Walzer states his intention to defend the business of arguing about war, he quite literally wants to fix the terms of this debate: "it is in applying the agreed-upon terms to actual cases that we come to disagree" (2006a: 11-12). To summarise Walzer's moral linguistics: he presents us with the necessity for an agreed-upon common language that allows us to critically engage with the moral reality of war, and this language is embodied by the terminology of just war theory.[13] At bottom Walzer poses an ontological argument, just war's moral vocabulary allows us to illuminate the moral reality of war.

While Walzer's portrayal of morality as shared language may seem relatively straightforward, its articulation proves more complex than it initially appears. The fundamental complication within Walzer's linguistic theory derives from the claim that there are two distinct, but not mutually exclusive, languages of morality: what Walzer terms thick and thin moralities. For Walzer, this dichotomy represents a dual affirmation of particularism and universalism, a politics of difference coupled with the acknowledgement of universal rights (Walzer 1994: x).

[13] This is not to say that Walzer believes just war theory is the only possible language to talk about morality in war. It is simply to emphasise that he believes that just war provides the best way of expressing the moral reality of war.

Thick or maximal moral language is described as the shared meanings of a singular political community, representing their collective conscience and common life (Walzer 1994: 8). In essence, maximal morality defines a set of values shared within a community, Walzer's conception of particularism. Morality is negotiated thickly within specific communities between its members, ultimately creating a common social vocabulary. Through this shared vocabulary members define their laws, ideals, values and institutions. While the ways in which community is constructed in Walzer's work is not without its own problems (problems that will be addressed in the following sections), crucially, in the context of the moral laws of war, thick morality cannot be universalised. Walzer assures us that the authority of maximal morality is rooted in the singular community and any attempt to enforce thick standards in another community (by an outside party) violates that community's right to territorial integrity, political sovereignty and self-determination (2006a: 53-55 & 61).[14] Because Walzer's rules of war are designed to be enforced across, rather than within, communities we must turn our attention to the language of thin or minimal morality, the universal moral vocabulary and, therefore, the non-colloquial dialect of wartime ethics.

Walzer quickly asserts that minimalism is best understood as an effort to recognise and respect a doctrine of rights (2006a: xxiii-xxiv). In this conceptualisation, the rights of life and liberty are described as something more than simply minimal, what Walzer terms 'ultra minimalism' (1994: 16). While Walzer is unsure where rights derive from (if they are natural or invented), he assures us that they are inseparable from our sense of what it means to be human and constitute a palpable feature of our moral world (2006a: 54). In addition, although Walzer recognises that rights are a form of western maximal language, he assumes they are translatable (1994: 10). In this sense, the rights of life and liberty represent the core minimal essence of universal morality. In the context of war, Walzer asserts that the rights of life and liberty "underlie the most important judgements that we can make about war" (2006a: 54) and we can only justly send armed men and women across a border in defence of life and liberty (1994: 16). Importantly, Walzer argues that justice in war can be derived exclusively from the protection of life and liberty: "For the theory of justice in war can indeed be generated from the two most basic and widely recognised rights of human beings – and in their simplest

[14] In this respect, the concept of community is integral to the possibility of nation states in Walzer's argument. Walzer explains that a nation state must already contain a community within it (1983: 44).

(negative) form not to be robbed of life and liberty" (1983: xv). The rights of life and liberty are, in this respect, the foundational components of Walzer's universalism. In fact, Walzer maintains that life and liberty should be viewed as absolute values that dictate every moral judgement we make at times of war (Walzer 2006a: xxiv). Here absolute is to be understood in terms of inviolability, life and liberty are rights that cannot be violated without acting immorally: "The War Convention [Walzer's codification of the rules of war] is written in absolutist terms: one violates its provisions at one's moral, as at one's physical peril" (Walzer 2006a: 47).

It must be underscored that Walzer's conception of rights is not equivalent to that espoused by classical rights theorists, as illustrated, for example, by Rawlsian (1999) ideas of rights. Walzer's laws of war are not founded upon a singular universal code of rights. Instead, Walzer suggest that rights emerge from the jagged bedrock of particularism. In this way, the codes of maximal morality produced within individual communities provide the foundation through which the universal laws of war can emerge. Walzer's explains, "Morality is thick from the beginning, culturally integrated, fully resonant, and it reveals itself thinly only on special occasions" (1994: 4). In other words, we start with particular codes of morality and this facilitates the emergence of universalism. By this Walzer performs a clever linguistic movement. Rather than offering a singular language of universal morality, he creates the image of numerous and diverse maximal moralities dovetailing into a set of universal guidelines. In this regard, Walzer claims that minimal morality represents a catalogue of common responses that can perhaps form a set of standards to which all societies can be held (1994: 10). As such, Walzer's universalism resembles the intersection of a vast inter-communal Venn Diagram, symbolising the negotiation of an agreed upon minimal code rather than the enforcement of a singular set of universal values.

The intersecting point of Walzer's moral diagram captures the minimal essence of life and liberty, and the moral rules constructed to protect these absolute rights in times of war. This image mirrors Walzer's depiction of the War Convention, which he assures us is the product of centuries of inter-communal arguing and debate over the morality of warfare (Walzer 2006a: 44-45). Walzer, in this way, illustrates his interpretation of the Orwellian metaphor of

the thin man inside the fat man: minimalism emerges from maximal moralities; universalism is founded by particularism. Walzer presents us with a system of morality that begins with the coherent communal subject, maximal morality. In turn, the existence of a coherent and stable insides makes the inter-communal rules of war, minimal morality, possible. Yet, this appeal to particularism does not resolve the question of foundation in Walzer's work. Instead, we must look at the articulation of Walzer's broader communitarian project in order to understand how community, which creates the possibility of both maximal and minimal morality, is founded.

Self-determination and Membership

The prologue for Neil Gaiman's *The Doll's House* (2010) recounts the meta-narrative of community, the story of how the story of community's origin is passed down the communal linage. Gaiman describes the ritual iteration of a communal origin: a boy on the cusp of manhood is brought to the barren centre of the desert by a male relative to hear the tale of who his people really are.[15] The telling of the story is a performative and constitutive exercise. Performative in respect of the pedagogical roles the participants play and constitutive because it is the telling of the story itself that completes the communal subject. A boy leaves to hear the tale but a man returns to the tribe: "When he returns to the tribe he will truly be a man: he will have heard the tale. At night he will sleep in the young men's hut" (Gaiman 2010: 15). The man who returns is entrusted with the continuation of the narrative. The communal subject is duty bound to repeat the ritual later in his life, a circular motif that is the continuation of community itself. Gaiman's story recalls Nancy's depiction of the mythical scene of communal foundation. What Nancy describes as the ideal of a community calling itself into being through the recollection of its origin (1991: 44). Nancy argues that the mythical scene of community symbolises the desire to trace the lineage of community back to a singular starting point in which the retelling of the origin story is pivotal. This idea of community is auto-affective: community is created and sustained by itself. Nancy contends that this mythical foundation is pivotal to Western philosophical thought, "Concentrated within the idea of myth is perhaps the entire pretension on the part of the West to appropriate its own origin, or to take away its secret, so that it can at last identify itself, absolutely, around its own pronouncement of its own birth" (1991: 46). In other words, the auto-affective

[15] Gaiman stresses that the mythical scene is always a relationship between males. Women, Gaiman assures us, have their own stories, which tell a different tale.

mythos proclaims that community gives birth, and re-birth, to itself through the articulation of a narrative: the tale of who *we* are, where *we* come from, and what life means to *us*. This ideal of community constitutes a form of self-knowledge derived exclusively from the self that allows the community to become its own foundation and its own origin.

This ideal of community is fundamental to Walzer's ontology. Walzer maintains that self-determination is the primary condition necessary for communities to produce their own unique articulation of society, their maximal world. In this respect, Walzer is telling us that a community's common life is only possible through self-determination: for a maximal morality to be authentic it must have been produced by members of the community. However, the exclusion of alterity is necessary to maintain this foundation because the possibility of a *self*-determining community is underpinned by the assumption that there are others who are outside and not part of the self being determined. In Walzer's terms, in order for members of a community to build a particular maximal world they must be separated from strangers who do not share their maximal life. Walzer's justifications of violence are intimately tied to the member/stranger dichotomy. Walzer argues that war is justified when a community's common life is threatened by nefarious border crossings of strangers. The crime of war is defined as the point at which a stranger threatens to cross the border and change a community's common life through force of war (Walzer 2006a: 51-53).[16] For Walzer, intrusive strangers threaten to destroy the common life by illegitimately changing social meanings: "Tyranny is always specific in character: a particular boundary crossing, a particular violation of social meaning" (Walzer 1983: 28). As such, the purity of the political community and the meanings it shares is threatened by what lies outside its borders. Self-determination, the core principle of Walzer's moral world, takes on a rather literal meaning: the self must be able to determine itself free from the coercion of others.

Before we begin to unpack the implications of Walzer's justification of war, it is perhaps necessary to briefly reiterate Walzer's maximal morality. As explained in the previous

[16] Even when discussing humanitarian intervention, Walzer places the onus on preventing tyrannical rulers from destroying the community. Walzer argues that acts that shock the moral conscience of mankind signify the absence of a true community, and this justifies the intervention of strangers. Nevertheless, once the tyranny has been averted strangers must leave liberated members to work out the substantive content of their own community in the spirit of self-determination (Walzer 2006a: 86-108).

section, maximalism describes morality shared between members of a political community. Walzer stresses that shared values are the result of cultural memory, customs, and shared social goods that coalesce into what he describes as a common life (1994: 8). As such, maximal morality derives from a collective historical process. For Walzer, community is the space in which maximal morality comes into being: "the political community is probably the closest we can come to a world of common meanings. Language, history and culture come together to produce a collective conscience" (1983: 28). Although Walzer is keen to stress the commonality of maximal meanings, nevertheless, this commonality should not be mistaken for stasis. Walzer is quick to inform us that social meanings are not simply agreed once and for all, they are fluid, always open to dispute and reformulation (1994: 27). This provides us with a clear impression of how Walzer envisages community to operate: a collective of culturally and historically related people deciding how they want to live together. Meanings are shared to the extent that members can understand and debate the life they share. While members may disagree on the destination of their common life, their shared meanings allow them to disagree while speaking the same vocabulary. This image is contrasted to global humanity which has members but no history, culture or shared understandings (Walzer 1983: 29-30).

In this way, Walzer depicts community as a self-determining, internally coherent subject, and underwriting his entire oeuvre is an understanding of the world in which humans exist within communities that have built distinct shared lives. As such, Walzer is acknowledging that without a distinction between those inside a community (members) and those outside (strangers), common life and shared meanings would be impossible. Pin-Fat astutely identifies that community represents something of a universal container in Walzer's argument because without communities there would be no way for maximal or minimal morality to emerge (Pin-Fat 2010). In this respect, the space of community represents another iteration of Walzer's particular/universal ontology. While, Walzer stresses the particular character of the divergent communities that emerge within such spaces, the blanket potentiality for common life can only emerge within a universalised form of bounded space, the state.[17] For Walzer's

[17] Walzer argues that even though meanings are probably shared to greater extent in smaller, familial groups, the state is the necessary space for community because it is the smallest possible formation that can protect common meanings from the intervention of strangers: "To tear down the walls of the state is not, as Sidgwick worriedly suggested, to create a world without walls, but rather to create a thousand petty fortresses" (Walzer 1983: 39).

morality to make sense, the state necessitates a demarcated space separated from its outside. Indeed, bordering principles define every level of Walzer's ontology, from his view of the international, to the domestic, to the subject. In short, Walzer argues that a bounded spatial plane, either physical or metaphysical, is a necessary condition for meaningful existence.

While maximal life is dependent on the existence of states, Walzer asserts that human societies come into being by virtue of distribution, "we come together to share, divide and exchange" (1983: 3). Walzer's understanding of community expands on this image by arguing that societies are defined by a series of, what he calls, distributive spheres: for example, educational, economic, health, political spheres and so on (1983). Walzer explains that understanding a particular set of distributions is tantamount to understanding a community's social character: "Different goods in different companies of men and women for different reasons and in accordance with different procedures. And to get all this right, or to get it roughly right, is to map out the entire social world" (1983: 26). In this sense, maximal morality is tied to the ways in which a society collectively understands the meaning and distribution of its social goods. More specifically, Walzer maintains that goods have shared meanings because they are the result of socio-historical processes and this is the reason that the goods have different meanings in different societies (1983: 7). Distribution constitutes the underlying structure in Walzer's depiction of community, and it is also tied to morality because moral argument is simply an appeal to the common meanings distribution creates (1983: 29). Once again Walzer is restating the minimal/maximal idiom in a different context. Distribution is a minimal principle of human societies, but the specific ways in which goods are distributed constitutes their maximal articulation; the universal container facilitates the production of particular content. In turn, Walzer proposes a twin defence of boundaries to ensure that distributions are just. Internally, politics ensures that no single distributive sphere is dominant over others (Walzer 1983: 16) and, as will be elaborated, war protects communal meanings from external destruction or alteration. These internal and external boundaries are crucial to Walzer's understanding of a just society. The external border ensures that the distributive meanings within the community are the result of internal processes and not the product external intrusion, self-determination. While the internal borders ensure that social meanings are agreed within the appropriate distributive sphere rather than enforced by a single dominant sphere.

We are beginning to grasp the auto-affective drive evident in Walzer's thinking. Authentic social meanings can only emerge from within a community of members and it is morally unacceptable if strangers attempt to interfere in this process. In Walzer's terms, "Tyranny is … to invade the sphere where another company of men and women properly rules" (1983: 18-19). For Walzer, membership defines who can *properly* engage in the construction of a community's common life and founds the possibility of a just society: "The theory of distributive justice begins, then, with an account of membership rights. It must vindicate at one and the same time the (limited) right of closure, without which there could be no communities at all, and the political inclusiveness of the existing communities" (Walzer 1983: 31 & 63). In other words, membership founds social distributions and, therefore, the maximal world and a community's common life. Walzer, however, ambiguously situates the distribution of membership within the community itself: "The community is itself a good – conceivably the most important good – that gets distributed. But it is a good that can only be distributed by taking people in … Hence membership cannot be handed out by some *external* agency; its value depends upon *internal* decision" (1983: 29, italics mine). In this sense, membership, which should rightly signify the origin and possibility of community, can only be distributed from within the bounds of a pre-existing community.

Given that he is starting from a position in which people already exist within a community, it is unsurprising that, for Walzer, membership constitutes the foundational communal good: "The primary good we distribute to one another is membership in some human community" (1983: 31). In addition to being the primary and, perhaps, most important good, membership is also described as the starting point for self-determined meanings. Walzer argues that admission and exclusion represent the core of communal independence and suggest the deepest meaning of self-determination (1983: 61-62). In other words, a self-determining community is a community that has power over membership, power over who is included in and excluded from the distribution process. Presented with the central role of membership to Walzer's argument it is important that we investigate the process of how someone becomes a member of a community. Walzer accomplishes this by re-iterating the argument that membership is a gift that is offered to the outside by the inside:

> … we who are members do the choosing, in accordance with our own understandings of what membership means in our community and what sort of community we want to have … we do not distribute it among ourselves; it is already ours. We give it out to strangers (Walzer 1983: 32).

Again, Walzer describes membership as pre-existing, you are either born into membership or you are granted it by those who are already part of the community.[18] Before we begin to tackle the question of foundation it is important to briefly discuss the conventional distribution of membership to strangers, the ways in which others are invited to become part of an existing community (1983: 33).

Walzer begins his discussion by assuring us that those inside a community define what membership means and have ultimate authority over admissions policies (1983: 43). Walzer clarifies this position by contending that communities are like perfect clubs with full control over the selection process (1983: 40-41). In this respect, members are said to decide upon admissions in a free manner. However, Walzer almost immediately limits this idea by arguing that states recognise a 'kinship principle' which gives membership priority to national and ethnic 'relatives' (1983: 41). Walzer presents us with the image of freely distributed membership and almost instantly qualifies this free deliberation with the criterion of kinship. Walzer conceives the distribution of membership as a form of hospitality, a welcoming of particular strangers into the community. Yet, the welcome is given precisely on the grounds that the stranger already shares a familial bond: we only admit others who are already like us. In Dan Bulley's questioning of European Union membership he argues that such reasoning constitutes a nullification of hospitality because it attempts to transform the other into the same before admission is granted (2009: 72). Bulley's statement is of great importance to the way in which Walzer foresees the distribution of membership. Walzer suggests that communities should be receptive to alterity, a model of 'limited closure'. Nonetheless, he expresses this reciprocity in terms of openness to the same or the similar.

[18] Walzer argues that any attempt to substantially regulate membership of those born into a community would require excessive coercion (1983: 35).

Communities should not welcome strangers into their boundaries. They should invite relatives precisely because of pre-existing kinship. As such, Walzer presents us with ethical responsibility defined in terms of the self's recognition of itself in the other. Communities offer welcome to strangers who share a kinship. Ethical responsibility begins in the self and then expands to incorporate others who are like the self.

Nevertheless, Walzer does not necessarily view conventional requests for membership as a moral imperative. In fact, throughout *Spheres of Justice*, he implies a more utilitarian understanding in which we invite strangers on the condition that they complement and benefit the community. Walzer, however, acknowledges a moral dimension to appeals for membership when discussing the figure of the refugee. Walzer describes refugees as stateless people who endure an existence of "infinite danger" and, therefore, require an ethical response (1983: 32). He asks, how should communities respond to refugees' pleas for sanctuary? Walzer's answer is an extension of the kinship principle. He argues that we are bound to help refugees "if they are persecuted or oppressed because they are like us," adding that we can share ideological kinship in addition to ethnic kinship (Walzer 1983: 49). Once more Walzer presents us with ethical responsibility based upon self-identification. The refugee is not simply accepted on the basis of his/her need or peril, but on what Walzer calls "a sense of relatedness and mutuality" (1983: 50). Walzer's central argument is that the ability to control borders is essential to self-determination and, as such, it is crucial that the outside we admit is already related and amenable to the inside. We exclude those who are not like us and do not share our communal values, even if they are in need of refuge. It is only through demonstrating ethnic or ideological kinship with the existing community that membership can be granted. This, in turn, ensures that communal meanings remain internally coherent. The outside that Walzer desires to admit does not disrupt the inside because it is already part of it.

Declaration and the Birth of Community

Derrida argues that the concept of home is a fundamental necessity for the possibility of ethics because it defines who we are and how we can relate to others (2009: 16-17). The

home is of similar importance to Walzer's ethics as it signifies the space in which members exist as separate from, and can therefore relate to, strangers. In Walzer's terms, the home constitutes the practical reality of existence: "For citizenship entails what we might call 'belongingness' – not merely the sense, but the practical reality, of being at home in (this part of) the social world" (1983: 106). In Walzer's argument, the home's (community) essence is located in members' ability to decide their own destiny without external intrusion and, above all, alterity is conceived as always already outside this process rather than something implicated within. Nonetheless, Walzer's depiction of how communities are founded calls this ideal of self-determination into question. Community is defined by the common life of members, the meanings they share and the distributions they negotiate. Yet, the distribution of membership already presupposes the existence of a common life, the statement "*we* give it out to strangers" presupposes that an already existent commonality must exit prior to the distribution of the foundational social good (Walzer 1983: 32, italics mine).

Walzer starts his discussion on self-determination from a position in which people already exist within communities with fully formed common lives. Members are members because they share a common life and strangers are strangers because they do not share this particular social world. However, Walzer also maintains that a community's common life and shared values are the result of long historical, social and cultural processes driven by members. In other words, membership is necessary for a community to build a common life. In this way, membership and common life combine to create an auto-affective origin of community. In Walzer's terms, "the common life is simultaneously the prerequisite of provision and one of its products" (1983: 65). We require a common life to distribute goods, most importantly the good of membership. Nevertheless, the common life is itself a product of distributions. In Pin-Fat's words, Walzer's account of communal origin "presupposes the very thing it is supposed to account for" (2010: 90). Walzer's account of membership and common life presupposes that we are always already in possession of these things. Walzer's description of the foundation of community presents us with a metaphysical dead end, a nonorigin at the origin of community. It becomes impossible for us to separate or distinguish between membership and common life. Both concepts are infused in an indeterminate account of how community begins and form a chain of supplementary origins. This is what Derrida means by the law of supplementary commencement: when we go looking for Walzer's origin of

community, we are faced with a nonorigin, a community that is already home to members who share a common life; a community already in motion.

To explain this argument in more detail it is useful to provide a more illustrative example. In this respect, the U.S. Declaration of Independence provides us with an articulation of communal self-proclamation from within Walzer's own maximal heritage. Walzer presents us with an image of community rooted in pre-existent mutuality (membership) solidified through historical negotiation (common life). This structure is described in terms of Rousseauian social contract: "… over a long period of time, shared experiences and cooperative activity of many different kinds shape a common life. 'Contract' is the metaphor for a process of association and mutuality" (Walzer 2006a: 54). For Walzer, the signing of the social contract indicates a willingness of a group of people to collectively decide how to distribute goods and build a common life (1983: 65). In short, the social contract symbolises the opening words in any maximal morality. The ethos of Walzer's depiction of social contract is evident within the spirit of the Declaration, which is above all a will to self-determination. John Shy reminds us, that the Declaration "was intended to foreclose serious negotiations which the British seemed ready to undertake" (1976: 11). In this respect, the Declaration represents a clear commitment to ordain a new community rather than redeem the existing Anglo-U.S. system. According to Shy, this departure from the European system signifies a prominent trait in the popular U.S. imagination: "how America saved itself from being like, and part of, Europe and Europe's problems" (1976: 239). Importantly, the Declaration also provides an instance of a community asserting the inauguration of itself in the name of itself. As such, the Declaration appears to conform to Walzer ideal of community: a pre-existing mutuality committed to realising itself.

The Declaration, however, proves to be a far more disjointed construct than Walzer's conception of community would imply. What is important is the means through which the authority to declare independence is derived. The Declaration's claim that it has the authority to break from Britain signifies the emergence of a community with the power to decide its own destiny; it represents the annunciation of a self-determining subject. In this respect the Declaration carries a divided seal of authority. The opening paragraph implies that the

authority to break from Britain derives from God and nature: "… to assume the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them" (U.S. Declaration of Independence 1776: 1). This assertion of divine or natural authority stands in stark contrast to the appeal in the closing paragraph to independence declared in the name of the U.S. people: "… in the name, and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be free and independent states" (U.S. Declaration of Independence 1776: 4). The concluding paragraph mirrors Walzer's ideal of auto-affective self-birth: communal foundation achieved through the commitment of a group of related people to achieve self-determination. However, the opening appeal to divine authority complicates this picture. The appeal to divine authority suggests that the community lacked the absolute authority to inaugurate itself. The divided seal comes together in the proclamation of the truths of U.S. community:

> *We* hold these truths to be self-evident, that all men are created equal, that they are endowed by their *Creator* with certain unalienable rights that among these are life, liberty and the pursuit of happiness (U.S. Declaration of Independence 1776: 1, italics mine). [19]

Within this sentence the twin structures of divine and auto-affective authority come together: the commitment of the people to build a common life is underpinned by divinely given rights. Yet, this combination creates an ambiguity surrounding the foundation of communal authority.

Hannah Arendt's (1963, 1970) reading of the Declaration emphasises the auto-affective aspects of the text. As such, she regards the appeal to God as an unnecessary impurity in the founding of a new form of authority. Bonnie Honig explains that for Arendt the declaration symbolises the free coming together and public expression of a desire to build a community: "The *We hold* is a promise and a declaration; it signals the existence of a singularly human capacity: that of world building" (1991: 101, original italics). Arendt's account is strikingly

[19] Interestingly, these truths are intimately related to the absolute values of Walzer's minimal morality.

similar to Walzer's ideal of social contract: the Declaration is signed in the spirit of a commitment to build a community together. In Walzer's words, "It never happened that a group of people called Americans came together to form a political society called America. The people are Americans only by virtue of having come together" (1996: 27). In Walzer's argument, the act of coming together signifies membership founded on the promise of the creation of a common life. For Walzer and Arendt, authority is derived from the promise of community itself, and the commitment to build a common life becomes the foundation of the common life. Following from this, Arendt argues that the appeal to the divine is superfluous, an echo of a former regime of authority from which the signers of the Declaration lacked the courage to completely break (Honig 1991: 99). Arendt contends that the possibility of founding the new community is grounded upon common linguistic practices (what Walzer calls maximal morality), namely, the mutual understanding and subscription to the authoritative linguistic practice of promising (Honig 1991: 102). However, for this account to make sense it relies upon an unproblematic depiction of promising. It relies upon the assumption the people who came together to found the U.S. already possessed a shared understanding of what a promise is and how it should be understood; it is grounded upon an already existent community of promisers. In Walzer's terms, the commitment to build a common life presupposes that 'Americans' had a shared understanding of what their coming together meant, that it signified the desire build a maximal world. In other words, he presupposes that mutuality, a community of would-be 'Americans,' existed prior to the coming together.

For Derrida, it is precisely the status of pre-existing mutuality that necessitates the supplementary appeal to divine authority. What is crucial to Derrida's reading of the Declaration is the status of the "we" that performs the promise, that is, the status of the presupposed community:

> The "we" of the declaration speaks "in the name of the people." But this people does not yet exist. They do *not* exist as an entity, it does *not* exist, *before* this declaration, not *as such*. If it gives birth to itself, as free independent subject, as possible signer, this can hold only in the act of the signature. The signature invents the signer. This signer can only authorise him-

> or herself to sign once he or she has come to the end [*parvenu au vout*], if one can say this, of his or her own signature, in a sort of fabulous retroactivity (Derrida 1986: 10, original italics).

By calling into question what Arendt and Walzer assume in the foundation of U.S. community, the pre-existence of the communal subject, Derrida highlights the ambiguity of the *we* who signs for the Declaration at the moment it pronounces its own birth. Importantly, Derrida argues that the authority to sign for independence is derived from the people who are declared independent in the act of signing. As such, the act of signing is simultaneously a performative and constitutive exercise. It is performative because the promise of a commitment to the new community signifies the possibility of the *we* capable of signing, and constitutive because the signature retroactively produces the *we* who finally signs. It is only after the signature is completed that we can even claim to distinguish between the performative and constitutive aspects of the foundational act.[20] In this respect, the Declaration itself produces the U.S. people who sign for their independence. The Declaration is a retroactive justification of their authority: the signature produces the subject who provides the authority to sign for independence in the first instance. In Walzer's terms we are faced with an ambiguous relationship between membership that creates the common life and the common life upon which membership is presupposed. In this way, the birth of community, which for Walzer is always in terms of a subject who can singularly sign for collective action, is fractured by the retroactivity of self-birth. It is in the ambiguity of *ex post facto* foundation that the appeal to God becomes necessary.

Membership and Alterity

Walzer conceives the foundation of community in the manner of auto-affective subjectivity: community comes from within itself and is founded by the promise of world building. In this system what is other than community is at best unnecessary and at worst threatening to community's very existence. Importantly, what is designated as other than community is pre-conditionally situated outside the community and members' common life. In the Declaration,

[20] This theme will be revisited in the next chapter through a discussion on the foundation of conscious subjectivity.

the foundational promise of the U.S. community is presented in the form of the commitment to be other than Europe. Similarly, Walzer defines the U.S. members as "voluntary immigrants" (1996: 3) committed to escaping the old country (Walzer 1996: 28). [21] As such, the U.S. community is characterised by voluntary escape from its former identities. The commitment to become other than … , therefore, becomes the conjoining feature of U.S. solidarity. In Walzer's terms, the American experience is that of leaving a homeland and coming to this new place (1996: 17). Walzer presents the emergence of U.S. community in terms of an interesting dynamic. Members leave their former home because they do not properly feel at home and find their new home by becoming other than what they were. In this sense, Walzer depicts the U.S. as a form of communal blank slate, a view similar to Campbell's idea of the U.S. as the imagined community *par excellence* (1998: 91).[22] Walzer contends that the building of U.S. community was unburdened by the cultural hegemony evident in more traditional societies, and this resulted in the formation of a community particularly receptive to difference (1996: 23-49). By leaving their old homes in order to find their proper home, members of the U.S. community forged a particularly just society: "it is one of the world's better societies: open, pluralist, and (relatively, again) egalitarian" (Walzer 1996: 3). Yet, it is precisely in the movement toward the new home that the distinction between inside and outside breaks down. Walzer's argument suggests that those inside their old home did not feel fully or sufficiently at home in what is their proper home. 'Americans' could only be properly at home by building a new community, and their combined approach toward their new home signifies its foundation. In turn, it is only by virtue of expelling its former inside, the administrative connection to Europe, that the U.S. community could be authoritatively announced. That is, the U.S. became a subject that could singularly sign for its own destiny by rendering its former inside as a constitutive outside.

It is within this confusion and ambiguity between what is properly inside and outside U.S. community that the divided seal of the Declaration begins to make sense. Walzer acknowledges the divided seal of U.S. identity in terms of what he describes as *hyphenated being*: for example, 'Italian-American', 'African-American,' etc. He argues that U.S. identity

[21] Walzer excludes native peoples and those forcibly brought to the country as slaves.

[22] In Walzer and Campbell we find two variants of the mythical view of U.S. exceptionalism that I would suggest is simply exceptionally well versed in popular narrative than representing a particularly special case of communal imagining. Although Campbell is keen to stress that all communities are imagined, he, nevertheless, indicates that the U.S. community is more perfectly imagined.

is defined in terms of a lack of inwardness, a lack of historical, social and cultural commonality (Walzer 1996: 26). Because of this lack of inwardness, the U.S. people must look backwards, to their old countries, to find their maximal values. This creates a rather fractured image of U.S. community. The U.S. comes into being in the form of a collective escape from the old countries. But the new community must retain part of what it was because it lacks the culture and history necessary to forge a common life. In this sense, that which the U.S. has rendered as its constitutive outside and forcibly expelled in the Revolutionary War is simultaneous retained as a necessary component of the inside. The outside is retained in the new system as what Derrida would term a necessary parasite (1988: 90). The retention of former maximal identities is necessary because one cannot root out the parasite without also rooting out what is proper: one cannot root out the U.S.'s former identities because they make U.S. community possible. As such, the U.S.'s outside is constitutive in two senses: it defines the system that the new community is moving away from and must expel from its inside, and the retention of the outside marks the very possibility of this movement. This signifies another iteration of the law supplementary of commencement. The U.S. community is inaugurated as a self-determining subject only within the dynamics of a constitutive relationship with an alterity that is expelled from the inside and, simultaneously, retained in the inside.

In Walzer's system the U.S. retains its former cultures but expels its prior politics: "If the manyness of America is cultural, its oneness is political" (1996: 29). In this way, Walzer's hyphenated identity functions by way of a cultural multiplicity (Italian, African, etc) conjoined by a political singularity (American). Walzer asserts that U.S. politics represent a break with the British system and this break is tantamount to the acceptance of the ideals of liberty, equality and republicanism (1996: 30). Hyphenated identity captures the twin principles of expulsion and retention, and, in Walzer's terms, constitutes a surplus in which U.S. politics complements the pre-existing cultural plurality (1996: 45). In this way, Walzer attempts to domesticate the supplement by the deployment of the hyphen. Rather than addressing the tension between the cultural multiplicity and political singularity, the hyphen creates a mythical separation of the terms which aims to fix the supplement as pure and simple addition: the cultural multiplicity is added to the political singularity and vice versa.

However, the hyphen also helps us to locate the 'we' who signs for the Declaration of Independence. In Walzer's analysis, the U.S. shares a common politics that facilitates the co-existence of multiple cultural identities. This common politics means that anyone can, in principle, become a member of the U.S. community. In Walzer's words, it is "Precisely because the United States was no one's *national* home, its politics were universally accessible. All that was necessary in principle was ideological commitment" (1996: 35, original italics).[23] Recalling that mutual commitment to create a common life signifies Walzer's conception of communal foundation, the Declaration can now be re-read as a commitment forged on the basis of common politics and ideology. But this presents us with a foundational problem because the common politics upon which the commitment is premised is announced in the Declaration. If the U.S. community breaks politically with the British system then it is precisely at the moment of the Declaration that this break occurs. Yet, the pronouncement of the new political system is itself underwritten by an appeal to an existing ideological commitment of the people to the principles of life, liberty and equality. Read through Walzer, the Declaration presupposes the existence of that which it seeks to announce: a common politics underpinned by an ideological commitment to liberty, equality and Republicanism. It presupposes the existence of a communal subject whose signature inaugurates the U.S. community. In this respect, Walzer is suggesting that the U.S. community was forged by the coming together of people already committed to shared understandings of the principles of life, liberty and equality: people who shared a form of maximal morality.

It is in acknowledging this dimension of the Declaration that the necessity of the appeal to God and Nature becomes apparent. In Walzer's argument, the commitment to build a community based upon shared understandings of life, liberty and equality symbolises the foundation of U.S. maximalism. However, the shared ideology presupposed in this argument cannot exist prior to the foundation of the community because the ideological mutuality has yet to be forged through historical, social and cultural processes. It is for this reason that the signers of the Declaration underwrite their political ideal by appealing to natural and divine

[23] This implies that U.S. membership is determined solely on the basis of ideological kinship.

laws. Derrida conceives this appeal in terms of a place holder because it sustains the authority of the Declaration until its task of creating the signer is completed:

> They sign in the name of the laws of nature and in the name of God. They *pose* or *posit* their institutional laws on the foundation of natural laws and by the same coup (the interpretive coup of force) in the name of God, creator of nature. He comes, in effect, to guarantee the rectitude of popular intentions, the unity and goodness of the people. He founds natural laws and thus the whole game which tends to present performative utterances *as* constative utterances (Derrida 1986: 11, original italics).

The absence of a communal subject who can sign for the Declaration marks the absence of the common politics Walzer's understanding of membership presupposes. The writers of the Declaration appeal to God to sign for the ideological values (life, liberty and equality) upon which their politics is founded until such time as they can build a common life together. As such, U.S. maximal morality is founded upon an appeal to the theological, which is in truth an appeal to absolute alterity. In Derrida's terms, the Declaration is "a vibrant act of faith" (1986: 12). God signs in place of the community, as its place holder, until a common politics arises that can retroactively seal the contract. Self-determination is guaranteed by an appeal to absolute alterity.

War and Maximal Morality

Derrida contends that the foundation of community is implicated in the performative and constitutive structure of revolutionary violence.[24] He argues that revolutionary violence exists within a legal vacuum in which the old system is renounced and the new system has yet to be legally inaugurated:

[24] This type of violence was visibly evident in the formation of the U.S. through the Revolutionary War against Britain.

> It is in the moment in which the foundation of *droit* remains suspended in the void or over the abyss, suspended by a pure performative act that would not have to answer to or before anyone. The suspended subject of this pure performative would no longer be before the law, or rather he would be before a law still undetermined, before a *droit* still nonexisting, a *droit* still ahead, still having to and yet to come (2002a: 270).[25]

The performative violence Derrida speaks of is tied to the performative declaration of independence. Violence creates the law and the subjects of this law who can retroactively sign for their own independence. The U.S. War of Independence transformed the population from British subjects to citizens of the United States subject to U.S. laws and political authority. More directly, Derrida argues that revolutionary violence creates a new system of law that retroactively justifies the violence that was instrumental in its own production (2002a: 269). As Shy reaffirms, "Whatever was done or decided in 1775 or 1777 or 1781, the outcome justified it … The American nation was a success story from the beginning" (1976: 9). In other words, the violence that created the new political system, a common U.S. politics, retroactively justified itself in the name of what it created. Revolutionary violence produced the signature of the Declaration that retrospectively justified all that was done in its name, including the violent production of itself. Violence founds and signs for maximal morality through the constitutive exclusion of the new outside of U.S. community, the exclusion of British political authority.

The previous argument indicates that violent exclusion is fundamental to the production of maximal morality. Walzer, however, is keen to emphasise a more peaceful image of community. Walzer argues that a just society is one that lives life according to members' shared meanings: "A given society is just if its substantive life is lived in a certain way – that is, in a way faithful to the shared understanding of its members" (1983: 313). The question, then, shifts to how we can ensure that the common life is authentically created and not tyrannically imposed. In this respect, Walzer assures us that the production of maximal morality revolves around a process of interpretation. To stress his argument Walzer critiques

[25] Anidjar explains that the French word *droit* is notoriously difficult to translate into English. The word carries the sense of "law" and "code of law," and the sense of "right" (as in "the philosophy of right" but also the "right to strike" or "human rights"). It is distinguished from *loi* which signifies "law" in the singular (Derrida 2002a: 230).

the theological underpinnings of what he describes as the two alternative moral schemas of 'discovery' and 'invention'. Moral discovery is disregarded because it requires God to reveal the moral language to us: "someone must climb the mountain, go to the desert, seek out the God-who-reveals, and bring back his word" (Walzer: 1987a: 4). While moral invention is disqualified because the inventor assumes the role of God: "they create what God would have created if they were a God" (Walzer 1987a: 12). Ultimately, Walzer asserts that we do not need discovery or invention as we already have what they pretend to provide, interpretation allows us to debate actual existing morality (1987a: 21). Once again Walzer argues on the basis of reality. The mystical world of discovery and the mythical world of invention are unnecessary in the face of interpretation, our experience of actually existing real world morality. Nonetheless, an interpretative real is also a contested real. How then do we recognise the genuine moral interpretation amongst a sea of competing fraudulent interpretations? How do we know if maximal morality genuinely represents the community?

As stated previously in this chapter, Walzer claims that the sphere of politics can guarantee the fidelity of maximal morality and shared meanings. More specifically, Walzer presents politics as a means to police the boundaries between the various spheres of distribution that constitute a community's common life:

> It is used to defend the boundaries of all the distributive spheres, including its own, and to enforce common understandings of what goods are and what they are for … political power is always dominant – at the boundaries but not within them (1983: 15).

In this way, Walzer places the sphere of politics at the centre of communal life. Politics polices the boundaries of maximal morality by ensuring that life is lived according to members' shared values. Yet, Walzer also acknowledges that political power often oversteps its remit by breaking into the distributive spheres and changing social meanings rather than defending them (1983: 282). Walzer's view coincides with the Derridean (2002a) understanding of police power. Derrida maintains that even though policing is designed to preserve the law it always risks remaking the law through enforcement. In this sense,

although politics is necessary to defend of maximal morality, this preserving power risks violating shared meanings. Because of the unstable nature of police power, Walzer posits democracy as a supplement to politics. He argues that "the only thing that can justify undemocratic forms of government is an undifferentiated conception of social goods" (Walzer 1983: 303). In other words, democracy is essential to preserve the integrity of distributive spheres. Definitively, Walzer argues that democracy is an essential atom of any decent society. "I want to argue," Walzer states, "that a decent society requires not only individual rights but also group solidarities and the pluralist and democratic politics that make groups possible" (1996: 122). As such, Walzer's understanding of justice is intimately related to democratic politics.

Walzer characterises democratic politics as a public forum for debate:

> Democracy puts a premium on speech, persuasion, rhetorical skill. Ideally, the citizen who makes the most persuasive argument – that is the argument that actually persuades the largest number of citizens – gets his way … All other citizens must talk, too, or at least have a chance to talk … Equally important is what we might call the rule of reasons. Citizens come into the forum with nothing but their arguments. All non-political goods have to be deposited outside: weapons and wallets, titles and degrees (1983: 304). [26]

In this respect, Walzer posits the Western model of democracy as the mechanism through which politics operates in a just society. At this point it appears that politics is in danger of being supplanted by democracy. Walzer wants to ground community on the ideal of politics, the commitment to live together according to shared understandings. However, in order to create a just and decent society politics must take a very particular form. Justice can only be derived through Western styled democratic politics. In fact, Walzer acknowledges the particularist nature of democratic politics when critiquing the Habermasian democratic speech theory. Walzer states,

[26] Note the masculine undertones in Walzer's conception of citizenship.

> For the minimal morality prescribed by these theories is simply abstracted from, and not very far from, contemporary democratic culture. If no such culture existed, this particular version of minimal morality would not even be plausible to us … very much like an oak tree that, endowed with speech and encouraged to speak freely, solemnly declares the acorn to be the seed and source of the entire forest (1994: 13).[27]

Walzer's critique is interesting because it implies that Western democracy cannot be viewed as a minimal condition for authentic maximal life. Acknowledging the particular nature of democracy, Walzer contends that authentic communities do not necessarily need to be just. Rather, to embody a maximal existence a community needs to be legitimate. The distinction between just and legitimate is important to Walzer's picture of the world. While an unjust society is cause for moral criticism and even strangers are entitled to levy such criticism (Walzer 1983: 314), the absence of democracy alone is not sufficient enough to doubt the existence of community and common life. In short, the absence of democracy does not challenge a community's minimal right to determine its own maximal world. As such, it is the category of legitimacy that is important in regard to a community's claim to self-determination.

Maximal justice necessitates open public debate. However, minimal legitimacy is derived exclusively from a people's capacity for collective violence. Walzer grounds a community's legitimacy on what he refers to as the self-help test, the ability of a government "to help itself against internal enemies" (2006a: 99). Walzer's depiction of the self-help test is relatively straightforward: if a government does not represent the true values of a community the people will seek to overthrow it, both resistance to the government and the punishment of this resistance are legitimate.[28] Ultimately, the side that can gather the most support for their cause represents the genuine maximal values of a community.[29] Walzer, however, does not view violence as a lamentable consequence of competing claims to self-determination.

[27] This quote is interesting as it disrupts Walzer's conception of hyphenated identity. Walzer's ideal of U.S. identity rests upon the separation between the cultural multiplicity and political singularity. However, Walzer is now acknowledging that politics is itself cultural and historically produced rendering the hyphen ambiguous at best.

[28] This is provided neither side engages in excessive violence or coercion that would constitute acts of genocide or enslavement (Walzer 2006a: 107).

[29] See Walzer, *Just and Unjust Wars*, chapters 6 and 11.

Instead, violence marks the presence of genuine politics because if the issues are significant violence is always a risk and to remove this risk would reduce the political process to a charade (Walzer 1996: 94). Walzer valorises the willingness to resort to collective violence in the defence of maximal meanings as a sign of authentic community.[30] While a system of democratic politics emphasising public discourse and the rule of reason is desirable, all communal legitimacy requires is a *coup de force*. The community, which above all exists to protect the common life from the external menace of war, is legitimised by that which it seeks to keep outside its borders. In Walzer's image of community, collective violence authenticates the maximal world and subsequently justifies itself solely in defence of the common life it has created.

To conclude our discussion on community, we will examine Walzer's conception of tyranny, the structure of an unjust society. Walzer describes tyranny as "a continual grabbing of things that do not come naturally, an unrelenting struggle to rule outside own company" (1983: 315). Rather more succinctly, he clarifies that tyranny is simply "the exercise of power outside its sphere" (Walzer 1983: 59). Both of these descriptions rely on an understanding of life already anchored in the maximal world, a world divided into members and strangers. However, the violent inauguration of common life teaches us that the creation of the maximal world, its spheres and distributions, is grounded upon a performative and constitutive violence that operates outside all conventional structures. It is the most tyrannical violence, as it strives to rule outside all existing *droit*, and simultaneously the least tyrannical because it does not recognise any *droit* aside from that it creates (Derrida 2002a: 274, original italics). In other words, the violence that creates and legitimises a community and its common life is a form of tyranny that retroactively justifies itself through the system of law it creates.

[30] In addition it must be noted that Walzer does not completely bar strangers from engagement in the political process of a community of which they are not members. Walzer maintains that borders are not designed to keep out ideas, strangers have a limited right to speak and present their ideas to other communities. Foreign ideas, nevertheless, must be adapted by members to fit their cultural understandings. For example, Walzer argues that if he were to speak to a Chinese audience about democracy he would have to do so through the medium of U.S. maximalism. However, if the Chinese found these ideas appealing they would translate his ideas in a way that made them amenable to Chinese values, culture and customs (1994: 58-61). As such, strangers are allowed to present their ideas and try to convince members of their merits, but they are denied the possibility of institutionalising their ideas through violence. In other words, membership is intertwined with the possibility of engaging in violence as a means to institute ideals.

Walzer argues that the coercive transformation of a way of life is the death of the community (2005: 49), and that shared understandings cannot be the result of radical coercion (1994: 27). Yet, the foundation of maximal morality is already a radically coercive formation of common life. In the example presented here, the creation of a new common life, of new laws and norms through the U.S. Declaration of Independence and the Revolutionary War was both radical and coercive: it pitted members against each other and the new political authority was cemented through militia violence (Shy 1976). What appears to us as tyrannical violence, the creation of a common politics through means of violent exclusion, is what sets the maximal world and, therefore, Walzer's entire ontology, in motion. Walzer declares that politics is the cornerstone of maximal morality, protecting common meanings and defending the boundaries of common life without violating them (1983: 15). Nevertheless, the possibility of this boundary defence is predicated upon the violent demarcation of boundaries between members and strangers; the violent production of community. The U.S. Declaration of Independence sanctions the creation of community through the violent exclusion of what it no longer *was*, the tyrannical foundation of a just and decent society. It is as Benjamin suggests, "something rotten" at the heart of the law (2004: 286): the laws of maximal life bar the coercive transformation of maximal life but maximal life is grounded upon the radical coercion of revolutionary violence.

Walzer justifies the violent and coercive creation of a common life when it derives from self-determination. However, this analysis has illustrated how foundational acts of violence are in themselves productive of what constitutes inside and outside for a community. In the U.S. example, prior to the Declaration there was no common politics distinct from the British system. In Walzer's own terms, there was no maximal bond or even people of 'the United States'. The common politics, the community, pronounced in the Declaration was created through a revolutionary war that coercively transformed the whole population's way of life. The inside-of-community is itself a product of coercive violence that stands prior to the institution of maximal morality; the creation of maximal morality is possible only because of the violent transformation of lives. In this sense, what threatens community, the violent transformation of the common life, threatens community from the inside. In the foundation of U.S. community we see the breakdown of the distinction between inside and outside. The creation of the new U.S. community was possible because of its relation with the old system

which it violently expelled as its constitutive outside. Europe, which resides at the heart of U.S. cultural heritage, was constituted as an external stranger through revolutionary violence. Walzer ties communal legitimacy to the ability of governments to defeat their internal enemies. Yet, the very possibility of the distinction between inside and outside is underpinned by a constitutive violence that refuses to recognise any system of law aside from that it creates. It is only by rendering its inside as an outside that community can found the member/stranger distinction, maximal morality and the entire ontological game. War tyrannically founds community, its boundaries, distributions and common life.

Temporal Revelation and Being

Walzer grounds communal legitimacy on war and revolutionary violence that produces self-determining subjects capable of constructing maximal moralities. In Walzer's model, the self becomes itself in relation to what it is not. The subject emerges through the exclusion and retention of alterity as a constitutive outside. By showing the impossibility of the maximal foundation of morality we call into question the possibility of universal minimalism. Yet, the critique of maximalism does not necessarily discredit its functionality as the means through which the minimal rules of war are produced. In other words, the violent and unjust foundation of the maximal world does not preclude the possibility of communities negotiating minimal rules of war. Importantly, the critique of community does not tell us how or why minimal morality fails to function in Walzer's posited ontological system. As such, it is crucial that we examine how minimalism is represented within this assumed real world structure.

Walzer unveils minimalism by presenting us with the image of protesters in Prague during the Velvet Revolution of 1989 carrying signs demanding "truth" and "justice":

> I knew immediately what the signs meant – and so did everyone else who saw the same picture. Not only that: I also recognised and acknowledged the values that the marchers were defending – and so did (almost) everyone else (1994: 1).

Walzer describes minimalism as a form of temporal revelation: minimal values are recognised within specific politically charged contexts. In Walzer's words, moral language reveals itself thinly on special occasions and we know minimal morality when we see it (1994: 4).[31] However, this is not an unproblematic argument. Walzer contends that minimal morality can never be actually expressed minimally, it can only be stated maximally:

> Minimalism when it is expressed as Minimal Morality will be forced into the idiom and orientation of one of the maximal moralities. There is no neutral (unexpressive) moral language (1994: 9).

Walzer's description of minimalism is, in one sense, a restatement of his belief that minimalism comes from maximalism. Yet, in this case the emergence of minimalism does not revolve around the negotiation of common values between communities, as implied in Walzer's description of the War Convention. Instead, temporal revelation constitutes an intimate, passive and spontaneous recognition of minimal values within maximal language. The people viewing the Prague protests did not need to know the cultural meanings implied in the signs because they recognised the underlying essence embedded in the gesture. In other words, although the signs had a distinctive cultural resonance understood within Czechoslovakia, they also contained a universal undertone that was recognised across all communities.

The most striking example of this form of minimal revelation is Walzer's depiction of acts "that shock the moral conscience of mankind" (2006a: 107). Walzer describes acts that shock the moral conscience of mankind as atrocities that are so heinous that people are moved to ethically respond despite there being no direct threat to their own community. In turn, Walzer posits genocide and mass enslavement as examples of acts that shock our moral consciences. This depiction represents a shift in Walzer's conception of morality. He is no longer talking about the maximal morality that embodies a community's collective conscience or minimal

[31] Walzer describes these special occasions as personal or social crisis, or political confrontations (1994: 3).

rules negotiated between communities. Instead, Walzer is now directly discussing the possibility of a universal conscience attentive to particular minimal values in specific instances. This image is unsurprising given Walzer's belief that the values underlying minimalism are attached to our sense of what it means to be human (2006a: 54). As such, Walzer is suggesting that all humans share the capacity to be shocked by specific acts because we collectively recognise that certain universal rights are being violated en masse. Nevertheless, our recognition of minimalism does not represent a full bodied universal morality. Rather, Walzer presents us with a universal morality that is recognised within a particular maximalist expression and subsequently interpreted through the individual's own maximalist vocabulary. In Walzer's (1994) terms, we may briefly join the minimal parade but we soon find ourselves back in our own maximalist one. In this respect, Walzer describes a form of universal morality inherent to the essence of mankind that, although silent and essentially unsayable, can be innately recognised in a myriad of maximal languages. Minimalism is, therefore, a spark embedded and recognised in all moral languages.

For Walzer, what is universal is not a minimal language but our ability to recognise minimal values, and this recognition is possible because we are all human beings. Therefore, to understand the revelation of minimal morality we must discuss Walzer's conception of subjectivity: the mechanism through which humans recognise and interpret the moral world. Walzer describes the subject as an *ordered self* and signals his intention to challenge religious conceptions of self that suggest God has placed a singular conscience in all of humanity (1987b: 33-43).[32] In contrast, Walzer describes the *ordered self* as a complex maximalist whole, internally divided in interests but not utterly fragmented (1994: 85 & 96). Walzer describes the subject as a thickly populated circle with a core 'I' surrounded by its self-critics. This 'I' is characterised as a newly elected president, capable of summoning advisors, forming a cabinet and manoeuvring between its constituent parts (Walzer 1994: 98-100). Although Walzer is keen to stress the maximalist character of being, Pin-Fat reminds us that the structure of Walzer's being is universal (2010: 97). Walzer assumes that all human beings are like this, and that every person is comprised by a president and its circle of self-critics.

[32] It is important to note that Walzer fails to provide any discussion on how subjectivity itself is formed. The ordered self is already a self-conscious internally formed subject. In a similar way to his depiction of a world in which people are always already members of a political community, subjects are presupposed to be composed as *ordered selfs*.

Walzer wants to assure us that difference defines the heart of subjectivity, humans are particular. Yet, how this difference is structured is the same in every human, the structure is universal. In other words, Walzer's self may be maximally constituted but its structure is minimally distributed.

In his depiction of subjectivity, Walzer presents us with another universal container. The structure of Walzer's subject is, as Pin-Fat argues, socio-historically pre-existent, it "is not dependent on time and place though its *shape* may be" (2010: 97). Walzer's universal structure mirrors his image of community. The subject is maximal because it is shaped by its internal critics (divided interests and specific socio-cultural contexts). Its organising principle, however, is the same in all cases. The subject's structure is dictated, a priori, in a minimal way. The subject is constituted by different presidents and different critics, but it is always already organised in this way. In Walzer's argument the maximally divided self is contingent upon a universal, immemorial internal structure. In fact, Walzer's *ordered self* strikingly resembles his image of democracy, a group of particular interests bounded within secure space that are all afforded an equal opportunity to convince the community (in this case the sovereign 'I') that their interests should be adhered to. In this sense, Walzer's universal conception of subjectivity is endowed with a thoroughly maximalist character when judged by his own standards. Importantly, we must assume that this structure allows us to recognise minimalism because it signifies the common element inherent to mankind. The universal structure of the subject is the thread that links divergent social groupings together: people are similar because their internal structure is identical. It is through the democratically *ordered self* that the subject can reveal the minimal essence embedded in maximal communication.

Différance and Secular Theology

Walzer's overarching account of the minimal/maximal dichotomy brings us toward the Derridean concept of *différance* and the logic of the supplement. *Différance* is a play on the French word *différer* and its dual meaning, to differ and defer. Derrida argues that *différance* constitutes both a differing between meanings and a deferral of ultimate meaning, the delay inherent in signification and the difference that founds oppositional concepts. Derrida asserts

that self-present meaning is the ideal of western metaphysics, however, it proves impossible because *différance* inhabits the very core of what appears to be immediate and present (1981a: ix). He contends that, in language, the sign, which is a representation of the thing, stands in place of the thing to preserve the thing's presence, but in doing so heralds the disappearance of the thing's natural presence: "that what opens up meaning and language is writing as the disappearance of natural presence" (Derrida 1997: 159). In Walzer's model, for instance, we can only recognise minimal morality through maximal morality, yet, the second we try to interpret minimal morality it is already transformed into another maximalism; as soon as have we joined with the minimal parade, we already find ourselves back in our own maximal one. If universal values exist within Walzer's ontology, they are entirely unrepresentable and incommunicable in a minimal way.

Derrida insists that every search for an origin, like our search for the origins of maximalism and minimalism, will find a nonorigin. Invariably what we will discover is not a singular starting point but a chain of supplements with meaning already contested at its roots (1997: 247). For Derrida, the supplement symbolises the relationship between the self and alterity that is productive of the distinction between these concepts. For example, the supplement is evident in the Walzer's conception of community within the ambiguous relationship between inside and outside that founds the member/stranger distinction and the possibility of maximal morality. We never find the definitive origin of community. Instead, we find a process already in motion. In this respect, Walzer's thick and thin worlds are supplements for each other. In the first instance we are told that minimalism follows from maximalism. However, as highlighted in our discussion on the origin of maximalism, the only way a maximal morality is possible is through the detour of the supplement. Maximalism presupposes a universalised understanding community described as a self-determining subject. Yet, this universal structure is underpinned by a constitutive relationship between members and strangers that calls the possibility of self-determination into question. In the second instance, when we looked at the process of minimal revelation, we found that maximal expression is necessary for the articulation of minimalism and Walzer's universal depiction of the subject is premised upon democratic politics. Although these supplements threaten to usurp each other, they remain necessary for Walzer's ontology to function: "a terrifying menace, the supplement is also the first and surest protection against this very menace. This is why it cannot be given

up" (Derrida 1997: 154). In the absence of the law of supplementary commencement, without the constitutive interplay between self-determination (maximalism) and alterity (minimalism), Walzer can neither found community nor universal morality.

Not only does Walzer's conception of universalism display logical inconsistencies, in certain ways it also has the characteristics of a theological model. In Walzer's description of minimal morality, minimal values are unveiled to us as a spark of recognition within maximal expression, and minimalism itself is eternally silent without the possibility of language or expression. In other words, the self-presence necessary to transform minimal values into clearly articulated moral laws remains deferred. Minimalism, in this sense, represents a secret revelation that takes place inside the subject that can never be outwardly expressed in its authentic form. The subject recognises minimal morality on the inside without the possibility of fully expressing it in a minimal way. Derrida discusses this theme in response to Søren Kierkegaard's image of subjectivity, describing God as the invisible interiority of the subject (2008: 108). This structure is of seminal importance to Walzer's conception of subjectivity. We never see the subject's internal mechanics, the presidential 'I,' how it calls its cabinet together and how it recognises minimal morality in maximal language. As Walzer acknowledges, the production and reproduction of subjectivity is a great mystery (1987b: 43). Walzer attempts to refute the mystical, internal revelation of minimalism by arguing that the recognition of minimalism is a form of translation: we translate minimal values expressed one maximal morality into another. This argument, however, cannot be sustained. Whereas translation requires a competent understanding of both languages, minimalism does not. In fact, the identification of minimal morality requires something that exists outside language to enable translation. It requires the recognition of something common to both languages but inexpressible in any language. It is only by assuming that the minimal value is recognised by everyone, members and strangers, that maximal translation becomes possible. As such, Walzer's argument is predicated upon faith in our ability to recognise unavowable minimal values, internally and in secret. Walzer's faith that minimalism is authentically recognised in maximal expression exceeds all ontological proof. Without this faith, minimalism could not possibly exist. In a similar manner to the Declaration of Independence and the foundation of U.S. community, the act of faith acts as a place holder that conjoins the transition of minimal

meaning from one maximalism to another. Faith in minimal morality provides the link between disconnected maximal moralities and the possibility of universal rules of war.

This takes us to the crux of Walzer's secular theology. Walzer requires minimalism in order to defend the type of universalism necessary for his theory of just war. However, minimalism, as described by Walzer, is possible only through a movement of faith: faith that minimal values can be recognised within maximal expression. Walzer weaves an onto-theological narrative that installs the language of just war as a universalised moral code written in absolutist terms, and he grounds this code on the presumed existence of minimal morality. Yet, this discourse cannot appear in the minimal dialect that Walzer requires and is, as such, a groundless foundation. Minimal morality is never present in any discourse on war, in any inter-communal argument. Walzer recounts the myth that minimal morality can be recognised within maximal moralities. Nonetheless, we never see or hear minimalism, which ontologically exists nowhere. What we see, in Walzer's writings is a maximalist War Convention that portends toward an inexpressible universal essence. In this sense, Walzer's minimal morality shares the characteristics of *différance*: its meaning is constantly differing across maximal moralities with its authentic meaning perpetually deferred. Therefore, it is only through a movement of faith that Walzer can claim that minimal morality is authentically represented in the mediating language of just war. As such, Walzer's ontology requires us to have faith that minimal morality exists and faith that it is authentically expressed in the mediating language of just war.

Conclusion

Walzer's conception of wartime morality endeavours to provide a system of rules that are detached from the theological heritage of the just war tradition. Walzer attempts to construct a viable rights based universal morality that complements his overarching communitarian ideology. To this end, he builds the foundation of universalism upon the plateau of particularism: human rights that derive from communitarian ontology. The rules of war, Walzer's War Convention, signify the practical articulation of this model of universalism. War, as a primary inter-communal engagement, requires the codification of universal laws to

ensure violence is conducted within a moral remit. However, Walzer's ontology cannot function in the way he professes it to: community and self-determination presuppose universal structures, and minimalism is silent in the absence of maximal articulation. Ultimately, this tells us that the world is not built upon self-determination and particularism. Instead, Walzer's morality is founded upon a chain of supplements: the interplay between minimal and maximal, universal and particular, and self and other, is necessary to co-found Walzer's entire ontological system. Yet it is precisely these relationships that preclude the possibility of Walzer positing a universal real world morality. The War Convention is universal only to the extent that Walzer assures us that it preserves the essence of an inarticulate universalism. In this sense, universalism is, in Walzer's argument, embroiled in a movement of onto-theological faith: faith that what can never be present is, nonetheless, faithfully represented in the War Convention. Walzer's system of morality reassembles into a secular theology that pronounces a universal moral code through a movement of faith.

How then does Walzer's theology posit the absolute values, life and liberty, the fundamental tenets of the just war creed? When pushed, Walzer declares that these values should be treated as negative prohibitions: for example, prohibiting murder and enslavement (Orend 2000: 31). However, these are the very prohibitions that are placed at risk during wartime, lives are placed on the line and freedom is called into question. In fact, Walzer argues that the fundamental crime of war is that it forces men and women to risk their lives in defence of their rights (2006a: 51-52). Therefore, the right to life is not absolutely inviolable. In certain circumstances lives need to be risked in defence of rights. However, Walzer does not simply justify war in defence of rights, but in the defence of the communities that protect rights. What stands as absolute in Walzer's moral system, in this respect, is the self-determining communal subject: individual lives may be lost but the community itself cannot be similarly replaced (Walzer 2005: 49). In other words, the life that members of community create together, their maximal values and social distributions, is more important than individual lives. Walzer's just war theory, which is above all a defence of borders, is designed to defend the internal coherency of the communal subject: a just war is a war designed to produce, or protect, or preserve authentic self-determination. Walzer presents us with a system of morality that originates in the self and satisfies itself in the defence of the self. Yet, as the previous discussion on community has illustrated, alterity is always already implicated in the

production of the self. The purpose of the next chapter is to demonstrate how a Derridean conception of ethical responsibility challenges Walzer's image of morality and provides an alternative understanding of ethical action in war.

Chapter 2 – Derrida and Ethics

Introduction

The previous chapter characterised Walzer's conception of the world as auto-affective, an ontological system underpinned by the self-determining subject. Walzer's morality, at all points, serves as a means to protect the internal coherency of this model of subjectivity. Be it human beings or the political community, self-determination is the thread that binds Walzer's image of the world together. In fact, one of the main reasons Walzer (1980) rejects liberal individualism is because he believes that collective force is necessary to ensure self-determination is preserved. In this respect, ethical relationships are driven by the need to protect self-determination. Morality, in Walzer's terms, is a regulatory system that allows self-determining political communities to exist and flourish. The defence of self-determination should not be confused with isolation and withdrawal from alterity, Walzer is not advocating islands of maximal life fully detached from their outside. Rather, he positions the existence of the self-determining subject as a structural necessity for any meaningful engagement with alterity. The world starts with internal coherency and radiates out toward external engagement. Nevertheless, Walzer conceives alterity as something that should never be directly implicated in the production of the subject.[33] Importantly, Walzer's ontology suggests that the outside carries a lingering threat: the outside threatens to intervene and forcibly corrupt the natural process of self-determination. This conception of a threatening outside is most clearly articulated in Walzer's understanding of borders as the fault lines through which an authentic self-determined world is protected. In other words, the outside is desirable so long as it remains clearly separated from the coherent inside. It is only by fixing alterity in its proper place, outside the borders, that we can ensure justice. In this sense, the idea of just war is captured in a singular motif: a war that produces or protects a self-determining communal subject.

This thesis seeks to present a model of ethics that challenges the ontological primacy of the self, what I call *ethics as response*. The term response is crucial to the understanding of ethical responsibility discussed in this chapter because it emphasises the relationality

[33] Walzer accepts that the outside can influence the inside, but only to extent that the inside chooses to incorporate an external idea by virtue of its own free will.

implicated in responsibility. The form of ethics articulated here reverberates within a relationship between self and other that calls the saliency of these categories into question. More specifically, *ethics as response* highlights how the subject is produced through its relation to other people. This understanding of ethics does not begin with the ideal of an internally coherent subject. It begins by unpacking the constitutive, supplementary, relationship between the self and other. In other words, the central argument in this chapter contends that subjectivity begins within the grip of ethical relationships. While response alludes to the question of responsibility (what is my duty to others?), what is more important to the present argument is the play of movement indicated by the term. The theme of movement is essential to the following argument as it suggests an image of ethics that begins in flux rather than within a stable self, and a model of responsibility that cannot be satisfied: an acknowledgement that ethics is always in transition and never fully resolved or resolvable. In certain respects the model of ethics assembled here can be described as Derridean ethics. Yet, Derridean ethics is itself a form of response. Derrida's ethics is, for example, a response to the work of Plato, Immanuel Kant, Georg Wilhelm Friedrich Hegel, Kierkegaard, Martin Heidegger, Emmanuel Levinas, Nancy and others to whom his arguments are indebted. Derridean ethics is, therefore, another chain of supplements: it does not begin with Derrida, it is produced through Derrida's relation to other authors. In this sense, the term response describes a model of ethics that is never the sole property of the singular author, an already fractured subject resounds within the concept of *ethics as response*.

The primary aim of the following discussion is to illustrate how understanding ethics in terms of response challenges the model of justice expounded throughout Walzer's work. Key here is the assertion that by questioning the metaphysical assumption that ethics begins in the self-determining subject we can open the possibility of producing alternative conceptions of what it means to act ethically. Expanding upon the Derridean theme of the supplement introduced in the previous chapter, the subsequent discussion articulates an understanding of ethical responsibility that begins within the constitutive relationship between self and other. Above all this chapter seeks to demonstrate the impossibility of satisfying or completing our responsibilities toward other people, thereby moving us toward a new understanding of ethical responsibility that advocates sustained engagements with the consequences of our actions. *Ethics as response* does not attempt to close the question of ethics with a general set

of moral rules and laws. Instead, it strives to open discourses on justice and war to new arguments that could potentially generate better understandings and responses to the questions war raises about our deployments of violence in the name of justice. Crucially it demands a sustained engagement with the questions of ethics, action and justice.

Ethics as first philosophy

Bulley contends that the question of ethics is, at bottom, the question of how we relate to otherness (2009: 3). However, this understanding of ethics, as Bulley acknowledges, relies upon an already determined conception of self and other. As such, the ethical relationship presupposes a categorically separable multiplicity of subjects. For example, in Walzer's model we start with a coherent self who is capable of recognising their ethical duties to both members and strangers. Therefore, to understand the Derridean response to the question of ethics it is useful to start with subjectivity, or more precisely the coming-into-being of the subject who can act ethically. The auto-affective tradition, to which Walzer is indebted, conceives subjectivity as a mode of immanent self-determination. For example, the Platonic subject has an innate capacity for knowledge and reason from which ethical duty arises (1987: 260-262), and the Cartesian subject engages with the outside world through self-recognition of its own consciousness (Descartes 1998). In other words, the auto-affective tradition describes a self that can engage with the outside world because it is assured of its own subjectivity. In this ideal, self-consciousness is positioned as the originary moment of subjectivity. Human beings are subjects because they are capable of self-reflective thought.

Auto-affection describes an ontology in which the world is offered to the self by the self; the world becomes meaningful to the self by virtue of its own volition. As Derrida contends, the auto-affective model presupposes a self that is conscious and certain of its relationship to itself, "Consciousness is the experience of pure auto-affection" (Derrida 1997: 97-98). In this sense, auto-affection constitutes a mode of existence in which the self is the foundation of all ontological experience. We start with the self-conscious subject who reaches out to the world to draw in objects and render them meaningful to itself. One of the objects that the self draws into its consciousness is the other and through this movement the self constructs meaningful

relationships with other people. The form of ethical responsibility that follows auto-affective thinking takes the form of reciprocal substitution: the duty the self has toward others is premised upon the understanding that the other is a subject *like* the self. Ethics starts within the self and reaches out toward those who resemble the self, it is an ethics derived from familial recognition. This is the crux of Walzer's ethics: moral duty defined by the meanings, values and heritage we share with others. This is why Walzer argues that we have wide ranging ethical duties to members of our own community in contrast to the minimal duties we owe to strangers.

Heidegger's conception of being helps us understand the Derridean critique of auto-affective subjectivity.[34] Heidegger moves away from auto-affection by presenting us with a conception of being that begins in relation to its outside. Yet, Heideggerian being, *Dasein*, still maintains the primacy of self-relation: "*Dasein* is a form of self-relation which is systematically connected to others of the same kind, others of different kinds" (Heidegger 2001: 2). In certain respects, Heidegger breaks with consciousness as the origin of subjectivity while retaining self-relation as the nucleus of existence. *Dasein* remains a self-relation, but it is a self-relation that is part of a wider system of external relations. As such, *Dasein* repositions the self-relation as always already in the midst of its relation to its outside, thereby destabilising the certainty that self-consciousness is the origin of meaning. The following discussion seeks to illustrate how Derrida's response to the Heideggerian understanding of *Dasein* positions the ethical relationship with alterity as a structural necessity for the possibility of self-relation.

Heidegger contends that *Dasein* constitutes a mode of existence in which the self takes care of itself through the objects that it encounters (1996: 322-325). In Levinas's terms, *Dasein* is a form of "corporeal existence" because the subject lives through what is other than itself (2008: 164). For Heidegger, the relational aspect of existence is rooted in the ways in which subjects relate to the objects from which they live. For example, the use of wood, a hammer, nails, straw, etc to build a home that shelters the subject from the elements. In the Heideggerian model, meaning is produced within the relationship between the self and the

[34] Particularly important is Heidegger's (1996) *Being and Time*.

objects through which it lives. However, this model of existence is predicated upon the subject's self-recognition of its own finitude and mortality, in the absence of this self's recognition there would be no impetus for being to render objects meaningful as a means to protect its existence. In this sense, consciousness is possible precisely because existence is at stake. In Heidegger's terms, *Dasein* is an existence in which being thrown toward its own end (1996: 233). Heidegger wants to stress that objects do not hold inherent transcendental meanings. Instead, meaning is produced because of the relationship between objects and finite beings. Objects, in this respect, are meaningful by virtue of the self's relation to its own death giving rise to the Heideggerian understanding of subjectivity as singularity-unto-death. Derrida expands on this theme by explaining that being is singular and irreplaceable solely by virtue of its own death: "Everyone must assume their own death, that is to say, the one thing in the world that no one else can *either give or take*" (Derrida 2008: 45, original italics). This is not to say that people cannot be saved, or save others, from a specific risk of death: for example, that we could not prevent another person from drowning. Rather, singularity-unto-death means that death can be delayed but it cannot be definitively escaped. Death is imminent and unavoidable in the case of every single person. In Heideggerian thought, conscious existence is an expression of the drive to delay the moment of death, the subject engages with the world as a means to preserve its own existence. In Levinas's words "to be conscious is to have time" (2008: 165-166).

Time brings us to a pivotal point in Heidegger's conception of subjectivity. For Heidegger, temporality grounds the possibility of subjective existence (1996: 335). Temporality allows the self to render the world meaningful in relation to its own finitude. In this sense, *to be* is to exist within a structure of finite time, "*To exist is to be 'temporalised'* (Levinas 1996: 13, original italics). Therefore, to understand the foundation of the subject we need to understand how being is temporalised. For Heidegger being is self-temporalising, thrown by itself into the truth of its own existence (1998: 252). In other words, the self recognises its own finitude, and this allows the self to render the world temporal, finite and, therefore, meaningful. Although being is thrown into existence in relation to other beings and objects, the Heideggerian model starts with the self-revelation of finitude. Following from this, the relationship with other beings remain antecedent to self-consciousness and this, in-turn, produces a philosophy that privileges the self-relation over ethical relationships: "this

thinking is not ethics in the first instance because it is ontology" (Heidegger 1998: 271). In this way, self-temporalisation becomes foundational to Heidegger's ontology, and meaningful existence radiates from this particular self-relation.

For Heidegger, the subject is born, through self-temporalisation, into a world that offers the tools of care necessary to delay the moment of death. The objects offered to the subject are properly understood as objectives of self-possession, objects through which the self can live. This birth of subjectivity, in Heidegger, is synonymous with the advent of language. What Heidegger terms as "the clearing-concealing advent of being itself" (1998: 249). Language is the name Heidegger designates for the self's relation with temporality that allows the subject to relate to the external world of objects. This understanding characterises Heidegger's image of language as the home in which the subject dwells (1998: 239). Language, as being's home, signifies a self-conscious subject with the capacity to draw objects into its consciousness and render them meaningful in relation to its own finitude. What is important here is the idea that language is the possibility of self-possession. Language provides a home through which the subject can draw objects of care into. In turn, these objects help prolong the subject's existence. Importantly, in Heidegger's thought the self's possession of objects is never in question. However, language also represents the originary possibility of ethical relationships: a subject who can recognise and possess objects of care is presented with the possibility of offering care to others. In Derrida's words, language is the ultimate homeland through which we can reach out to the other in the hospitable, ethical gesture (2000: 89).[35] Language, in this sense, creates the possibility of a self that can possess objects of care that can subsequently be distributed to the other. Language, as home, is the possibility of the self relating to others, the possibility of ethics (Bulley 2009: 64-65).

Heidegger's ontology is removed from the spontaneous, auto-affective, emergence of the subject. Yet, it simultaneously retains self-relation as the originary meaning of subjectivity. It is therefore unsurprising that Derrida's challenge to Heidegger is articulated through an alternative understanding of language and communication. What is primarily at stake in this

[35] This image is intimately related to Walzer's ontology in which being at home in a political community is a foundational necessity for the possibility of morality.

contestation is the way in which being becomes temporalised. While Heidegger positions language as the advent of the self-temporalised subject, the challenge to this model announces language as prior to the event of temporalisation. For Derrida, and Levinas, language does not signify the subject's self-relation to finitude. Instead, the commitment of an approach toward language (that does not originate in the self) underpins the possibility of subjectivity. Levinas describes language in terms of the proximity of one to the other and the commitment of an approach (1999: 5). In other words, language is defined as a relationship between subjects. Following from Levinas, Derrida conceives language in terms of a spatial relationship before it becomes a mode of meaningful representation. For Derrida, the self and the other exist in a relation that pre-exists their subjectivities and precedes their thematic separation into categories of self and other. This re-presents the assembly of the conscious subject in terms of an a priori relation to alterity: the movement toward subjectivity is always already an approach toward the other. Derrida reminds us that this does not cast the other as the origin of subjectivity. Rather, the relation is itself the origin and, as such, remains a non-origin. In Derrida's terms, the relation is already in movement and, therefore, cannot be the starting point (1997: 19).

In contrast to Walzer, Derrida does not conceive the self-determining subject as the origin of meaningful existence. Instead, subjectivity is made possible through the spatial relation symbolised by an approach toward the other. This movement toward alterity is also an approach toward language and communication. As such, Derrida describes the relation between subjectivity and language in terms of spacing rather than Heideggerian temporality:

> *Spacing* (notice that this word speaks of the articulation of space and time, the becoming-space of time and the becoming-time of space) is always the unperceived, the non-present, and the nonconscious … It marks *the dead time* within the presence of the living present, within the general form of all presence (Derrida 1997: 68, original italics).

Spacing indicates an originary relationship between being and its outside prior to consciousness and subjectivity. The becoming subject of being is predicated upon the

constitutive relation with what is other than being, the self becomes a self because it is already related to its outside. Yet, as will be explained, this pre-originary relation is retained, as a trace, within every act of consciousness. In this way, the Heideggerian conception of language and self-temporalisation is replaced by a relational movement toward alterity. What Levinas describes as an anarchic trauma that opens consciousness from the outside (1999: 123).

To this point we have articulated the relational foreword to subjectivity in rather abstract terms. Therefore, in order to ground the relation in a more concrete light we must revisit the concept of finitude, the Heideggerian locus of subjectivity. In Heidegger, consciousness of death signifies the becoming time of being that allows subjects to render the world meaningful. However, the self's experience of its own death is a conscious experience only to the extent that it nullifies self-consciousness. In Nancy's words, it marks the becoming other of consciousness (1991: 33). In this sense, finitude cannot be conceived as a self-relation through which conscious subjectivity is assembled. Instead, finitude must be understood as a relationship with the outside from the beginning. As Levinas explains, the subject can only witness death in the other and this exposure to the other's death is intimately tied to ethical responsibility (Levinas 2008: 179). Derrida builds upon this motif by arguing that consciousness of death starts with the recognition of mortal others, and this repositions the self-relation with finitude as a relationship with alterity: "The relation with the other and the relation with death are one and the same opening" (1997: 187). Cast in this way, finitude describes a mode of existence predicated upon exposure: collective exposure to finitude creates the possibility of subjective existence. Nancy terms this exposure as *comperance*: "finite existence exposed to finite existence, co-appearing before it and with it" (Nancy 1991: xl). What is important is the acknowledgement that a singular subject abstracted from alterity could not become aware of its own mortality. If there were no others the subject could not possibly become consciously aware of their own mortality because their only experience of death would be their own which would nullify their self-consciousness. Exposure to others' mortality, therefore, allows the subject to understand itself as finite and opens consciousness toward temporality. It is through exposure, as Levinas maintains, that the self is provoked as an irreplaceable singularity-unto-death from the outside (1999: 105-106). As such, the

Heideggerian understanding of ontology, the relation between objects and finite being, is subverted. The ethical relationship with otherness precedes the self-relation with death.

The mutual exposure to finitude that opens subjectivity correlates to the Derridean understanding of language and the home. For Derrida, language signifies the constitutive relationship between meaning, finitude, alterity, and subjectivity: "it is the principle of death and of difference in the becoming of being" (1997: 25). The relationship between the becoming-subject of being and ethical relationships is explained through the concept of substitution. Substitution, here, should not be conceived in terms of the auto-affective model of familial reciprocity in which the subject recognises the image of the self in the other and acts ethically on the basis of this recognition. Instead, substitution marks the moment in which the self finds itself at home, in language, through the other. It is because subjects are exposed to each other that communication and language become possible and, therefore, that the categories of self and other appear. Nancy describes this relation in terms of *Clinamen*, a necessary structural inclining from one toward the other without which no such categories could appear (1991: 3). In this sense, the conscious subject exists by virtue of its exposure to others: the host enters their home through the guest (Derrida 2000: 125). The home, which as we recall signifies the possibility of ethics, is possible because of its relation to alterity. What is paramount to Derridean conception of substitution is the idea that language and meaning do not emanate from the subject's free will. For Derrida (2002a), substitution constitutes a decision that is made about us before we even have the possibility of deciding, the decision of the other in me. What Derrida means by this phrase is that the subject does not consciously decide to embrace language and meaning. Being is thrust into language by virtue of its exposure to the outside prior to its assembly into conscious subjectivity. Levinas characterises this model of substitution in terms of being as hostage: "It provokes this responsibility against my will, that is, substituting me for the other as a hostage. All my inwardness is invested in a form of a despite-me, for-another … it is the very fact of finding oneself while losing oneself" (1999: 11).

While Levinas portrays substitution as responsibility in opposition to free will, substitution is better understood as prior to will. Derrida describes the opening of subjectivity in terms of

passive openness to alterity (1997: 240). The possibility of being-at-home-with-oneself, of language and subjectivity, is affirmed by the image of a home that is already open to the coming of the other. Language, meaning and subjectivity are possible because being is always already open to alterity. In Derrida's words,

> Without a trace retaining the other as other in the same, no difference would do its work and no meaning would appear. It is not the question of a constituted difference here, but rather, before all determination of the content, of the *pure* movement which produces difference. *The (pure) trace is difference* (1997: 62, original italics).

In other words, the possibility of a meaningful existence is underpinned by a trace of alterity retained within the self. At bottom, substitution indicates alterity rooted at the heart of subjectivity, a self whose roots are two-fold. Levinas characterises this formation of subjectivity as a response prior to the question (1999: 25). What Levinas means by this is that the other has a hold over the self prior to the formation of conscious subjectivity. The presence of the other within the self is simultaneously a demand for a response. Following from this, the opening question of being – 'who am I?' – is not a question of ontology. Instead, the opening questions are of ethics: 'who is this other?' and 'how will I respond?' Yet, these questions are not temporally separated and their simultaneity indicates consciousness that begins already in question: subjectivity as response.

In contrast to Heideggerian being, which offers itself meaning in the mode of self-preservation and self-possession, subjectivity formed in relation to alterity is delivered into a world where meaning is contested, a priori, in the form of a question. Levinas describes this calling into question of the self, which is simultaneously the assembly of the self, as ethics (2008: 43). Ethical exposure is not equivalent to the Heideggerian exposure of being to objects. Instead, exposure to ethics signifies subjection to the vulnerability of the other which throws back the trembling image of the self's own vulnerability to the self: substitution "is the subject's subjectivity, or its subjection to everything, its susceptibility, its vulnerability" (Levinas 1999: 14). This model of subjectivity is cast in terms of subjection to vulnerability

through exposure to alterity, a pulsation of being-nothingness-becoming that beats under the regime of exposition (Nancy 1991: 88-89). Importantly, the understanding of objects as a means through which being can live is contested at its roots because objects are also a means through which the other can live. The vulnerability of the self is produced in relation to vulnerable others who are equally dependant on objects as a means of existence. As such, the other calls into question my joyous possession of the world by exposing me to its vulnerability, its susceptibility to trauma and to death (Levinas 2008: 75-76). The subject does not only recognise its own finitude, it also recognises that self-possession is implicated in the other's vulnerability and death. The subject recognises that how they engage with the world impacts upon others.

Yet, this calling into question is precisely what opens the possibility of self-possession. Exposure to vulnerability opens being to finitude and the ability to render objects meaningful as tools of self-care. In this respect, to exist as a finite temporalised subject means to be exposed to a world of questioning. Even the process of internal dialogue mimics the structure of discourse with other people, the self talking to the self as if it was another. In other words, the inwardness of subjectivity presupposes external exposure to the questioning of the other, the Cartesian subject knows himself because he is exposed (Nancy 1991: 31). Following from this, ethical responsibility does not begin in a movement from self-possession to giving in which self-possession is assured. Subjectivity begins in a world in which possession is already contested by the presence of the other. *Dasein* is being originally with others, and concern for others, not concern for objects, is the constitutive determination of subjectivity (Nancy 1991: 103). It is exposure to the other's vulnerability that opens the possibility of self-care and, as such, the self begins as a response to alterity.

Existence starts from a position in which the self is already in response to alterity, to be a subject is to be exposed to my responsibilities to others. This understanding recasts responsibility in the form of a general responsiveness to the questions posed by others, thereby supplanting the conception of responsibility that starts with self-identification and familial reciprocity. In this sense, becoming responsible signifies the becoming conscious of

the subject, temporalisation and the becoming historical of man (Derrida 2008: 8). In Levinas's words,

> It is only in approaching the Other that I attend to myself … in discourse I expose myself to the questioning of the Other, and this urgency of the response – acuteness of the present – engenders me for responsibility; as responsible I am brought to my final reality (2008: 178).

Levinas points toward subjectivity in which the self is pre-ordained as responsible for the other, a self that is always implicated in others' care and survival. Yet, to be responsible for the other is not tantamount to an inherent benevolence toward the other. In fact, exposed to its own vulnerability the self is likely to view other people as threatening because they represent the most direct contestation of self-possession and, therefore, survival. In this respect, responsibility does not correspond to an innate passive goodness. Ethical relationships are not analogous to a pre-destined moral duty, and the call for a response remains a call that can be rejected. The self can refuse to respond, it can neglect other people in order to preserve itself. Instead, *ethics as response* contends that the subject is responsible for what has not begun in them, the ethical relationship with the other. In short, to be responsible is to be in a position capable of responding to others without having chosen to be in this position.

Community as the possibility of justice

The reconceptualisation of subjectivity as a response to alterity provides the impetus for a rejection of Walzer's justification of war as a defence of community. The Derridean understanding of a self that exists in response to others challenges the auto-affective ideal of community central to Walzer's justification of war. In the last chapter I outlined and critiqued Walzer's depiction of self-determining communities. As I have explained, Walzer justifies war as a defence of self-determination because he believes that community is the singular irreplaceable element of existence. While particular individuals are dispensable, a particular collection of people living life according to their shared meanings, values and social distributions can never be replaced (2005: 49). Community is irreplaceable in Walzer's ontology because it establishes the foundations of necessary for the creation of a maximal

world and, therefore, meaningful existence. Following from this, ethical responsibility is entirely predicated upon community: neither maximal nor minimal morality can exist without the foundation of communal belonging.

Community is the absolute structure of Walzer's ontology and ethics: meaning, politics, ethical relationships and morality are possible because human beings exist within separated political communities. Importantly for this argument, Walzer conceives communities as auto-affective, they are self-determining from their beginning. Yet, Walzer also stresses that communities are not naturally occurring formations, they are socially constructed. As such, what is natural in Walzer's model is the predisposition of people to form communities as a means to protect self-determination. For Walzer, people want to live life according to their own values and community provides the sole means to secure this mode of existence. As discussed in the previous chapter, community, in Walzer's ontology, is founded upon the commitment of a set of people to live according to their own beliefs and values. Community starts from the commitment toward common meanings and is orientated toward the realisation of these meanings. In this way, Walzer's community is both auto-affective and immanent: the communal subject comes into being through its commitment to become itself and is realised through its self-solidification. The foundations and underlying structures of Walzer's ontology are underpinned by this movement and ethics is conceived as derivative to self-determination: ethical responsibility is engendered and satisfied in the formation and preservation of the self-determined communal subject. In other words, maximal and minimal moralities are conceived as safeguards designed to protect self-determining communities.

By recasting the subject in terms of a constitutive interplay between self and other the Derridean conception of ontology provides a challenge to Walzer's model. Although we have touched on this contestation in the previous chapter's discussion on the formation of the U.S. community, it will be illuminating to further clarify the Derridean critique of auto-affection, and to explain how this is linked to the idea of *ethics as response*. Recalling the Derridean understanding of communal foundation, community begins in the midst of a performative and constitutive violence that solidifies an inside of community by demarcating the outside. For Derrida, the foundation of community cannot derive from pre-existing common values

because the performative inauguration creates the very basis of these values: it creates the coherent inside in opposition to the threatening outside. In this sense, self-determination is founded through the expulsion of alterity, and this expulsion constructs the self. The violent opening of community is, therefore, simultaneously a closure: the exclusion and suppression of what is designated other than community. In other words, community can only become what *it is* through the exclusion of what *it is not*.

In one sense, Walzer is correct in suggesting that the right of closure is intimately related to the possibility of ethics. Without the separated subject there are no others and, therefore, no possibility of responding to others. However, in the Derridean understanding of ethics, the foundation of community mirrors the formation of subjectivity: the communal subject comes into being as a response to alterity. This is a departure from Walzer's auto-affective ideal because it highlights why self-determination is impossible without the pre-existent relation to alterity. In other words, community is not self-determining in the first instance, it is determined by the constitutive interplay that forms the categories of self and other, the inside and outside of community. Nonetheless, in the absence of a subject clearly delineated from others there is no possibility of meaningful existence. As such, the existence of the communal subject is underpinned by separation and the sovereign power to exclude others. Derrida reminds us that no community, or subject, can identify itself without exclusion, the outside must be demarcated in order to render the inside meaningful (2002b: 57). What is important in Derrida's argument is that we are faced with a relational, rather than auto-affective, origin of community. Community does not spring from self-determination. Instead, it is constituted through a relationship that demarcates the boundaries between inside and outside. The opening of self in relation to others creates a structure in which the self is in question, vulnerable and exposed. The response of the self to vulnerability is to seek refuge by closing itself off from the other, substitution necessarily denotes separation. In this respect, the promise of the founding act of exclusion is that the communal subject can remain what *it is* without fear of external interference.

Yet, the constitutive role of alterity in the foundation of community suggests that alterity is, perhaps, something retained within community without the possibility of definitive exclusion.

In other words, if community is impossible without the relation with alterity, can community still operate if alterity is completely excluded? Walzer's conception of justice is particularly illustrative in this respect. For Walzer, a just community remains grounded on the possibility of internal disagreement and dispute, self-determination remains in tension between differing voices. In its foundation, the communal subject cuts itself off from alterity in the name of self-determination only to find that alterity is itself a precondition of justice. Authentic self-determination necessitates different ideas of what the common life should entail. In this sense, Walzer does not view self-determination as a drive toward complete unity. Instead, Walzer wants to emphasise the defence of commonality: members are not fully unified, but they share certain meanings and values that distinguish them from the strangers outside. In Walzer's argument, the primary thing that members have in common is language. Language facilitates the emergence of common meanings, values, and social understandings that combine to form a shared structural foundation through which it is possible to negotiate a common life. The alterity implicated within the formation of community is, in this way, domesticated through the ideal of a common language. Although the community has different ideas of what maximal life should entail, disputes are understood through a common framework.

Walzer presents an image of community tied to a particular understanding of communication: the communication of a shared life that is not altered through its transmission from one member to another. In contrast, Walzer argues that communication between strangers lacks an articulate common language and is only united, on special occasions, through the invisible assemblage of minimal morality. Walzer's understanding of the way a community communicates is synonymous with the logocentric ideal of full and original speech, "a unanimous people assembled in the self-presence of its speech" (Derrida 1997: 134). Again, what is necessary for Walzer's ideal of community to make sense is a conception of language as self-presence: maximal language is fully present to members of a community and binds them together despite their differences. It is through the self-identical commonality of language that members can distinguish between internal others (members) who complement self-determination and external others (strangers) who threaten to supplant self-determination. Shared language differentiates the internal contestations of common life that make justice possible from the external contestations that threaten to destroy community. Language, as the

first homeland, demarks the coherent core of subjectivity that allows Walzer to domesticate certain forms of alterity while, simultaneously, excluding alterity that is not amenable to the coherent inside. As such, the defence of self-determination is, at bottom, the defence of a particular understanding of the relationship between language and alterity. Justice, in Walzer, means keeping unassailable alterity, alterity that does not share a common language, from interfering with the internal coherence of the communal subject. To act morally is to keep undomesticated alterity, by force of law and war, in its proper place, outside a community of members unified through common language.

The conception of alterity outlined by Walzer is directly related to Derrida's understanding of the supplement discussed in the previous chapter. In this case, alterity is the dangerous supplement that promises to protect justice while, simultaneously, threatening it. In Walzer's argument, alterity, a necessary component of any just community, is positive if it can be domesticated through common language and negative if it cannot. Common language, defined in terms of self-present common meanings and values, signifies the possibility of taming the supplement and rendering it as an uncomplicated addition to community. In short, the ideal of common language allows Walzer to present internal contestations of maximal morality as a positive communal good while justifying war as a defence against external contestations. The Derridean understanding of language retains the supplement in all its ambiguity, communication without the possibility of homogenisation. In this respect, Derrida's understanding of communication suggests that language can never be decisively domesticated and, therefore, retains a trace of the undomesticated and the external. Derrida (1988) unpacks his understanding of communication through the concept of *iterability*. *Iter*, meaning 'other' in Sanskrit, points toward the otherness of communication. Derrida argues that communication is inseparable from alterity because every act of communication cuts itself off from self-consciousness as the ultimate authority of the transported meaning (1988: 7-8). Derrida explains that communication necessitates that the communicated message remains readable, recitable and repeatable. In other words, communication presupposes a future relationship with another person who will be called upon to interpret the meaning of

what is being communicated.[36] Language, in this way, remains in relation to alterity by risking-to-mean something other than what is intended by the sender (Derrida 2002a: 242). In Walzer's terms, if we want to share language between members of a community, the common language must risk reinterpretation if it wishes to remain articulate.

Walzer's ideal of communication presupposes a homogeneous space of inscription, a space of fully unified meaning and understanding between members. What Derrida terms "a homogeneous element through which the unity and wholeness of meaning will not be affected in its essence" (Derrida1988: 3). As such, Walzer's understanding of shared language allows members of a community to disagree and dissent while maintaining the internal coherence of the subjects discussed. Nevertheless, Derrida has explained that language itself can only open toward communication within the structure of iterability. Iterability signifies the alterity necessitated in communication. To function as communication language needs to be cut off from its originary presence (the sender) and meaning is separated from the intention guiding its production (Derrida 1988: 5). The separation of meaning from its origin in communication implies that alterity is a necessary component in the possibility of all communicative movements. Rather than fixing common meaning, language can only function through the process of risking-to-mean something other than it intended. Without this risk of corruption no communication would be possible because the risk is essential for the movement of meaning from sender to the receiver, sending a message designates the loss of full control over the meaning. Communication, which signifies the possibility of common meanings, opens language to interpretation and contamination. As Derrida contends, the desired homogeneity of communication "ruins itself and contaminates itself; it becomes a spectre of itself" (Derrida 2002a: 277). In this way, Walzer's certainty of shared meaning and common values is undermined by the interpretative structure of the communicative gesture. Membership is founded on the promise of a common language, yet common language is always already contaminated by the risk of alterity.

[36] Derrida maintains that this structure remains in cases where the sender and the receiver are the same person. For example, in the case of a person writing a shopping list for themselves, the production of the list is intended to compensate for a future absence of memory (Derrida 1988: 49).

Iterability suggests that the way in which language is communicated between members is structurally indistinguishable from the way it functions in relation to non-members. This is not to underplay the role of social and cultural reference points and communal memory. It is simply to state that self-present commonality, the complete domestication of language, is an inaccessible ideal. Meanings may, in certain cases, be more common between members, but all communication, nevertheless, exposes language to the risk of untameable alterity; communication exposes language to reinterpretation. As such, language, between members and strangers alike, functions by virtue of its relation to alterity, sharing language necessitates the risk of meaning become other-than-intended. Recasting alterity as the possibility of shared language challenges Walzer's conception of community and his justification of war. Because it is no longer possible to distinguish between domesticated alterity that compliments self-determination and the *foreign* alterity that threatens internal coherence, it is no longer possible to justify war in defence of an illusionary ideal. Community shares a language that is always contaminated by undomesticated alterity and functions in a manner that is structurally indistinguishable from language shared between strangers. That is to say, community is not characterised by self-determination, it operates through mutual contamination. Community, as the communication of commonality, is possible only if it remains in relation to undomesticated alterity.

Derrida (2002a) explains mutual contamination under the theme of immunity and auto-immunity. The communal subject views alterity as threatening and, therefore, strives to exclude alterity from its boundaries to protect itself. Yet, alterity marks the possibility of the subject's existence so the exclusion of alterity also risks the destruction of the self. In this way, the self strives to protect itself through closure to alterity (immunity), but definitive closure would entail stasis and the death of the self (auto-immunity). In Derrida's words, "It conducts a terrible war against that which protects it only by threatening it, according to this double and contradictory structure: immunity and auto-immunity" (2002a: 82). Auto-immunity describes Walzer's conception of community in which alterity is excluded in the name of self-preservation: alterity is excluded in the name of the pure realisation of self-presence. However, the realisation of fulfilled self-presence signifies the immobilisation and death of the self (Derrida 1988: 128-129). Subjectivity, as we have explained, is predicated upon the relation with alterity that calls the self into being by calling it into question.

Translated into Walzer's terms, a just communal subject implies a community in which meanings and distributions are contested. Abstracted from the questioning of the other, the self has no requirement to exist in the active sense: nothing is contested and, as such, no decisive actions are required. This is why Derrida argues that community is above all else the community of the question (2002b: 356).

Walzer's primary question is that of justice, how can we justly defend our communities in a morally acceptable way? And his response suggests that justice is preserved if we keep alterity within its appropriate place, outside community's borders. Yet, Derrida reminds us that the absolute exclusion of alterity is tantamount to the extermination of the demand for justice, the elimination of a communicative call for a response (Derrida 2002a: 295). Derrida contends,

> The violence of injustice has begun when all members of a community do not share, through and through, the same idiom. Since in all rigour, this ideal situation is never possible … The injustice, which supposes all the others, supposes that the other, the victim of the injustice of language, if we may say so, is capable of a language in general (2002a: 246).

Derrida's critique of communal unity has important implications for the possibility of justice. The model of justice advocated by Walzer justifies violence as a defence of self-determination, yet this justification is predicated upon the illusionary ideal of common language. Community claims to justly exclude others on the basis of a common language that is fully shared between members. However, if language can be shared, it must be iterable. In this respect, Walzer's common language is always in the process of becoming other than what it intends to be. The injustice of common language is that it excludes others on the basis of alterity while simultaneously retaining alterity as the basis of its very functionality. As such, Walzer's ideal of a common language both presupposes and violently excludes alterity.

The form of justice Walzer presents is more adequately understood in terms of community as the possibility of immortality. It is just for individuals to risk their lives and the lives of others in the defence of community because the sacrifice allows the essence of their values and common life to live on through the community they have created. In this sense, community exists as a surrogate vessel for collective subjectivity: some part of the finite subject can live on through its work. In turn, Walzer argues that the collective work, the community, is more valuable (irreplaceable) than that of the individuals who construct it. Walzer's justification of war suggests that the continuation of life lived according to a particular set of values and social distributions is more important than life itself. In Walzer's argument, the sacrifice of life is justified in the name of the continuation of a particular way of living.[37] We find in this model a rearticulation of the redemptive sacrifice of Christ's crucifixion, everlasting life purchased through cruel death (Asad 2007: 85). In this way, the sacrifice of life is erected as a monument to the anticipated eternal life of the community.

Yet, the communal subject's drive toward immortality is simultaneously a death drive. Not simply in terms of the individual deaths that Walzer justifies in defence of the collective, but in terms of the auto-immune risk inherent in the pursuit of absolute self-preservation. The completion of a fully self-determining subject necessitates the annihilation of the other's call for justice. A community that becomes absolutely unified looses it capacity for being-in-common, its capacity for ethical relationships (Nancy 1991: xxxix). If community becomes a singular unity there can be no differentiation between the social spheres and, therefore, no possibility of justice. This is not the system that Walzer wants to valorise. Rather, he wishes to differentiate between familial others and foreign others through the idea of common language. However, as we have already discussed, this differentiation cannot be sustained in a rigorous manner. The irreplaceability of community is a mythical narrative, common values and meanings are always embroiled in the process of communication, they are always in the process of being re-written, re-interpreted, and replaced. As such, the self-determining essence that Walzer wants to protect through the sacrifice of war is always already in transition toward alterity, it is never fully determined by the self because the self is itself determined, in part, by alterity. Walzer, therefore, justifies the sacrifice of individual lives on

[37] However, as will be discussed in the next chapter, Walzer does not view the loss of life in war as a sacrifice of ethical responsibility.

the ground of impossibility, in the defence of an inaccessible ideal of self-determination. The Derridean model inverts this system, and justice is presented as an experience of the impossible. Justice resembles a perpetually unsatisfied call that finds no rest, a call that is always in transmission/transmutation toward the other and the other others.

Ethical Action as Sacrifice

Thus far this chapter has primarily focused upon demonstrating the necessity of alterity in the assemblage of subjectivity, and explaining why this challenges Walzer's justification of war as a defence of self-determination. However, this is not to imply that the concept of self does not have a role to play in Derrida's understanding of ethics. In this respect, the Derridean understanding of responsibility attempts to re-contextualise Heidegger's concept of singularity-unto-death: the singularity of the self is re-imagined as the active component of responsibility, the ability of the subject to respond to others.

Derrida's understanding of ethical action emphasises the relationship between death and responsibility. Central to this idea of responsibility is the correlation between finitude and singularity: "Death is very much that which nobody else can undergo in my place. My irreplaceability is therefore, conferred, delivered, 'given,' one can say, by death" (Derrida 2008: 42). While this relationship is the foundation of Heidegger's ontology, Derrida highlights the ethical dimension, "only a mortal can be responsible" (2008: 42). Derrida turns the Heideggerian image of death inside-out by suggesting that singularity is intimately tied to the subject's capacity for ethical action. In this sense, finitude is no longer seen as the means through which being uncovers its final truth. Instead, death becomes the means through which ethical responsibility is produced as a mode of being. Derrida explains that the subject exists alongside death, alongside mortal others, and this reflects the alterity within the self that sets the self in motion. Consciousness of death, which comes only to a self that exists alongside others, is, in this way, re-inscribed as the possibility of being responsible to the other because it opens the possibility of responding to the needs of others as a means to delay the moment of their death. Yet, the possibility of acting ethically is underpinned by the non-negatable structure of death. In Derrida's words death is "the one thing in the world that no

one else can *either give or take*: therein resides freedom and responsibility" (Derrida 2008: 45, original italics). What Derrida means by this is that death, as the non-transferable singular property of the subject, opens the possibility of ethical action. Specifically, exposure to death creates a structure in which the subject is responsible: free to respond to, or ignore, the needs of others. The self's exposure to its own death through others opens the possibility of acting for or against the other. Singularity through substitution opens toward ethical action.

Derrida describes ethical action in terms of *Se donner la mort*, the gift of death. He asks,

> How does one give *oneself* death? How does one give it to oneself in the sense that putting oneself to death means dying while assuming responsibility for one's own death, committing suicide but also sacrificing oneself for another, *dying for the other*, thus perhaps giving one's life by giving oneself death, accepting the gift of death, such as Socrates, Christ, and others did in so many different ways (Derrida 2008: 12, original italics)

Derrida's argument, however, should not be understood in the sense that dying for the other is the only mode of ethical action. Instead, what Derrida wants to emphasise is that the spectre of death creates a mode of existence in which life is at risk. In other words, it is only when life is at risk that others require my assistance; it is only in a situation where the other's existence is at stake that we are called to respond. Here we see more clearly the relationship between responsibility, gift and death. The inevitability of death puts life at risk creating the possibility of giving to others in an ethical gesture. Derrida reminds us that death symbolises the possibility of *giving and taking* while, simultaneously, exempting itself from this structure (2008: 45, original italics). In this way, death institutes the need to act in order to sustain life, the life of the self or the life of others and, therefore, creates the conditions through which the subject can give or take objects and put them to use, to protect their own life or the lives of others. Yet, death itself remains outside the system it inaugurates. The subject's own death can never be given to another or taken by another, and every single subject must undergo a singular death which is theirs and theirs alone.

Se donner la mort brings us closer to an understanding of ethical responsibility framed in terms of hospitality. Hospitality presupposes a home that can be offered to a guest, and the singularity of the home defines the possibility of a subject capable of welcoming another, a bounded subject capable of giving to others. This image signifies the model of ethical action expounded in this chapter: the subject at home-with-itself through its singular property, its death, can give to the other through the hospitable/ethical gesture. To welcome the other into the home is to give to the other in the form of ethical action. "The singularity of the home," Bulley argues, "should not be given up because, while it can be a violent 'closedness,' it is also the very condition of openness, of hospitality and of the door" (2009: 64). Hospitality, therefore, describes the way in which the separated subject is open to the other, and this marks the possibility of giving to the other, the possibility of ethical action.

In addition, hospitality highlights the tension between ethical action and ethical responsibility. Ethical responsibility is understood as a mode of being produced through an absolute openness to alterity. Yet, the hospitable gesture is only possible through closure, exclusion and violence. It is only possible to offer hospitality when the self has the ability to close the home to all others, to choose between others. In Derrida's words, "No hospitality, the classic sense, without sovereignty of one self over one's home, but since there is also no hospitality without finitude, sovereignty can only be exercised by filtering, choosing, and thus by excluding and doing violence" (2000: 55). What is imperative to the Derridean understanding of hospitality as exclusionary is the singularity of the hospitable gesture. Singularity is important in two senses: the singularity implicated in the possibility of the sovereign home and the singularity of the decision to welcome specific others. Derrida explains this dynamic by drawing our attention to the two laws of hospitality. The first law is that of unconditional hospitality, complete openness to all others, while the second law signifies conditional hospitality, granted to specific others on specific terms (Derrida 2000: 75-77). Derrida maintains that neither of these laws can function in and of themselves. The unconditional law destroys the possibility of the home and sovereignty because it corresponds to passivity and indifference. In other words, if the home is unconditionally open to all others it is no longer possible to offer hospitality because it erases the sovereign subject who can offer a welcome. On the other hand, the conditional law must be oriented and engendered toward unconditional, impossible, hospitality: the conditions are meaningful only in relation to absolute openness.

For Derrida, the unconditional law is a law without duty, a law without law, while the conditional law is a plurality of laws that corrupt their proposed foundation. The laws are "… both contradictory, antinomic, *and* inseparable. They both imply and exclude each other, simultaneously" (Derrida 2000: 81, original italics). It is for this reason that Derrida calls for us to understand the ethical movement in terms of a conjoined hospitality and hostility, *hostipitality*: openness to specific others through the exclusion of all others (2000: 45). This is of course commensurate to describing an ethical responsibility that opens unconditionally, passively, to alterity but can only be directed, as action, in relation to specific identifiable others. Responsibility, in this respect, can only be enacted through exclusion: the generality of ethical responsibility brushes against the grain of the singularity of ethical action.

Hostipitality describes a model of ethics that encapsulates the divided seal of subjectivity and the singularity of the self. On one hand, ethical responsibility opens toward the general call for a response: the subject is born in response to others. However, on the other hand, ethical action can only be undertaken in the specific and the singular: the subject must choose between others. The twin pillars of Derridean ethics, general responsibility and singular action, build upon Kierkegaard's reading of the biblical tale of "The Binding of Isaac."[38] In Kierkegaard's understanding of the story, Abraham is commanded by God (the absolute) to sacrifice his only legitimate male heir, Isaac, for a reason that God keeps secret from Abraham. In Kierkegaard's reading, Abraham's absolute responsibility to God requires him to renounce his ethical responsibility to humanity.[39] The act is rendered even more horrendous because Abraham accedes to this unthinkable sacrifice without knowing God's reason. As Derrida contends, Abraham is simultaneously the most responsible because he maintains his undivided duty to God without hope of reward and without knowing why the sacrifice is demanded, and the most irresponsible because he has utterly denounced his ethical obligation to humanity in the name of his absolute bond (2008: 73). In this sense, the moral, and indeed morality, of Kierkegaard's reading is that an individual cannot be absolutely responsible without sacrificing their responsibility to what Kierkegaard terms the

[38] See Søren Kierkegaard, *Fear and Trembling*, trans. Sylvia Walsh, C. Stephen Evans and Sylvia Walsh editors (Cambridge: Cambridge University Press, 2006). The full tale of the binding of Isaac is contained within Genesis 22: 1-19.

[39] This is underscored by the fact that Isaac is claimed to represent the future promise of Abraham's people. In this sense, Isaac symbolises the future promise of humanity (Kierkegaard 2006: 14).

ethical.[40] For Kierkegaard, to be responsible in the singular (absolute) sense one must sacrifice responsibility to the generality (the ethical).

This play of the ethical and the absolute marks the tension between general and singular responsibility in Derridean ethics. Derrida maintains that because the other is absolutely singular, my responsibility to every single other is also absolute. The phrase *Tout autre est tout autre* [every other (one) is every (bit) other] characterises the Derridean incorporation of Kierkegaard's model: "If every human is wholly other … then one can no longer distinguish between a claimed generality of ethics that would need to be sacrificed in ethics, and the faith that turns toward God alone, as wholly other" (Derrida 2008: 84). In other words, my openness to ethical responsibility is an unconditional openness to alterity and, as such, my responsibility to the generality of others is unlimited. Nevertheless, I can only act in the singular sense, for example, to intervene or respond on behalf of this individual or these individuals. This, as Derrida emphasises, creates a structure in which ethical responsibility is inseparable from irresponsibility:

> There are also others, an infinite number of them, the innumerable generality of others to whom I should be bound by the same responsibility, a general and universal responsibility (what Kierkegaard calls the ethical order). I cannot respond to the call, the request, the obligation, or even the love of another without sacrificing the other other, the other others (Derrida 2008: 68-69).

In this way, the singularity of the self is retained through the singularity of action. However, singularity is placed in tension with multiple, innumerable, calls for response. Therefore, I cannot respond to this singular other or these particular others without sacrificing my ability to respond to every-other in similar or differential positions of peril at the same instant. Ethical action, in this respect, entails a necessary dimension of irresponsibility, a dimension of sacrifice.

[40] By the ethical Kierkegaard means any proposed universal morality. Specifically, in *Fear and Trembling*, he is responding to the Hegelian understanding of morality.

To conceive ethical action as sacrifice is to implicate the unethical in the ethical movement. Above all, ethics described in terms of sacrifice precludes ethical satisfaction. Derrida argues that sacrifice suggests that ethical obligations can only be affirmed through the debasement of responsibility: to respond to the other in the name of ethics simultaneously necessitates the sacrifice of ethics (2008: 69). In line with the dual laws of hospitality, simultaneity is paramount. It is not a case of the singular action supplanting the ethical generality, allowing responsibility to be satisfied in a singular instance. Instead, the general is retained and recognised at the moment it is transgressed through action (Derrida 2008: 66-67). In Kierkegaard's argument, Abraham must retain his love for Isaac at the moment he commits to murder him because the ethical must retain all its value to make the sacrifice a sacrifice (2006: 65). In this respect, general responsibility engenders and orients the singular action which broaches and breaches the law of its commencement. In other words, people are called to respond in a general sense, and this general responsiveness is the foundation of conscious subjectivity. The act of responding, however, necessitates a choosing between different others and different actions. To respond, therefore, means to sacrifice one's ability to respond to every other and this sacrifice is made in the name of general responsibility.

Nevertheless, refraining from ethical action does not resolve or allay the transgression, and ethical responsibility cannot be satisfied in passivity or inaction. Although the subject is called to responsibility passively, this is merely one component of ethics. Levinas describes responsibility through the metaphor of breathing. Breathing symbolises the way in which the subject involuntarily draws the outside in as a means of sustaining its own existence, a passive exposure to the outside. However, the call to responsibility that passively penetrates and forms the conscious subject cannot be ignored in the passive sense. Just as one cannot passively refrain from breathing, ethical responsibility can only be rejected in an active sense and, as such, non-action remains a sacrifice. Non-action is correctly described as the conscious refusal to respond to any other (Levinas 1999: 180-182). In this respect, sacrifice should not be lamented: sacrifice is the only possible mode of ethical action (Levinas 2008: 149). Responsibility, my ability to respond to others, propels me into existence which is always the space of absolute sacrifice. To exist is to live in a space in which we must choose

between different others and different responses. War is perhaps the most evocative articulation of this space of sacrifice because, as Jan Patočka contends, the distance between being and finitude is most evident (1996: 129-130). In Derrida's words, "War is a further experience of the gift of death (I put my enemy to death and I give my own life as sacrifice by 'dying for my country')" (2008: 19).

The relationship between ethics, sacrifice and war brings us to an important juncture in this discussion. What is particularly important is the image of the soldier sacrificing their life as a loving gift in the defence of their country (Asad 2007: 84). Sacrifice in the name of the state is central to Walzer's justification of war. This symbol of sacrifice, however, also reminds us that sacrifice is always directed toward something other than the self: it is a sacrifice *in the name of*. Levinas (2008) explains that sacrifice signifies the way in which death takes on meaning through responsibility. Dying for one's country, for instance, becomes understood in terms of heroism. Derrida expands on this theme, arguing that *Se Donner la Mort* also means to interpret and give signification to death (Derrida 2008: 12). As such, war exemplifies the way in which the self sacrifices (or at least risks sacrifice) through ethical action: the individual's sacrifice is orientated toward the advancement of some greater good that lies outside the self. This represents the core argument presented throughout Walzer's theory of war: the sacrifice of individuals is necessary in the defence of community. Walzer firmly asserts that war is a crime because it forces men and women to risk their lives in the name of their rights (2006a: 51). In other words, fighting a just war means that we must sacrifice individual lives in the name of communal life. Walzer's depiction of just war indicates an understanding of ethical action, in which Derrida contends, ethics and sacrifice are conjoined in the name of duty (Derrida 2008: 67). In Walzer's terms, we must risk the absolute rights of some members in the defence of the irreplaceable shared life they have built together. In this way, Walzer describes a mode of ethical action in which acting in accordance with the moral law entails violence toward others. For example, in the context of Iraq, as Bulley suggests, invading means both protecting and attacking Iraqis, sacrificing some Iraqis and U.S. soldiers in the defence of other Iraqis (2009: 48). As such, Walzer acknowledges that acting morally in war entails a dimension of sacrifice.

Where Walzer's reasoning departs from the Derridean understating of ethical action is in terms of justification. At bottom, Walzer believes that the signification of the sacrificial gesture can justify the sacrifice. That is to say, the perceived goodness of the sacrifice can render it morally permissible: specific acts of violence are morally desirable because they are undertaken in the name of a greater good. More directly, as we have discussed in the previous chapter, Walzer justifies violence in cases when it is deemed necessary to protect self-determination. In this way, just war presents certain sacrifices of life as wholly moral and permissible, albeit lamentable, provided they match specific criteria. As Talal Asad argues, "The genealogy of humanist sensibility joins ruthlessness to compassion and proposes that brutal killing can at once be the vilest evil and the greatest good" (2007: 86). Walzer provides us with an understanding of ethical responsibility in which our absolute responsibility to the community justifies the killing of certain individuals in specific contexts. Walzer's justification rests on the grounds of a law of salvation: violence justified in the name of the peaceful continuation of the community. However, Walzer can only make this justification by starting with the self-contained communal subject that must be protected from the outside. Ethical responsibility, in Walzer, is pre-conditioned by a commitment to the self-determining communal subject prior to any call to respond to others. In this sense, Walzer's justification of sacrifice and violence against others is auto-affective in design. The sacrifice of others is justified in the name of community because the sustained existence of the community is a necessary pre-condition for the possibility of ethics itself. In other words, it is ethically responsible to sacrifice lives in the name of community because without community no ethical responsibility or justice would be possible. Again, ethical responsibility starting from the self justifies the violent defence of the self against threatening others.

On the other hand, because the Derridean conception of responsibility refuses the ideal of self-determining subjectivity, the model of justifiable sacrifice valorised by Walzer is precluded. Derrida argues,

> And I can never justify this sacrifice … whether I want to or not, I will never be able to justify the fact that I prefer to sacrifice any one (any other) to the other … what binds me to singularities, to this one or that one, male or female, rather to that one or this one remains

> finally unjustifiable (this is Abraham's hyperethical sacrifice), as unjustifiable as the infinite sacrifice I make at each moment (2008: 71).

By starting from general responsiveness to others, Derridean ethics refuses to justify sacrifice on the grounds endorsed by Walzer. Instead, the subject opens to an unlimited call for response in which justice is an infinite, infinitely unsatisfied, right of the other, of all the others (Derrida 2002a: 257). The subject who acts ethically in a specific instance can only do so by failing in their duty to satisfactorily respond to all the other calls for justice. The sacrifice of others in the name of the community retains the simultaneity of its ethical and unethical dimensions. *Ethics as response*, in this way, highlights an understanding of ethical responsibility without the relief of satisfaction or justification.

Undecidability as Justice for the Other

In Walzer's argument justice is tantamount to the defence of a particular ideal of self-determination, and war is justified in cases where a community's capacity for self-determination is under threat. In this respect, justice, for Walzer, is guaranteed if undomesticated alterity is kept, in its proper place, outside a community of members. In Derridean ethics, community is an experience of *hostipitality*, a welcoming of certain others that creates a home by virtue of the exclusion of all others. While Derrida contests Walzer's justification of war, he does not endorse a retreat to absolute pacifism and the abandonment of all closure. This is because the pacifist opening of community to all alterity without resistance does not resolve the question of responsibility. Passive openness to alterity may destroy a particular closure, a particular communal formation, but it does not destroy the system of closure itself which is directly tied to the possibility of the subject's very existence. Instead, the pacifist opening risks new closures and new injustices. As Derrida's (2002a) discussion on revolutionary violence suggests, the absolute refusal to defend the home against aggression risks the violent formation of a new state or social formation. In this sense, refusing defend the home against threatening others potentially risks the creation of socio-political transformations that present new and unforeseen adverse consequences. Following from this, the purpose of Derridean ethics is not to seek definitive closure or openness. Rather, it is, as Bulley advocates, a search for better closures (2009: 84). In other words, Derridean

ethics is a questioning of the moral justifications presented for the preservation or creation of specific closures. The questions posed by Derridean ethics are, therefore, how do we decide between different closures? How do we decided between different others? How do we decide between different sacrifices? How do I act ethically in the knowledge that my actions betray the responsibility I wish to uphold? These questions highlight the trauma of ethical action cut off from the telos of fulfilment, what Derrida (2002b) terms the ordeal of undecidability.

Undecidability is intimately tied to the Derridean understanding of 'decision'. Derrida claims that decision represents the nucleus of the singular subject's capacity to respond to others, the model of all ethical action. For Derrida, decision marks a choosing between potential actions that relates singularity to responsibility: "… retrenched in one's own singularity at the moment of decision. Just as no one can die in my place, no one can make a decision, what we call 'a decision,' in my place" (2008: 60). In this sense, the decision to respond or not respond (to whom to respond and how to respond) describes the way in which the subject is related to their ethical responsibilities. The subject's singular decision to respond in a certain way to specific others describes the structure of ethical action. Here freedom and responsibility combine in an active sense: the subject is always already called to respond to others but they are free to decide if and how they respond. In turn, Derrida argues that negotiation describes the process through which decision unfolds. For Derrida, negotiation signifies the trauma of ethical action in which people can respond to a specific other or others only by neglecting their duty to all others, the irresponsibility lodged within all ethical action. Derrida (2002b) argues that ethical responsibility propels the subject into a situation where they are faced with decisions between multiple actions, all of which potentially risk negative effects. The ethical tension implied in negotiation rearticulates the hyperethical sacrifice in which ethical action necessitates a negation of ethical responsibility. Derrida contends that negotiation implies a choosing between incompatible imperatives (2002b: 13). For example, the ethical duty to save Iraqis from Ba'athist oppression could only be enacted by placing the lives of Iraqis at risk; the imperative to protect is coupled with the risk of sacrifice.[41] In this respect, competing imperatives necessitate a response, yet the response can only materialise

[41] The decision not to intervene places other Iraqis at risk. Negotiation characterises an implicit choosing between different responses, that impact different others in different ways.

into action by betraying one or more imperative. As such, negotiation describes a mediated response: the generality of responsibility mediated by the singularity of action.

Derrida's conception of negotiation is a departure from conventional models of ethics. The conventional response to the ethical trauma of choosing between incompatible imperatives is to resolve the conflict via the application of moral rules and laws: for example, some variant of categorical imperative, or utilitarian calculation in the name of a greater good, or Walzer's War Convention. In other words, conventions claim to negate ethical sacrifice by presenting us with a clear framework for morally justified actions. Derrida rejects the conventional model of response because it de-contextualises the decision. "There is no general law for negotiation," Derrida maintains, because "Negotiation is different at every moment, from one context to the next" (2002b 17). In others words, conventional models claim to solve a singular ethical question via the application of a general law irrespective of the specific context of the case. As I will demonstrate in the following chapters, general rules abstracted from specific context deconstruct themselves through their application. Walzer's justification of siege warfare, for example, fails to take account of the specific contexts, described in Chapter Four, encountered during the 2004 sieges of Fallujah.

In addition to the failure of general laws to take context into account, Derrida points to a larger problem with the application of rules, namely that general rules portend to solve ethical problems with technical knowledge. Derrida maintains that rule based morality satisfies itself in a form of technics incompatible with ethically active subjectivity. Derrida argues that the deployment of technical knowledge nullifies responsibility by transforming the ethical relationship into a mechanic relationship of cause and effect: "When I make the machine work, there is no decision; the machine works, the relation is one of cause and effect" (2002b: 231). What Derrida wants to stress is that the resolution of ethical tension through the application of knowledge is equivalent to the negation of the ethical relationship itself. The subject who acts in accordance with rules is no longer related to their ethical responsibility, they are not responding to the needs of others. Instead, they are responsible solely to the diligent application of the general rule. For instance, in terms of the categorical imperative, if I were to satisfy responsibility through the application of the general rule, "I would act, Kant

would say, *in conformity* with duty but not *through* duty or *out of respect* for the law" (Derrida 2002a: 245, original italics). In this respect, acting on the basis of a general rule places the subject in a relationship of obedience to the law rather that in an ethical relationship with the others who call for a response. The resolution of ethics through the deployment of codified rules, therefore, contains the seeds of its own dissolution because it maintains ethical action only by erasing the link between the subject and its duty to respond to others. The subject who follows a convention acts in accordance with the general rules but not in response to specific others in a specific context; the duty is to the rule not to the other in peril. In Derrida's words, "… it is no more a responsible decision; it is the technical deployment of a cognitive apparatus, the simple mechanistic deployment of a theorem" (2008: 26).

Ultimately, Derrida rejects conventional resolutions of ethical questions because they assume that technical knowledge can provide ethical certainty. Conventional rules assume that we know what the right thing to do is in a given circumstance, and that we are certain of the effects our actions will produce. In contrast, Derrida wants to draw our attention to the dimension of uncertainty implicit to every singular instance of ethical action. Derrida describes the absence of rules and certainty as the suffering of deconstructive justice (2002a: 231). Despite this suffering, uncertainty is not viewed in the negative sense of a barrier to ethical action. Rather, as Levinas suggests, uncertainty propels the subject toward sustained ethical engagement (1999: 20). Derrida expands on this image of uncertainty as a necessary component of ethical action by relating it to the phenomenality of trembling:

> … (w)e tremble in the strange repetition that ties an irrefutable past (a shock has been felt, some trauma has already affected us) to a future that cannot be anticipated … Even if one thinks one knows what is going to happen, the new instant, the arriving of that arrival remains untouched, still inaccessible, in fact unlivable … I tremble before what exceeds my seeing and knowing although it concerns the innermost parts of me, right down to the soul, down to the bone, as we say (2008: 55).

In his discussion on trembling Derrida links uncertainty to responsibility and action. Being, cast into subjectivity through responsibility, trembles on the precipice of decision because of the uncertainty (the unanticipated future) implicated in action. The subject trembles before what exceeds knowledge. We tremble because we do not know (and cannot know), definitively, how our actions will affect other people. In this way, ethical action is a risk not only because it requires us to choose between others, but, perhaps more importantly, because we can never know with absolute certainty that our actions will deliver their intended results. As Paul Ricoeur states, "Judgement means that we 'shall be judged' on what we have done to persons, even without knowing it … That is what remains *astonishing*. For we do not know when we influence persons" (2007: 109).

What is crucial is the understanding that at the moment of decision a dimension of non-knowledge is lodged within the ethical action: when we decide to act we can never ensure that our actions will achieve exactly what we want them to achieve. This is both the positive condition of ethical action and its negative limit. If I act in full knowledge of the effects of my actions there is no decision and no ethical relationship, there is just the mechanical application of the rule and obedience to the law. However, if I act without full certainty, I must risk the unintentional and unethical effects my action may induce. The uncertainty implicated in every possible action recalls the alterity implicated within ethical responsibility. In a similar vein to the concept of iterability, ethical action is always in the process of becoming other than its guiding intention through its unforeseeable impacts. It is for this reason that Derrida (2002a) characterises decision as the decision of the other in me. The other engenders ethical responsibility in the subject and ethics rejoins alterity through the uncertainty of ethical action. Derrida describes the uncertainty in the moment of decision as the undecidable, and maintains that undecidability introduces the incalculable at the heart of ethical responsibility (2002a: 100). Undecidability provides another example of the logic of the supplement introduced in the previous chapter. Again, the supplement signifies an irresolvable ambiguity that sets the movement in motion while simultaneously denying the possibility of fulfilment. Without the undecidable there is no possibility of ethical action, yet to act within the frame of undecidability means to risk unethical and unforeseeable consequences. Following from this, Derrida recasts undecidability as the positive impossibility of justice:

> The undecidable is not merely the oscillation of the tension between two decisions. Undecidable – this is the experience of that which, though foreign and heterogeneous to the order of the calculable and the rule, must nonetheless – it is of *duty* one must speak – deliver itself over to the impossible decision while taking account of the laws and rules. A decision that would not go through the test and ordeal of the undecidable would not be a free decision; it would only be a programmable application or the continuous unfolding of a calculable process. It might perhaps be legal; it would not be just (2002a: 252).

This understanding of the undecidable is particularly important as it redefines the relationship between knowledge and uncertainty. The ordeal of the undecidable decision does not imply that we must cut ourselves off from knowledge and calculation. Instead, it describes how an incalculable, unknowable, aspect of action is essential to the possibility of justice. As Derrida's suggests, we must strive to know as much as possible and, yet, uncertain remains and must remain (2009: 54).

Derrida argues the relationship between knowledge and uncertainty in ethical action marks an instance of aporia, a non-path that illustrates why justice is an experience of the impossible (Derrida 2002a). In other words, if we respond to the call of the other, respond to the demand of justice, we must risk injustice. As with sacrifice, iterability, *hostipitality*, and auto-immunity, undecidability is another law of positive contamination: there can be no decision in the absence of the undecidable, yet the presence of the undecidable forecloses the accomplishment of justice. Uncertainty, in this way, both sets the possibility of ethical action in motion and blocks the fulfilment of justice. Derrida, however, maintains that uncertainty is not rooted in the moment of decision waiting to be alleviated by future knowledge. It is not possible to resolve the aporia through future knowledge because the future in which such knowledge can be secured has already been determined by the prior decision (Derrida 2009: 56). In short, the decision alters the future and the future knowledge that would resolve the aporia. In this sense, undecidables function as resistance to the closure of the question of justice (Derrida 1981b: 43). As Levinas contends, "It is not I who resists the system, as Kierkegaard thought; it is the other" (2008: 40). The fulfilment of justice is barred through

the undecidable, the element of alterity inherent in every ethical action that signifies the becoming other of action through its unforeseeable impacts.

Nonetheless, the becoming other of ethical action does not exonerate the subject of their singular responsibility. Ethical responsibility symbolises the decision of the other in the self, but the self cannot abandon ethical action to other people (Derrida 2002a: 56). Instead, ethical responsibility cut off from the possibility of fulfilment signals the need for more sustained ethical engagements. As Levinas maintains, it describes a metaphysical desire for ethics that deepens rather than fills it (2008: 34). Ethical action deepens, rather than satisfies, responsibility because we are obligated to follow the consequences of our actions. Conventional models of ethics cut responsibility off at the precise moment the subject has acted in good faith and in accordance with the moral rule. The subject is satisfied that they have done the right thing once they have followed the letter of the law; justice is derived from obedience to the moral code. Derridean ethics refuses to cut responsibility off at the moment of action. In contrast, the undecidable sustains the responsibility of the subject in terms of the action's movement toward the other and the other others. The subject must maintain a portion of responsibility for the new conditions created by their actions and how these conditions affect, or are affected by, others. It resembles a categorical imperative in which the ends/means relationship is reconfigured: the ends are de-limited perpetually deferring the justification of means – a categorical imperative written in terms of *différance*. In this respect, *ethics as response* demands that we not only follow the response to our actions but also follow the responses to the response. Ultimately, we are responsible for alterity: we are responsible for the ways in which other people respond to the conditions our actions help create. We are called to remain invested in the unlimited chain of actions and consequences, retaining limited responsibility for the infinite eruption of multiplicity in one singular act (Nancy 1991: 102). The other resists the closure of ethics by reminding us that the act is never completed, never finalised. The act remains in perpetual motion so long as there are others that can be affected.

The purpose of describing ethical responsibility in terms of response is to emphasise the relationality between the subject, action and alterity. Deconstructive ethics works thorough

what Derrida calls a modality of the perhaps (2002b: 344): perhaps my actions have not achieved their aims, perhaps I have made the situation worse, and so on. It is this trembling of the perhaps that keeps the question of justice alive. The perhaps induces an order of questions without limit, questions that take us further than the response. However, the decision to act also risks the possibility of closure. Deconstructive ethics must risk becoming an iterable set of rules and guidelines; it risks becoming a convention. In Derrida's words, "For a deconstructive operation, *possibility* would rather be the danger, the danger of becoming an available set of rule-governed procedures, methods, accessible approaches" (Derrida 2002a: 264). To resist this possibility, Derridean ethics advocates an unwavering commitment to account for the specific context in which the call for an ethical decision may arise (Derrida 1988: 136). This is why any decision that portends toward the possibility of justice must reinvent itself in each case (Derrida 2002a: 251). Each instant of ethical action must follow through a new ordeal of undecidability. Every single decision, ethical action, deconstruction must remain a singular event, every decision must remain heterogeneously other. Yet, no one can sustain the question of justice, of responsibility, of sacrifice, of hospitality, or of being. These questions call for others to respond, to resist closure. *Ethics as response* calls upon the other, through the medium of ethical action, to keep the demand for justice infinitely open and unsatisfied.

Conclusion

This chapter has sought to map out a model of ethics that emphasises the relational interplay and movement between self and other, and responsibility and action. The central argument elucidated here is that understanding *ethics as response* offers a better way forward for thinking about the ethical dimensions of war. The idea of responsibility announced here opposes models of ethics that proceed from auto-affection. Derridean ethics points toward a relational/ethical foundation of subjectivity that is grounded upon a constitutive movement toward alterity. More precisely, it describes a mode of existence in which the subject is always already related to itself by virtue its relation to others. In other words, the subject is responsive in a general sense prior to the formation of the categories of self and other. To be a subject is to exist as a response to others.

However, the generality of responsibility is complicated by the singularity of action: the unlimited call for response can only be enacted in terms of singular responses to specific others. This brings us to an understanding of ethics enacted through sacrifice: ethics becomes action only through the sacrifice of the general obligation to respond to all others. This movement broaches and breaches ethical responsibility by way of a supplementary logic that marks the impossibility of fulfilled justice. Supplementary logic correlates to the positive condition and negative limit of ethical responsibility: to act in the name of ethical responsibility means to sacrifice the fulfilment of justice. Undecidability describes the way in which irresolvable uncertainties rooted in the moment of ethical action preclude the possibility of justice. This absolute uncertainty propels ethical action into a future epoch in which the subject must retain limited responsibility for the ways in which their actions intentionally and unintentionally, directly and indirectly, affect others. Responsibility is engendered and maintained through alterity: the subject borne in response to others must follow the consequences of, and responses to, their actions without the possibility of definitive satisfaction or closure. The subject begins as response and continues in response to others.[42]

The following three chapters attempt to situate the arguments presented thus far in a more specific and grounded context, that of the Iraq war. In this sense, the subsequent chapters expand upon the themes introduced here by illustrating the ways in which Derridean thought can allow us to better understand how ethics are produced and enacted in war. Key to this exposition are the ways in which ethical relationships are engendered and transformed through action, and why this challenges Walzer's conception of justice. The next chapter focuses upon the justification of intentional killing in war, Walzer's rationalisation and moralisation of the killing of combatants. This chapter demonstrates why the killing of combatants signifies unjustifiable sacrifice rather than a moral imperative. In this way, Walzer's foundation of the moral rules of war is displaced. The fourth chapter focuses upon the principle of 'double effect,' Walzer's justification of the unintentional killing of civilians

[42] This movement is no less evident in instances in which the subject chooses to act unethically or even in denial that any ethical responsibility exists. The negation of ethical responsibility is, nonetheless, marked by an acknowledgement that responsibility has, to a certain extent, been negated. To deny or renounce that any responsibility exists maintains the relation to the others potentially affected by one's actions. As Levinas maintains, one cannot absolutely or definitively negate the ethical relation; the negation retains its meaning as negation whether this is recognised by the self or an other (2008: 198).

in war. The primary purpose of this chapter is to highlight why the unintentional effects of war cannot be dismissed in terms of accident and error, and are, therefore, a complicit component of every ethical action. Through linking calculations of double effect to undecidability this chapter argues that actions cannot be justified solely by professions, or calculations, of good faith. The fifth chapter addresses the question of just resolution in the context of Iraq. The central argument in this chapter is that war creates new socio-political contexts that impact upon the type of community war leaves in its wake. By looking at two political responses to the U.S. 2003 invasion of Iraq and the subsequent occupation this chapter highlights how Walzer's ideal of just resolution can potentially recreate violent contestation.

Ultimately the broad discussion on Iraq highlights how a Derridean reading of the Iraq war can open the possibility of redefining our understandings of the relationship between community and violence. Not only does this have implications in terms of resistance to the heroic moralisation of war, it also points toward a reconceptualisation of the logics of community in which the violent exclusion of alterity no longer coincides with the possibility of a just society. At bottom, addressing war in terms of *ethics as response* facilitates the possibility of resistance to the perpetuation of the idea that certain forms, and certain methods, of war are ethically unproblematic.

Chapter 3 – Noncombatant Immunity

Introduction

The previous chapter outlined a model of ethics in which ethical action entails a simultaneous broaching and breaching of responsibility, one cannot act ethically without sacrificing responsibility. Importantly, this broaching and breaching of ethics precludes the possibility of justice, or definitive justification: ethical responsibility is an experience of the impossibility of justice. The last chapter also provided a critique of systems of morality that aim to resolve questions of ethical responsibility through the deployment of codified rules. The critique stated that rule based models of morality divert ethical responsibility away from a duty toward other people, and toward responsibility to the law. The ideal of justice derived through obedience to moral laws underpins Walzer's conception of just war.

As discussed in the first chapter, Walzer presents his articulation of the moral rules of war under the heading of the War Convention, "a set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles, and reciprocal arrangements that shape our judgements of military conduct" (2006a: 44). Crucially, Walzer argues that acting in accordance with the War Convention satisfies ethical responsibility in relation to war: "So long as they [combatants] fight in accordance with the rules, no condemnation is possible" (2006a: 128). In this sense, the War Convention is a set of rules and norms that ensure war is fought in a thoroughly moral and ethically responsible manner. In other words, adherence to the War Convention resolves all questions of ethical responsibility in war. Walzer's describes of the War Convention as a set of maximal rules that are claimed to faithfully represent the minimal laws of war, and this minimal dimension endows the War Convention with universal jurisdiction. The War Convention, in this respect, is the most direct embodiment of Walzer's thick and thin morality: a particularist discourse underpinned by universal values. However, as I have illustrated in Chapter One, the minimal essence underwriting the Convention is, for all practical purposes, incommunicable. This presents Walzer with problem because he lacks any clear vocabulary upon which to ground the universal values necessary for the War Convention to function.

Walzer attempts to resolve this problem by explicitly linking the universal aspect of the War Convention to the language of rights. Importantly, Walzer founds the possibility of justice in war upon a strict defence of the rights of life and liberty: "For the theory of justice in war can indeed be generated from the two most basic and widely recognised rights of human beings – and in their simplest (negative) form not to be robbed of life and liberty" (Walzer 1983: xv). Walzer assures us that the rights of life and liberty should be understood, in the context of war, as "something like absolute values" (2006a: xxiv). While the term 'absolute' suggests that these rights are fundamentally inviolable (people cannot be robbed of life and liberty), the prefix 'something like' indicates that rights may be conditional in particular circumstances. The most direct condition placed on the absolute right to life is articulated in Walzer's discussion on the killing of combatants in war. In Walzer's justification of war, the killing of combatants forms a pivotal part of his argument. In fact, the justification of the killing of combatants is presented as foundation of Walzer's rules of war:

> "Soldiers are made to be killed," as Napoleon once said; that is why war is hell. But even if we take our standpoint in hell, we can still say that no one else is made to be killed. This distinction is the basis of all the rules of war (Walzer 2006a: 136).

Although Walzer accepts that combatants are 'made to be killed', he simultaneously maintains that this loss of life is not tantamount to the violation of absolute rights. Instead, Walzer claims that combatants forfeit their rights in the context of war (2006a: 137). In this respect, Walzer wants to stress a conception of justified killing in terms of forfeiture rather than in terms of ethical sacrifice, absolute rights can be forfeited without sacrificing ethical responsibility.

Walzer justifies combatants' forfeiture of rights by arguing that rights are lost through individual actions:

> A legitimate act of war is one that does not violate the rights of people against whom it is directed. It is once again, life and liberty that are at issue … I can sum up their substance in terms I have used before: no one can be forced to fight or to risk his life, no one can be threatened with war or warred against, *unless through some act of his own* he has surrendered or lost his rights (2006a: 135, italics mine).[43]

In other words, combatants cannot forfeit their rights unless the forfeiture is the result of their own freely taken actions. On the opposite side of the dichotomy, Walzer describes noncombatants as innocent and, therefore, immune from intentional attack.[44] Walzer elaborates that innocent people have done nothing, and are doing nothing, that would entail the forfeiture of their rights (2006a: 146). Again, the central point posited is that immunity from attack in war is directly connected with individual actions, and individuals disengaged from military activities cannot be attacked (Walzer 2006a: 43). The link between rights forfeiture and individual action is clear: it is only when an individual actively engages in the military effort that they can be legitimately killed during wartime. Noncombatant innocence and the related imperative of refraining from directly targeting civilians are explicitly evident in U.S. military rules. For example, the U.S. Army and Marine Corps Counterinsurgency (COIN) Field Manual identifies protecting noncombatants as the primary goal of counterinsurgency: "securing the civilian, rather than destroying the enemy, [is] their [counterinsurgency troops] top priority" (Petraeus 2007: xxv). As such, there is a perception within contemporary military rules that war is fought in a just manner when noncombatants are not intentionally harmed and we refuse to make them into legitimate instruments of attack.

The purpose of this chapter is to illustrate, within the context of the Iraq War, why Walzer's conception of noncombatant immunity is both logically inconsistent and practically impossible. In other words, the chapter seeks to explain the ethical ambiguities retained in Walzer's foundation of the moral rules of war. Highlighting the relationship between Derridean ethics and war fighting in Iraq, this chapter argues that the killing of U.S.

[43] It is interesting to note the masculine connotations of war fighting in Walzer's analysis. Combatants are almost uniformly denoted in masculine terms, while the 'innocent' in war are often described as women and children.

[44] The next chapter will directly address Walzer's justifications for the unintentional killing of noncombatants in war.

combatants in Iraq constitutes an ethical sacrifice. In Walzer's terms, rights are not merely forfeited. Instead, combatants' rights are sacrificed in the name of ethical responsibility toward noncombatants. In destabilising the presupposed foundations of the War Convention this chapter points toward the inadequacy of Walzer's hard and fast moral rules of war. It posits a model in which ethical responsibilities are produced and reproduced within the specific contexts of individual wars.

Identifying the Target

This chapter seeks to demonstrate Walzer's inability to maintain the combatant/noncombatant distinction. However, the War Convention fails to protect noncombatants even when the distinction is unproblematically accepted. The most immediate difficulty in protecting 'the innocent' is the fact that combatants are not necessarily identifiable as such. For example, in Iraq some Ba'athist fighters during the initial invasion in 2003, and practically all resistance fighters[45] since the fall of the Ba'ath regime, have refused to visibly identify themselves, to U.S. troops, as combatants. What is particularly important, in the context of Iraq, is how the U.S. military attempted to separate legitimate objects of attack (combatants) from the general population (noncombatants). Walzer attempts to address this specific problem in his discussion on Guerrilla War.[46] While Walzer recognises the moral impetus of a defeated population to endeavour to regain control of their homeland, he argues that resistance to occupation is punishable by death: "If citizens of a defeated country attack the occupation authorities … [it is] a breaking of political faith, punishable, like ordinary treason of rebels and spies, by death" (2006a: 177). Again this is a restatement of individual forfeiture: resistance fighters choose to attack the occupying forces and, therefore, forfeit their right to life. Yet, the most pressing problem, for Walzer, is that by refusing to openly identify themselves as combatants, resistance fighters threaten the foundation of the War Convention, making it impossible for enemies to accord combatants and noncombatants their distinct privileges (2006a: 180). In fact, Walzer concedes that resistance fighters' unwillingness to identify themselves as combatants means that additional

[45] I will primarily employ the word resistance fighter, when possible, rather than insurgent. I adopt this term because the violent resistance began in Iraq before a government was legally constituted, and the aims of resistance groups in Iraq are far more fragmented than a singular focus of overthrowing the government. In this sense, resistance retains a necessary dimension of ambiguity that is lost in the more technical term insurgency.
[46] See *Just and Unjust Wars* chapter 11.

risks are imposed on ordinary people (Walzer 2006a: 178). In short, resistance fighters attack from within the population and bring the risk of violent response upon civilians.

The U.S. occupation of Iraq provides clear examples of the problems faced by troops attempting to differentiate between resistance fighters and civilians, and the COIN manual often discusses the difficulty in separating resistance fighters from the general population (Petraeus 2007: xxv, 17 & 92). The manual underscores the main problem by stating that occupied populations often drift between the roles of resistance fighter and civilian follower (Petraeus 2007: 22). In other words, it is hard to identify resistance fighters because resistance fighters are practically indistinguishable from civilian populations hostile to occupying forces. This point is emphasised by journalist Dexter Filkins in relation to the occupation of Iraq. Filkins maintains that although resistance fighters sometimes fought, the majority of the time they were just standing around like every other Iraqi (2009: 122). In this respect, resistance fighters were ordinary Iraqis who sometimes engaged in covert attacks, the rest of the time they were indistinguishable from the civilian population. In the early stages of the occupation the main way that U.S. troops attempted to unearth resistance fighters was the mass detention of Sunni males. The primary problem encountered by U.S. troops in Iraq was that civilians were largely unwilling to provide information about the resistance and, therefore, the U.S. imprisoned mass numbers of Iraqis in an attempt to generate 'actionable intelligence' on resistance activities. Independent reporter Dahr Jamail describes how U.S. troops responded to resistance attacks by cordoning off several blocks, conducting house-to-house searches and 'carting off' all the males to prison (2008: 75). The numbers of people detained in line with this policy is staggering, 30,000 to 40,000 Iraqis were officially held in U.S. detention facilities during the first eighteen months of the occupation (Ricks 2007: 199). The U.S. efforts to gather intelligence on the resistance, however, proved largely unsuccessful, despite the mass detentions.

For Walzer, public support is the key deciding factor in the status of resistance movements. According to Walzer, if the resistance is not supported by the people, the people will give fighters up to the occupying authorities. However, if the people generally support the resistance, there is no way of separating them from the population and it is no longer possible

to fight a war without targeting civilians (Walzer 2006a: 186-196). In this sense, public support for resistance movements is intimately tied to legitimacy. Walzer's central argument is that mass popular support transforms resistance into a force of legitimate self-determination, it makes the resistance the legitimate rulers of the country and the war against the resistance can no longer be fought justly (2006a: 196). As such, Walzer wants to suggest that when a resistance movement reaches a certain level of popular support it is representative of communal popular will. Again, this is tied to Walzer's ideal of community, and his belief that a populations' willingness to engage in violence symbolises a commitment to fight for self-determination. Walzer conceives guerrilla warfare in a two-dimensional way: it is a battle between the internal government/occupying authority and the resistance fighters in which public support is the prize. Iraq, nevertheless, cannot be characterised in this way. First, there were multiple resistance movements with divergent, often conflicting goals. Indeed, the resistance was primarily active in Sunni areas and did not represent a form of general Iraqi will. Second, and more importantly, resistance support was, in part, fostered through fear of violence. In other words, if civilians tried to give up the resistance, like Walzer suggests, they risked being targeted by local fighters. In this respect, the communities supposedly harbouring resistance fighters were assailed from both sides, fearing American detention and resistance retribution. Filkins argues that civilians' main objective was to stay in the good graces of both sides because they had to live in the neighbourhoods after U.S. troops had gone (Filkins 2009: 115 - 122). Therefore, it is in the context of popular fear, rather than popular support that the inability to separate resistance fighters from the general Iraqi population should be understood.

Combatant Rights

The difficulty in identifying combatants in the context of Iraq highlights a significant problem in adapting Walzer's theory, the problem of universalising rules and norms abstracted from the specific contexts to which they are intended to be applied. More specifically, the strategic refusal of resistance fighters to openly identify themselves as combatants in Iraq fundamentally blurred the lines between combatants and noncombatants. Nonetheless, Walzer's principle of noncombatant immunity is primarily geared toward

conventional military troops and, as such, appears far more applicable to U.S. troops who generally identified themselves as active combatants in Iraq.

Walzer's justification of the killing of combatants explicitly links the act of soldering to an individual's loss of rights: "The immediate problem is that the soldiers who do the fighting, though they can rarely said to have chosen to fight[47], lose the rights they are supposedly defending" (2006a: 136). In other words, the soldiers fighting to defend a community's rights forfeit their individual rights in the name of the collective defence. Walzer claims that by forfeiting their civilian rights, combatants gain a new set of rights and obligations, primarily the right to kill enemy combatants (2006a: 40-41). Walzer argues that soldiers gain war rights that are grounded on what he calls the moral equality of combatants. For Walzer, moral equality means that combatants can kill without the act of killing constituting murder: "(n)either man is a criminal, and so both can act in self-defence. We call them murderers only when they take aim at non-combatants, innocent bystanders (civilians), wounded or disarmed soldiers" (Walzer 2006a: 128). The killing of combatants, in this sense, does not entail a violation of the absolute right to life.

The idea of combatant rights is essential for Walzer's separation of *jus in bello* (justice in war) from *jus ad bellum* (just recourse to war).[48] Walzer wants to maintain the categorical separation of these two aspects of warfare, i.e. one can fight an unjust war justly and vice versa. Walzer accomplishes this by differentiating between the moral responsibility of political leaders to ensure that recourse to war is taken in line with just war criteria, and the responsibility of the combatants to fight in accordance with the War Convention. Walzer's argument is that the crime of war is the specific crime of the political leader(s) of an aggressor state. In turn, because combatants do not decide to start the war they are absolved of the crime of aggression. As such, both aggressor combatants and resisting combatants face each other as mutually innocent of the crime of war and, therefore, morally equal.[49] Walzer's description of moral equality provides an interesting contrast to his understanding of the

[47] I will address the implications of the claim that combatants do not fight freely at a later point in the chapter.
[48] See *Just and Unjust Wars*, chapter 3, pp.33-47.
[49] For an alternative critique of the concept of moral equality, see Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2011).

forfeiture of rights. People forfeit rights on the basis of identifiable individual actions. Yet, moral equality is granted to all combatants as a homogenous collective regardless of individual actions or culpability. In this respect, Walzer's conception of combatant rights provides an example of what Derrida describes as the individualisation of the role rather than the person, "the objective or quantifiable equality of roles not persons" (2008: 37). In other words, Walzer treats moral equality as an undifferentiated reality applicable to any individual categorised as a combatant. Crucially, Walzer never asks if individual combatants actually accept the right to kill or be killed in the terms the War Convention suggests.

Walzer's assumed undifferentiated reality is challenged by the different expectations of combatants employed in different roles within the U.S. military. For example, those trained for roles in medical or reserve units of U.S. forces often view killing as something alien, and in some cases counter, to the ethos of their vocation (Gutmann and Lutz 2010). In fact, many disenchanted U.S. troops argue that they only joined the services in light of promises made by recruitment officers that they would never have to serve in a war zone or be expected to kill.[50] On the other hand, U.S. infantry troops serving in Iraq generally appeared to be more comfortable with their duty to kill. Marine officer Nathanial Fick provides a reflective analysis of killing the enemy in terms of moral equality:

> I found no joy in looking at the men we'd killed, no satisfaction, no sense of victory, or accomplishment. But I wasn't disturbed either. I fell back to an almost clinical detachment. The men were adults who chose to be here. I was an adult who chose to be here … the fight was fair (Fick 2007: 273).

Although Fick's reflections mirror the logic of the War Convention[51], the more blunt assertion of British sergeant Dan Mills perhaps gets closer to the general attitude of front-line infantry: "He was the enemy, and all I gave a shit about was that he was dead" (Mills 2008:

[50] See Camilio Mejia, *Road from ar Ramadi: The Private Rebellion of Staff Sergeant Camilo Mejia, An Iraq War Memoir* (New York: Hay Market Books, 2008: 15), and Matthew Gutmann and Catherine Anne Lutz, *Breaking Ranks: Iraq War Veterans Speak Out Against the War* (Berkley: University of California Press, 2010).
[51] This is possibly a result of the schooling Marine Corps officers receive in just war theory.

73). Mills is quick to point out his satisfaction at the death is derived from a sense of professional duty to eliminate threats to his comrades, and this ideal of professionalism is largely in line with U.S. accounts. For example, journalist Evan Wright was told by the Marine Chaplain that Marines often come to him for counselling if they haven't fired their weapons because they feel guilty for not doing their job properly (2005: 239). What is interesting about such attitudes to killing, in the context of this discussion, is that while the killing of noncombatants is deemed morally problematic in U.S. military doctrine, the parallel killing of enemy combatants is rendered as non-moral. Indeed, the targeting of identifiable combatants is not considered to be a question of morality at all, but one of professionalism. In short, good soldiers engage the enemy in order to protect their fellow troops. In this sense, combatants are acting out of professional duty rather than moral responsibility: the ethical relationship implied in the concept of moral equality is submerged within another discourse on what constitutes professional military conduct, and adherence to the laws of military conduct replaces responsibility to other people.

U.S. infantry troops in Iraq appeared to willingly accept their professional duty to kill the enemy. However, the ancillary requirement, stipulated in the War Convention, that combatants accept the equal right of the enemy to kill them proves far more complex. On one hand, U.S. troops are meticulously prepared for the possibility that they are or their comrades may die in battle. Indeed, the acceptance of the possibility of death for U.S. combatants is regimented in both bureaucratic[52] and symbolic[53] ways. On the other hand, U.S. combatants' acceptance of the risk of death is at best met with conditional approval. The most clearly elucidated condition is that combatants' lives are not sacrificed cheaply. Fick explains, "My Marines and I were willing to give our lives, but we preferred not to do so cheaply. The fear was a realisation that my exchange rate wasn't the only one being consulted" (2007: 236). Implicit within Fick's account is the idea that U.S. troops are willing to sacrifice their lives, but only for the right reasons. In the context of Iraq, the primary reason presented for the

[52] For example, every U.S. soldier deployed to Iraq was required to settle their estate, compile a will and provide a contingency plan on the event of their death. They are even required to pose for a photographic portrait in front of the U.S. flag that can be displayed during their funeral, and supplied to the media if they are killed in active duty (Finkel 2011: 11-12).

[53] Among the most interesting aspects of the symbolic acceptance of death in Iraq were the so-called ranger graves used by U.S. troops to protect themselves against stray shrapnel. Wright describes how Marines were required to dig these graves every time they were granted rest. The symbolism involved in the act of digging and sleeping in one's own grave was not lost on the Marines in Wright's account (2005: 92).

sacrifice of lives was the defence of freedom: freeing Iraqis from Ba'athist rule and, thereby, ensuring that the U.S. would not be attacked by terrorists or Saddam's weapons of mass destruction (WMDs). The sacrifice of U.S. combatant lives was justified because it would ensure that Iraqis were free from tyranny and that the U.S. would be free from external threats. Fick's fear, however, that other factors were involved was one echoed by a number of U.S. combatants. Troops were afraid that they were being placed in danger because of their government's imperial ambitions (Gutmann and Lutz 2010: 49), because superiors wanted to win medals and promotions (Mejia 2008: 174), and even because of command incompetence (Wright 2005: 428-433). In short, U.S. combatant acceptance of sacrifice in Iraq was dependent upon context: why their lives were being risked for a specific purpose in a specific instance. This brings us toward a more nuanced and conditional account of combatant perceptions of moral equality. Moral equality is not simply accepted as a *de facto* principle. Rather, the context in which combatant's lives are risked is important in regard to acceptance of the imperative. In other words, the Derridean concept of *Se donner la mort* helps us understand combatants' acceptance of moral equality: acceptance of the risk of death is dependent upon what the sacrifice means, to what end it is orientated.

While Walzer would undoubtedly support a more reflective military attitude that takes context into account, this, nevertheless, presents a distinctive problem. Given the necessity for political leaders to frame their justifications for war in moral terms, it is hardly surprising that combatants are often convinced that their enemies are fighting for amoral causes.[54] In Iraq, the Ba'athist regime and resistance fighters were often explicitly referred to as intrinsically amoral. In 2004 U.S. Deputy Secretary of Defence Paul Wolfowitz, for example, claimed that the Ba'athists were as bad, or worse, than the Gestapo (cited in Ricks 2007: 386). Derrida argues that war is a battle over the meaning of justice, with warring sides fighting for the right to declare their causes wholly moral (2008: 86-87). What Derrida wants to emphasise is that each side strives to present their violence and sacrifices as morally justified by depicting the enemy as vile murderers. In the context of Iraq, successive U.S. governments have gone to great lengths to emphasise the barbaric nature of the Ba'ath regime and the despotic character of Saddam Hussein. The net result of the moralised

[54] In fact, one of the main reasons Walzer refuses to hold individual combatants accountable for the crime of aggression is that they are so often duped by their leaders into believing that amoral wars are fought for just reasons.

framing of the U.S. recourse to war was that U.S. forces entered Iraq viewing their Iraqi adversaries as wholly unjustified in their resistance of the 'liberation' of Iraq.[55] Under such conditions it was difficult for combatants to share a sense of moral equality with those who they were persistently told were working toward immoral ends.[56]

In the narratives sourced in this project, almost all U.S. military accounts contained instances in which U.S. forces felt that the killing of their comrades was an unjust act worthy of violent vengeance. Fick describes his feelings after losing comrades in battle:

> We prided ourselves on being professionals, on thinking clearly with the world evaporating before our eyes. We could turn the violence on and off. But emotion began to creep in. I was angry. I wanted revenge. For the first time, my blood was up (2007: 203).

Fick hints at the palpable sense of anger and betrayal felt by U.S. troops in Iraq. Troops were sold on the idea of intervention under the premise that they were rescuing Iraqis from a despotic regime, and were assured that Iraqis would welcome them as liberators (Ricks 2007). Yet, when the dust of the demise of the Ba'ath regime settled, troops faced local distrust and violent resistance. U.S. troops' sense of dejection and betrayal was reinforced by Iraqi responses to violence, with U.S. troops often witnessing scenes of public jubilation when their comrades were killed (Ricks 2007: 329). Captain Oscar Estrada poignantly sums up the frustrations felt by U.S. troops who found themselves in the midst of a violent resistance:

> I think of … the children who burst into tears when we point our weapons into their cars (just in case), and the countless numbers of people whose vehicles we sideswipe as we try to use speed to survive the IEDs that await us each morning. I think of my fellow soldiers and the reality of being attacked and feeling threatened, and it all makes sense – the need to

[55] In turn, the Iraqi resistance held similar views of U.S. troops (Shadid 2006, Cockburn 2007).
[56] This idea is central to McMahan's (2011) critique of Walzer. McMahan contends that unjust combatants have no right to kill because by allowing them to kill we are enhancing an unjust cause. However, it must be noted that McMahan believes that the justice of a particular war can be definitively deduced from the onset. As such, McMahan operates within a system in which the ethics of war can be resolved via universal rules and norms.

> smash their cars and shoot their cows and point our weapons at them and detain them without concern for notifying their families. But how would I feel in their shoes? Would I be able to offer my own heart and mind? (cited in Ricks 2007: 365)

As Estrada highlights, U.S. troops found themselves torn between the purported humanitarian intentions of their mission and the daily threat they faced from the people they were supposed to be helping. The targeting of U.S. troops is interesting in that it simultaneously shook and reinforced combatants' willingness to sacrifice. Troops were shaken by the realisation that their comrades were dying in the name of a people who did not want a U.S. presence in their country. However, the targeting of combatants reinforced troops' commitment to honour the sacrifice of their fallen comrades. Reporter David Finkel describes the tension within troops' minds: "Three dead … this is exactly why we need to get out of Iraq, to honour the sacrifice, and this is why we need to stay in Iraq, to honour the sacrifice" (2011: 129). In this sense, combatant sacrifice, to a certain extent, became a means of its own justification: further sacrifice became necessary to render the loss of comrades' lives meaningful, and the U.S. had to achieve its strategic aims so that good soldiers had not died in vain. Nonetheless, this is not conducive to moral equality between combatants. Instead, it provides an indication that U.S. troops believed that their lives were worth more than their adversaries' lives.[57] For example, Finkel recounts graffiti scrawled upon a locker at a U.S. military base in Iraq: "No Iraqi man, woman, or child is worth one drop of an American soldier's blood" (2011: 161).

U.S. combatants in Iraq generally accepted that their lives could be risked by their nation, and in some cases the acceptance of risk was dependent on the perceived moral character of the war being fought. However, U.S. combatants did not necessarily accept that it was justified for them or their comrades to be killed at the hands of their purportedly immoral enemies. Moral equality, therefore, is not tantamount to a practical reality in the way Walzer describes. Walzer's ideal of moral equality can only work in the context of a predefined role abstracted from subjectivity. It does not, however, take account of the ways in which

[57] For a broader discussion on the valuation of lives in war, see Judith Butler, *Frames of War: When is Life Grievable?* (London: Verso, 2010).

individual combatants interpret this role. In the context of Iraq we are presented with a far more fluid relationship between U.S. troops and moral equality. While Walzer argues that combatants' right to life is *de facto* forfeit, individual combatants do not necessarily subscribe to this blanket revocation, especially in terms of U.S. combatants' acceptance of resistance fighters' right to kill them. Walzer contends that combatants' unconditional acceptance of the War Convention ensures the fulfilment of justice. Yet, the practicalities of war fighting in Iraq illustrate how the context of the war directly impacts the ways in which general principles are interpreted. Noncombatant immunity has proven impossible to rigidly enforce in Iraq due to the nature of Guerrilla warfare, and U.S. combatants view the principle primarily as a professional rather than inherently moral duty. In turn, moral equality is problematic because U.S. combatants fighting in Iraq did not necessarily accept resistance fighters' equal right to kill. Ultimately we are faced with contextual negotiations of Walzer's principles, not strict adherence.

Justifying the Loss of Rights

Having demonstrated the problems with the implementation of the War Convention, it is now important to address Walzer's theoretical justifications for the foundation of the rules of war. More directly, it is necessary to examine how Walzer justifies the forfeiture of combatants' absolute right to life and liberty. Walzer offers two primary justifications for combatants' loss of rights:

> Simply by fighting, whatever their private hopes, and intentions, they have lost their title to life and liberty, and they have lost it even though, unlike aggressor states, they have committed no crime (2006a: 136).

> He can be personally attacked only because he is already a fighter. He has been made into a dangerous man, and though his options may have been few, it is nevertheless accurate to say that he has allowed himself to be made into a dangerous man. For this reason he finds himself endangered (2006a: 145).

Remembering that Walzer's central argument is that rights are forfeited on the basis of individual actions, it is important to analyse these two justifications, paying specific attention to the acts committed by combatants that have resulted in their loss of rights. Walzer explicitly states that soldiers are destined for dangerous places (2005: 73), and argues that the "slaughter" of combatants should be viewed as moral (2006a: 40). Therefore, Walzer must offer clear and distinct evidence of the acts through which soldiers surrender their rights.

1. Simply by Fighting

Walzer's first justification revolves around the act of fighting. Because combatants are in the business of fighting, they can legitimately be attacked in self defence. However, this justification is almost immediately placed in a tenuous position when Walzer asserts that soldiers do not regain their rights simply by not fighting, i.e. if an individual combatant chooses not to engage the enemy they remain a justifiable target (2006a: 138). Again, this implies that the presupposed role of the combatant, not the individual choice to actually fight, is the determining factor in the relinquishment of the right to life. Walzer argues that there are two instances in which combatants regain their right to life: if they are captured by the enemy (although their right to liberty remains revoked), or if they are wounded on the battlefield. Walzer, however, maintains that combatants are liable to attack if they return to the warzone. Immunity, and the associated return of the right to life, in this sense, is only a temporary respite between sacrificial deployments.[58] Therefore, in Walzer's formulation, combatants are liable for attack whenever they are present on the battlefield and capable of fighting. As such, Walzer's first justification needs to be re-stated as 'Simply by fighting in *the first instance* … they have lost their title to life and liberty *so long as they remain on the battlefield*.' This brings us to the question of how soldiers come to fight in the first instance, a question that will be addressed later in this chapter.

Thus far we have accepted Walzer's conception of the right to life as a simple negative barrier: a person cannot be killed unless through some act of their own choosing they have forfeited

[58] This implication is particularly pertinent in regard to the Iraq war because the U.S. military has implemented a widespread policy of 'Stop-Loss'. This policy allows the U.S. military to extend a service person's contract without their consent. A congressional report stated that 185,000 troops serving in Iraq and Afghanistan between (2001 and 2009) have been subjected to Stop-Loss (Olsen 2011: 426).

their right to life. An important ethical problem, however, emerges in Walzer's account if we consider the right to life as something more than merely the negative prohibition on killing the innocent. Walzer attempts to fix the loss of rights within the confines of the battlefield, soldiers are at risk only so long as they remain fighting. Nevertheless, in order to maintain this distinction Walzer must discount the long term ramifications of war fighting that soldiers bring home from the war. In short, by viewing the right to life solely in terms of the *right not to be killed*, Walzer fails to discuss the ethical implications of the ways in which the experience of war transforms the life to which combatants return. In terms of *ethics as response*, we must account for the wider consequences the derive from the decision to send men and women to kill and be killed in war. The most obvious examples of the way war changes combatants' lives are cases when troops are physical injured. The official estimate of U.S. troops injured in Iraq, as of August 2013, totals 31,943.[59] As striking as this number is, what is of more concern, for this discussion, are the practical implications of life for injured soldiers. Finkel paints a horrific picture of the extent of injuries suffered by U.S. troops returning from Iraq:

> He put on a protective gown, protective boots, protective gloves and walked toward a nineteen-year-old soldier whose left leg was gone, right leg was gone, right arm was gone, left lower arm was gone, ears were gone, nose was gone, and eyelids were gone, and who was burned over what little remained of him (2011: 201).

While Finkel's example undoubtedly depicts an extreme case of combatant injuries, it nonetheless serves as an important reminder that the lives soldiers leave before deploying are not necessarily the same lives that they return to. In other words, Walzer's negative barrier does not take account of the life combatants are capable of living after their experiences of war.

The transformation of U.S. combatants' lives is not solely restricted to physical injuries. Many U.S. troops also returned from Iraq suffering from mental and emotional traumas. The

[59] Figure taken from U.S. Department of Defense Website, http://www.defense.gov/news/casualty.pdf

extent of the psychological impacts upon U.S. troops was underscored by the revelation in 2011 that more active-duty U.S. soldiers committed suicide than had died in combat (Pilkington 2012). In this sense, the psychological costs of war expand far beyond the battlefield. The clinical aspect of psychological injuries is often studied under the heading of Posttraumatic Stress Disorder (PTSD). Symptoms of PTSD are commonly believed to include depression, anger, uncontrollable anxiety, survivors' guilt, reliving trauma via vivid memories, risk avoidance and a number of other psychological problems (Litz et al 2009, Hodge et al 2004). In reference to Iraq veterans, a 2008 RAND study found that at least 19 per cent of U.S. troops, over 300,000 people at that stage of the war, returned home suffering from symptoms of PTSD (Gutmann and Lutz 2010: 141).[60] Iraq has proved a fertile ground for problems like PTSD, in part, because U.S. troops felt like they were constantly at risk of attack. A soldier explains the unique conditions of Iraq to Finkel: "In other wars, the front line was exactly that, a line to advance toward and cross, but in this war, where the enemy was everywhere it [the front] was anywhere out of the wire" (2011: 35). The account provided by this soldier aligns with Patočka's phenomenology of warfare (1996: 119-137). In his analysis Patočka describes the front as an overwhelming vertigo of human experience resulting from the proximity of the self to its own death. However, he also stresses the necessity for soldiers to break from the front in order to recover from the emotional intensity of living on the border of death. For U.S. troops in Iraq, the experience of the front became a daily routine of street patrols, confronting soldiers with the constant threat of improvised explosive devices (IEDs), rocket attacks and gun fire. Even in the relative safety of compounds troops still faced the risk of unpredictable mortar attacks. Faced with lengthy deployments and the ever present possibility of redeployment, exacerbated by the practice of Stop-Loss, the psychological toll on soldiers became increasingly apparent. Finkel's narrative offers some very informative discussions on the implications of the exposure to the pervasive Iraqi front. One soldier talks directly about the daily prospect of patrols, "Every time I go out on patrol, I feel sick, it's like, I'm going to get hit, I'm going to get hit, I'm going to get hit" (cited in Finkel 2011: 116). While another soldier descended into nihilistic depression, seeking dangerous jobs and extra risks in the hope he would be killed: "Bottom line – I wanted it over as soon as possible, whether they did it or I did it" (cited in Finkel 2011: 188).

[60] Gutmann and Lutz stress that the RAND study is a much lower estimate in contrast to a Veterans Affairs study that found between 30-40% of troops returned with some form of psychological trauma.

Psychological traumas are not simply abandoned to the battlefield like the vitality of the dead. Psychological problems are dragged back into the civilian lives of U.S. troops, and the lives of their families and friends. The impact of these traumas is quite dramatic with Iraq veterans experiencing higher rates of divorce, unemployment, homelessness, suicide and domestic abuse (Gutmann and Lutz 2010: 190). War trauma has clear consequences for combatants' families, friends and extended communities. The first impact is that thousands of U.S. families have lost a loved one during the Iraq war.[61] The loss of a loved one is poignantly outlined by the wife of a twenty-two-year-old service man killed in Iraq, "He was my everything, and he was ever since the day I met him. My heart, my soul, my friend, my husband" (cited in Ricks 2007: 364). Others, however, suffer the direct effects of service people returning from war with physical and psychological traumas. The impacts of physical injuries are more visible with the necessity for full-time care or physical limitations. Yet, psychological injuries also have major implications for the families of veterans. In Demers's (2009) study of the impact on veterans' families, the most persistent response she encountered was that the people who returned home from Iraq were fundamentally different from those that had departed. As one female participant stated, "His anger is toxic, and I'm tired of fighting. I'm tired of watching him drink himself to sleep night after night, and I'm tired of being his punching bag … He's turned into a drunken monster, and I don't know what to do" (cited in Demers 2009: 4). While another simply asserted, "nobody comes back the same" (cited in Demers 2009: 4).

The belief that war has transformed the self is particularly widespread among Iraq veterans. U.S. combatants fighting in Iraq were often plagued by the fear that the war had transformed them into someone else, or stripped them of their humanity. For example, a Marine in Wright's narrative felt he had lost his last shred of humanity (2005: 281), and former Army Reservist Carlos Mejia referred to his experience of Iraq as the many deaths of the soul (2008: 213). In this regard, Finkel's account of a seminar given to troops returning home is, perhaps, most telling:

[61] For example, as of May 2006, 1,600 U.S. children had lost a parent due to the wars in Iraq and Afghanistan (Chartrand and Siegal 2007: 1).

> At the chapel, there was a mandatory seminar on what to expect in the months ahead. It's normal to have flashbacks, the soldiers were told, normal to have trouble sleeping, normal to be angry, normal to be jumpy – and didn't that make everyone feel better (2011: 238).

U.S. troops are, therefore, officially told that they should expect to feel different, they should expect to be disturbed, they should expect to feel abnormal, and feeling like that is perfectly normal. In short, there is a tacit acknowledgment that war is an adversely transformative experience in which the life soldiers return to is not the same as the one they have left.

The experiences of U.S. combatants returning from Iraq illustrates why ethical responsibility toward combatants is not adequately addressed via the understanding of the right to life stated in terms of negative prohibitions. Walzer's argument suggests that combatants must risk their lives for the duration of the conflict so that the collective rights of the community can be protected. However, military service cannot be understood as a temporary sacrificial vocation. Instead, war produces new modes of existence for those who experience its traumas. Returning combatants may retain a right not to be killed, but they have, in certain ways and certain respects, lost the life they had prior to service. Importantly, this loss of prior life is intimately related to Walzer's understanding of communal life and maximal morality. Walzer presents human existence in terms of the shared life built together by members of a community. It is precisely this conception of life that Walzer argues necessitates violent defence in times of war. Yet, simultaneously, combatants who survive the trauma of war risk losing the shared existence they have built prior to deployment. Stated in another way, Walzer justifies war in defence of self-determination, but those enlisted to fight the war risk loosing their sense of self. Our ethical responsibilities to combatants, therefore, cannot be conceptualised in terms of the temporary forfeiture of the right to life because war itself is constitutive of the referent. War transforms and lacerates the lives of those who are exposed to it. Instead, ethical responsibility needs to be understood in the Derridean frame of de-limitation: ethical responsibility needs to be understood in terms of the unforeseen and unintended consequences rather than immediate effects. The risks imposed on combatants are projected into their future lives, the experience of war affects they ways in which returning combatants relate to themselves and others. The revocation of combatants' right to life, as

illustrated in the preceding examples, is not limited to the battlefield because it has ethical impacts far beyond this scope. As such, the first justification for the forfeiture of combatants' rights is subject to a perpetual deferral: we cannot justify the forfeiture without taking account of the longer term direct and indirect consequences of the sending men and women to kill and be killed on the battlefield.

2. Danger and Threat

Walzer's second justification rests on the assertion that the combatant is a "dangerous man," and further still that he has allowed himself to be made into a dangerous man.[62] Bracketing off the question of the *allowed* for a moment, a question that is implicitly linked to the soldier fighting in the first instance, let us turn our attention to the question of what it means to be dangerous.

The principle of noncombatant immunity depicts all combatants as dangerous men. Nevertheless, there are questions about the extent to which military medics, cooks and supply convoy drivers can be considered dangerous in Walzer's terms. While these roles are integral to the military logistics machine, Walzer argues that civilians who contribute to the military machine can only be attacked when they are directly contributing to the war effort. When discussing workers of munitions factories and others who help produce what militaries need to fight, Walzer is quite clear that such people can only be attacked when they are engaged in threatening activities: "These are not armed men, ready to fight, and so they can only be attacked in their factory … when they are actually engaged in activities threatening and harmful to their enemies" (2006a: 146). In a similar manner, non-infantry personnel are not armed and trained to fight in the way Walzer suggests all combatants are. Yet, it is impossible to limit the risk posed to non-infantry personnel to working hours when they live among those who are 'ready to fight'. As such, it is evident, again, that the War Convention rests upon an assumption about the threatening nature of the category of combatant rather than an assessment of individual actions. Another iteration of this problem that has emerged in Iraq

[62] Walzer also equates this to the question of a soldier's ability to bear arms: "That right (to immunity) is lost by those who bear arms 'effectively' because they pose a danger to other people" (2006a: 145). Walzer, nonetheless, does not explain what 'effectively' means in his argument, or how we can judged the effectiveness of a combatant's capacity to use their weapons.

can be found in the risks posed to non-military civilians working alongside U.S. troops. For example, civilian interpreters were crucial to the U.S. military campaign in Iraq as they were the primary means through which the military could engage with the local population. Finkel argues that Iraqi interpreters were required to take on soldiers' risks, and risked being branded as pariahs by their neighbours, for a salary well below that of U.S. troops (2011: 159). The risk of being viewed as a pariah is particularly significant to Walzer's conception of danger as it illustrates how the risks inflicted on interpreters could not be simply limited to working hours. As journalist Patrick Cockburn claims, Iraqis living in a destitute economy often had to choose between permanent unemployment, immigration, or risking their lives by working with U.S. troops (2007: xx).

The predicaments faced by non-infantry troops and civilians working and living alongside infantry combatants who have been trained to kill highlights the simplistic nature of Walzer's uniform classification of combatants as dangerous men. If Walzer wants to justify the revocation of combatants' right to life and liberty on the grounds of the identifiable actions of individuals he needs to provide some mechanism for separating threatening combatants from their nonthreatening, or at least not immediately threatening, comrades and colleagues. In other words, if Walzer justifies the forfeiture of combatants' right to life on the basis of an assumption threat, he risks providing a blanket justification for killing without any judgement of individual culpability. Walzer wants to avoid providing this form of blanket justification, and asserts that the threat posed by the enemy conditions our response (1994: 24). In turn, Walzer argues that it is only when the soldier tries to kill me that 'he' alienates 'himself' from me and our common humanity, thereby, forfeiting 'his' right to life (2006a: 144). Following this, we would assume that it is the direct threat posed by the individual combatant in a specific instance that triggers the forfeiture of rights; combatants can be targeted in particular contexts where the threat they pose is evident. Yet, Walzer rejects this model by stating that "the threatening character of soldier's activities is a matter of fact" (2006a: 200). Once again, Walzer emphasises the argument that combatants can be attacked because of the assumed threat attached to their role rather than their individual actions.

Interestingly, while Walzer designates combatants as a *de facto* threat, he goes to great lengths to avoid similar blanket statements in regard to other aspects of his theory of war. For example, when discussing the concept of pre-emptive war Walzer makes a direct attempt to define the parameters of justified threat. Understanding that claims of threat can be employed fallaciously for strategic ends, Walzer signals his intention to define non-arbitrary standards of what it means to be threatened (2006a: 78). To this effect, Walzer claims that there is an objective standard of "just fear":

> I can only be threatened by someone who is threatening me, where "Threaten" means what the dictionary says it means: "to hold out or offer (some injury) by way of threat, to declare one's intention of inflicting injury" (2006a: 78).

Walzer expands upon this definition by arguing that a violent response is justified only in cases when the threat is evident some material sense (2006a: 80). In other words, we must wait for some wilful act of the adversary before we can appeal to the objective standard of just fear. Walzer concludes this discussion by stressing that "the idea of being under threat focuses on what we had best call simply *the present*" (2006a: 81, original italics). Walzer argues that the objective standard of just fear helps us to distinguish between those who can be described as present instruments of an aggressive intention and those who may represent a distant danger (2006a: 80). In short, an objective threat is when a material offering of injury is declared and intended in the present.

How then does this conception of threat relate to the assumed danger posed by combatants? Following from Walzer's definition, we would assume that a soldier can only be attacked if they are presently offering a clear intention to kill or injure their adversary. However, this is a principle that Walzer adamantly rejects when he presents us with the figure of the naked soldier, as recounted by Robert Graves:

> I saw a German, about seven hundred yards away, through my telescope sights. He was taking a bath in the German third line. I disliked the idea of shooting a naked man, so I handed the rifle to the sergeant with me. "Here, take this. You're a better shot than I am." He got him; but I had not stayed to watch (cited in Walzer 2006a: 140).

Walzer stresses the moral dilemmas involved in killing soldiers who are not presently engaged in acts of warfare. However, he concludes by definitively asserting that the killing of the naked soldier is justified (Walzer 2006a: 143). As such, the definition of threat applicable to combatants is detached from their present action. It is based upon their past actions, that they became soldiers, and their assumed future actions, that they will injure (or at least aim to injure) their adversaries in the future. The assumption that combatants will act dangerously in the future belies Walzer's depiction of a material offering of threat. Further to this an assumed future threat could be applied to any number of noncombatants. For example, in the context of the volatile occupation of Iraqi, all civilians could potentially join or assist resistance movements, meaning that any civilian could be depicted as a potential future threat. Nonetheless, Walzer fervently rejects targeting civilians on the basis of potential threat for this reason (2006a: 214). Again, we see that the presupposition that there is something inherently dangerous about combatants is central to Walzer's justification for the forfeiture of rights: the role of combatant designates a dangerous man and this justifies the unproblematic revocation of their absolute right to life.

Although I have explained why Walzer's second justification rests upon the assumed threat posed by combatants, this still implies that if threat was aligned with the present actions of a person it would resolve the moral problematic of killing in war. What I would like to do now is to illustrate why Walzer's conception of threat determination is unconvincing in the context of Iraq. Walzer requires determinations of threat to be made in the present. Following from the Derridean concept of undecidability outlined in the previous chapter, I want to demonstrate why judgments of present threat are infused with insurmountable uncertainty. To do this I will look at the example of roadblocks/checkpoints in Iraq.

Roadblocks represented a day-to-day security activity of coalition troops in which temporary barriers, often constructed via concertina wire, were erected in an effort to temper the movement of resistance fighters throughout Iraq and prevent car bombings. During the initial stages of the war roadblocks functioned under the auspices of preventing Fedayeen and other Iraq army troops from fleeing defeated towns and, thereby, re-commencing the armed resistance in another location (Wright 2005: 278-79). However, during the occupation the onus swiftly shifted to stopping the movement of resistance fighters and weaponry, and halting the increasingly lethal insurgent tactic of car bombing. (Ricks 2007: 215-216).[63] Roadblocks in Iraq can generally be described as points at which U.S. military vehicles set up barriers that civilian vehicles were not allowed to breach.[64] Roadblocks also provide a pertinent example in another sense because they allowed for conventional planning and, therefore, should provide troops with clear templates for action. The U.S. Marine guidelines for roadblocks state that Marines should fire warning shots at the approaching vehicle.[65] If the vehicle continues to approach the soldiers are required to shoot directly at a vehicle until it stops (Wright 2005: 278-79). The COIN manual highlights roadblocks as a key instance in which combatants' responsibility to protect civilians is placed in direct conflict with their responsibility to protect their fellows: "Checkpoints are perhaps the most vivid example of the cruel tradeoffs pushed down to the lowest levels in counterinsurgency. In just seconds, a young man must make a decision that may haunt or end his life" (Petraeus 2007: xxvii-xxviii). Ricks sums up the conventional protocol attached to operating roadblocks and the ethical responsibilities attached to following protocol:

> Nor was checkpoint duty pleasant for soldiers: They were given three seconds in which to act against a suspicious vehicle, with the first shot fired into the pavement in front of the car, the second into the grille, and the third at the driver. 'We told them, you don't have the right not to shoot,' recalled Lt. Gen. John Sattler, a commander of the Marines in western Iraq. 'It's not about you. You are being trusted by everybody behind you. You are the single point of failure.' (2007: 361).

[63] Ricks points to the infamous 2003 car bomb attack on UN headquarters that resulted in the mass withdrawal of UN personnel from Iraq, thereby illustrating strategic necessity of roadblocks.
[64] It must also be noted that because many roadblocks took place at night and some roadblocks were camouflaged to reduce the risks to the troops operating hem (Hoyt and Palatella 2007: 159-160), it was often unclear whether motorists approaching roadblocks were actually aware that they were entering a restricted area.
[65] In some instances smoke grenades have been used, but this can potentially decrease the chances of the driver stopping because the grenades blind their line of vision (Wright 2005: 350).

Sattler's understanding of checkpoints marks a key characteristic of the ethical dilemma faced by soldiers. If U.S. combatants fail to stop a suspicious vehicle that is carrying a bomb, then some people, combatants or civilians will face a mortal threat, if they fail in their duty there is direct possibility that people will die. Yet, by shooting at an approaching vehicle combatants risk killing innocent civilians. This would seem to imply that a lingering ethical tension hangs over the operation of roadblocks. Indeed, the authors of the COIN manual identify this suspicion, stating that "no rules can eliminate the underlying conflict" (Petraeus 2007: xxvii). Nevertheless, there is a belief, expressed in the COIN manual, that the tension between protecting innocent drivers that approach roadblocks and preventing threats from breaching the checkpoint can be reconciled: "The manual seeks to present force protection and civilian protection as reconcilable" (Petraeus 2007: xxviii). As such, the COIN manual reinforces Walzer's overarching belief that conventions allow us to resolve the ethical questions raised by war. Let us now look at a few examples of roadblocks in action derived from a reading of first hand accounts.

The first case we will look at is from Wright. Wright describes how Marines, during the Baghdad offensive, were charged with setting up a concertina wire roadblock outside the town of Al Hayy. A shooting incident occurred when a truck approached the blockade, travelling at 30-40 mph. The Marines fired a warning burst, followed by a second, at this point the trucks headlights pointed straight at the marines' position blinding them, to which the command is given "light it the fuck up". The marines shot at the truck until they killed the driver and it jackknifed to a halt. Three men jumped from the truck attempting to run from the gunfire and were subsequently gunned down. The marines immediately began to doubt their actions, feeling that they would carry the guilt home with them (2005: 278-280). The second example comes from another journalist, Chris Hondros. Hondros describes a night-time roadblock set up in occupied Baghdad by a foot patrol. A car approached the roadblock and soldiers fired warning shots, when the car sped up they fired into the car killing a couple and injuring their six children to varying degrees. The patrol later discovered that the family was returning home from dinner with relatives, and were trying to get home before the imposed curfew. The family sped up as they perceived the gunfire as coming from behind them and merely wanted to escape (Hoyt and Palatella 2007: 159-160). Our final example comes from

former U.S. soldier Garrett Reppenhagen. Reppenhagen states that his unit set up a hasty checkpoint in order to be unpredictable and catch insurgents by surprise. Reppenhagen provides a lucid insight into the mind of a combatant manning a checkpoint: "You're thinking it could be a car bomb … You're thinking about the time somebody didn't fire and he got in trouble for not firing because they said he was endangering his unit. You're thinking about the guy that did fire another time and killed an innocent" (cited in Gutmann and Lutz 2010: 102). In this case, although the driver saw the checkpoint late, the soldiers refrained from directly shooting the driver for long enough for him to stop. Nevertheless, they did feel "justified to rip him out of his car and throw him on the ground and put him in handcuffs" (cited in Gutmann and Lutz 2010: 102).

All three examples highlight why those operating the roadblock were ethically uncertain at the precise moment of their actions, they did not know if they were shooting at resistance fighters or frightened civilians. This uncertainty cannot be alleviated by the conventional procedure of warning shots primarily because there is an implicit understanding, identified by many of the protagonists, that warning shots may not be interpreted as a call to stop the vehicle, and may in fact have the reverse effect, causing civilians to speed up in order to escape the gunfire. This is not to say that better conventions and operating procedures cannot be formulated, indeed they should. But what is equally important is acknowledging that uncertainty is rooted in the dynamics of the roadblock: a vehicle approaches the checkpoint, and a group of soldiers must determine the threat posed by this vehicle and subsequently act upon this threat. Even in cases where combatants have killed resistance fighters transporting car bombs, the structure of the act remains the same. It is only in retrospect that combatants can know if a potential bomber or civilian has been killed. It is only after the soldier decides to fire or refrain from firing that any concrete knowledge of the threat is possible. As Wright argues, by firing combatants engage in a game of moral chance, and "when it's over, he's as likely to go down as a hero or as a baby killer" (2005: 230-231). The play of uncertainty implicated in the operation of roadblocks highlights the undecidability evident in the determination of threat: the decision to fire or not to fire on the approaching vehicle is made in the absence of definitive knowledge, and the future will not produce more stable knowledge as the action has already conditioned the future context.

While, the examples of roadblocks are not necessarily representative of all battlefield determinations of threat, they help elucidate a number of important points. Walzer's understanding of threat determination functions upon the assumption that those determining potential threats can do so objectively in the present. However, in Iraq, U.S. troops were expected to determine threats when they were engulfed in a sense of personal danger. They were expected to accurately identify threats in an environment where every pile of trash or animal carcass was viewed suspiciously as a potential IED (Finkel 2011: 47), mobile phones were used to detonate roadside bombs and alert resistance fighters to U.S. military presence (Filkins 2009: 187), and even children were employed as mortar spotters (Mejia 2008: 90-92). In what Wright (2005 231) calls a "horrorscape of war," is it possible for combatants to pinpoint threat while operating under conditions of extreme duress? Wright summarises the physical and psychological impacts of combat thus:

> In addition to the embarrassing loss of bodily control that 25 percent of all soldiers experience, other symptoms include time dilation, a sense of time slowing down or speeding up; vividness, a starkly heightened awareness of detail; random thoughts, the mind fixating on unimportant sequences; memory loss; and, of course, your basic feelings of sheer terror (2005: 182)

Under such conditions, combatants often claim to lapse into muscle memory, essentially acting through training and conditioning rather than conscious thought. As Mejia argues, within the midst of combat, complex moral analysis gives way to a mortal fear of dying (2008: 206). This fear is played out in Wright's narrative. At the start of a particular battle the Marines were adamant that they must avoid shooting at women and children. However, when they realised their own lives were in real danger, moral anguish gave way to a desperate survival instinct (Wright 2005: 127-30). This does not imply that the Marines were amoral or even unprofessional. In fact, what it indicates is that while combatants may be prepared to risk their lives, they will, nonetheless, still do everything in their power not to die. But this also has implications for the types of decisions made during war fighting. When a combatant is surrounded with the direct threat of death, for a sustained period, a glint of sun or a camera flash can often be mistaken for a muzzle flash. In other words, the conditions of war produce

contexts in which combatants' ability to objectively determine threat is further undermined (Hoyt and Palatella 2007: 22).

In this respect, U.S. troops' determination of threat in Iraq is embroiled within the interplay between their daily exposure to mortal risk and the fear that this risk will be realised if they fail to act against potential threats. This tells us that the ethics of war are negotiated within fluid contexts where adjudication of threat rests primarily in the hands and through the scopes of frightened young men. Ethical responsibility, in this sense, is enacted through a myriad of individual decisions, often dictated by impossible time constraints such as those evident in the case of roadblocks. As such, ethics is fundamentally infused with uncertainty and irresponsibility. Ethical responsibility cannot be resolved via a universal manual to be applied to war, because ethical actions are produced within the specific contexts of war.

Freedom and Sacrifice

The critique of Walzer's justifications for the forfeiture of combatant rights highlight the ways in which a Derridean understanding of ethical responsibility challenges the moral satisfaction assumed to derive from adherence to the War Convention. Walzer fails to justify the loss of rights upon any clear conception of individual action in war. Instead, Walzer's argument is premised upon the belief that life and liberty are simply not applicable to the role of combatant. Ultimately, Walzer points to a singular justification for the revocation of combatant rights: *combatants' lose their rights because they have chosen to become combatants*. Walzer depicts combatants as fundamentally different to all other people, in Hedley Bull's terms he refuses to conceive of them simply as human (1979: 593). It is only through the assumed, de facto, threat posed by combatants that Walzer can justify their slaughter as wholly moral. It is not the individual actions of the soldier that constitutes a threat worthy of the forfeiture of rights. It is because the soldier is a soldier that their threat is illimitable on the battlefield.

Walzer unequivocally endorses the killing of combatants in war on the grounds of their role rather than actions:

> Soldiers as a class are set apart from the world of peaceful activity; they are trained to fight, provided with weapons, required to fight on command. No doubt they do not always fight; nor is war their personal enterprise. But it is the enterprise of their class, and this fact radically distinguishes the soldier from the civilians he leaves behind (Walzer 2006a: 144).

Because it is the combatants' profession that sets them apart from the innocent and places them into a position where they fight in the first instance, it is crucial that we investigate how a civilian becomes a combatant and, thereby, forfeits their rights. Given the importance attached to the act of becoming a soldier, and the centrality of the proposition that the combatant '*allowed* himself to be made into a dangerous man,' it is surprising that Walzer begins his discussion on war by asserting that soldiers do not fight freely. Walzer argues that combatants only fight to defend the safety of their community, "he has to fight (he has been "put to it"): it is his duty and not a free choice" (2006a: 27). The claim that the decision to fight is 'not a free choice' is interesting because it suggests that the act of becoming a combatant is not necessarily the responsibility of individual combatants. Further to this Walzer contends that the decision to fight is not freely taken even in cases where enlistment is voluntary (2006a: 28). In fact, Walzer even maintains that mercenaries do not fight freely if they fight due to economic necessity (2006a: 27).

Walzer presents us with a depiction of war fighting in which those who do the fighting and, therefore, lose their title to life and liberty, are not fastened to the role of combatant by their own choosing. Walzer sums up the tyranny in stark terms:

> Hence the peculiar horror of war: it is a social practise in which force is used by and against men as loyal or constrained members of states and *not as individuals who chose their own enterprises and activities* (2006a: 30, italics mine).

Paying particular attention to Walzer's choice of terms let us reflect upon how civilians become active combatants. In Walzer's argument, a free citizen loses their rights through the act of becoming a soldier and, thereby, becoming a dangerous man. However, this act, is in Walzer's view, not a free choice. It is not an activity of the soldier's own choosing and, therefore, its integrity as an act justifying the loss of a combatant's rights is compromised. If we recall Walzer's two absolute rights, life and liberty, surely the forced enlistment of soldiers, whether by moral obligation or legal duty[66], constitutes a breach of the latter right. Walzer's conception of forced fighting has some resonance within the reasons U.S. combatants give for enlisting. For example, many recruits argue that they joined through economic necessity or as a means to pay for University education (Gutmann and Lutz 2010: 21, 29, &72).[67] Nevertheless, soldiers enlist for numerous other reasons, to face the unknown (Wright 2005: 51), to test themselves against adversity (Hennessy 2010: 32) and to protect the U.S.'s core principles (Fick: 2007: 5). However, what is clear from many soldiers' experiences in Iraq is that they would rather be home in the U.S. than risking their lives in a foreign land. As a U.S. soldier confesses, "They say on TV that the soldiers want to be here? … ain't nobody wants to be here" (cited in Finkel 2011: 117). What is perhaps more important, in regard to this discussion, is that Walzer premises his conception of morality in war on the assumption that combatants would prefer not to fight: "soldiers would almost certainly be nonparticipants if they could" (2006a: 30). In other words, Walzer begins from the presumption that combatants would choose not to fight if they were given a free decision.

In this sense, Walzer's justification for the killing of combatants hinges upon a prior violation of combatants' right to liberty, for which no justification is given. Prior to enlistment, combatants are noncombatants, innocent and immune from attack. It is only when they are forced to become dangerous men that they are transformed into legitimate targets. Mejia sums up the hopeless frustrations of soldiers in Iraq by arguing, "… my misfortune was tied to a decision I had made at nineteen when I signed a military contract and forfeited most of my rights" (2008: 134). Indeed, if a U.S. soldier refuses to deploy it is highly likely that they will still lose their right to liberty via court-martial, especially considering U.S. military trials

[66] Walzer argues that democracies have an increased coercive power in enticing citizens to enlist (2006a: 35).
[67] There are major socio-economic and cultural dimensions to Iraq and Afghanistan's so-called economic draft that Walzer's theory does not address. However, if justice is the aim of Walzer's theory then some attention must be paid to social and cultural cleavages from which the modern U.S. military is primarily drawn, and to the sectors of society who largely avoid military service. See Olsen (2011).

boast an extraordinary high conviction rate. Conviction rates for U.S. Military Court Martial, for example, were 93.7 per cent in 2010.[68] The other alternative for troops is to flee from the U.S. itself, sacrificing the life they had built there and their citizenship status. In Walzer's terms they would need to sacrifice their maximal life and communal membership. As such, as soon as an individual signs a military contract, their right to life and liberty is compromised in some crucial ways. Importantly, the perceived loss of rights, in Walzer's argument, is not a result of the actions of individual combatants. Rights are lost because of the actions of the combatant's own state or its adversary in starting the war, Walzer's conception of *ad bellum* aggression. Combatants do not choose to start the war and they do not freely choose to fight in it. In Walzer's terms, combatants are "coerced moral agents" and "men whose acts are not entirely their own" (2006a: 306 & 309).

Walzer cannot reverse his contention that soldiers do not fight freely, for to do so would implicate combatants in the justness of their cause, thus eliminating the moral equality of soldiers. It is only because soldiers do not fight freely that war is not their crime, and if this condition were to be reversed we could only justify killing in the name of just ends. Walzer clearly does not want, or intend, to make this argument because it would create "a new class of generally inadmissible acts and of quasi-rights, subject to piecemeal erosion by soldiers whose cause is just – or by soldiers who believe that their cause is just" (Walzer 2006a: 230). The moral equality of soldiers is imperative to Walzer's theory, to his separation of *jus ad bellum* and *jus in bello*, and to the foundation of the War Convention. Yet, this imperative can, itself, only be founded upon the unjustified revocation of combatants' right to liberty. Two incompatible imperatives clash in the foundation of Walzer's rules of war. Combatants can be attacked because they allowed themselves to become dangerous men. Yet, they do not fight freely; they would choose not to fight if they could. Rights are not forfeited through an identifiable act of the individual combatant and, as such, ethical sacrifice remains rooted in the killing of combatants. Combatants' title to life and liberty is sacrificed in the name of self-determination.

[68] See the "Annual Report Submitted to the Committees on Armed Service United States Senate and the United States House of Representatives and to the Secretary of Defense, Secretary of Homeland Security, and Secretaries of the Army, Navy, and Air Force Pursuant to the Uniform Code of Military Justice For the period October 1, 2009 to September 30, 2010", http://www.armfor.uscourts.gov/newcaaf/annual/FY10AnnualReport.pdf

Conclusion

As we have discussed, rights are not withdrawn from individual people, in Walzer's argument, they are withdraw from the role of combatant. In this sense, a role that individuals do not freely take upon themselves becomes the defining attribute of their personhood. In Derridean terms, the role of combatant signifies a modern conception of *pharmakoi*. Derrida outlines the role of *pharmakoi* in ancient Athens (1981a: 128-134). *Pharmakoi* were foreigners viewed as 'sub-human' individuals by the Athenians. *Pharmakoi* were taken from outside Athens and housed in the heart of the city bounds. *Pharmakoi* were imprisoned in the city for the specific purpose of sacrifice in the event of disaster, drought or famine. In turn, the sacrifice was ritually undertaken outside the city grounds. The sacrifice of the *pharmakoi* signified the symbolic removal of the malignancy, falsely, depicted as the cause of the disaster. *Pharmakoi* were taken into the city so they could be identified as the cause of future tragedies and expelled to demonstrate the rulers' ability to protect the city from further disasters. *Pharmakoi* occupied the role of sacrificial scapegoats whose sacrifice reassured the safety, sanctity and purity of the city. In other words, *pharmakoi* symbolised a constitutive outside that was ritually sacrificed to preserve the idea of inner purity and security.

In terms of Walzer's argument, combatants represent an interesting iteration of *pharmakoi* in contemporary U.S. society. On the one hand, combatants are primarily U.S. citizens rather than foreigners taken in from the outside, they are already part of the U.S. community.[69] Instead, Walzer casts combatants outside the sanctity of rights: when war is declared, and the community faces a perceived threat, the combatant-*pharmakoi* surrenders their rights. Walzer believes that this banishment is crucial in order to ensure the safety of the community and self-determination. The combatant must be reduced to an excommunicated outside so the inside can be protected; combatants' rights are forfeited so that rights can be defended.

[69] The cultural composition of the U.S. military is interesting here because military service is still employed as citizenship pathway: for example, see Mejia (2008). Olsen's (2011) analysis also points toward an understanding of military service, within U.S. society, as a means to achieve legitimate citizenship. Olsen argues that minorities, primarily first and second generation emigrants, on the margins of U.S. society are actively encouraged to join the military as a means to prove their loyalty to their 'new' homeland. For example, Olsen argues that the disproportionate number of U.S. citizens of Hispanic origins that serving in the Iraq war highlights the desire of Hispanic communities to prove that they are 'real Americans'.

Importantly, by withdrawing rights from the combatant, Walzer claims that is possible to conduct war without sacrificing ethical responsibility. Combatants are placed outside the protection of rights as a means to render violence morally unproblematic. The revocation of combatant rights, however, cannot be sustained in the way Walzer wants. Walzer's central argument is that rights can only be are surrendered on the basis of an individual's actions. Yet, the forfeiture of combatant rights is predicated solely upon assumptions about the role of combatant. Forfeiture is underpinned by the belief that combatants are dangerous and will fight on command. Yet, Walzer, simultaneously, contends that combatants do not freely choose to become combatants, they do not fight freely and their actions are not of their own choosing. The justification of the killing of combatants is, therefore, premised upon the unjustified revocation of combatants' absolute right to liberty: in Walzer's system, the innocent are cast into the role of combatant against their own free will. In this way, the defence of community is made possible through the dereliction of duty to individual combatants. War is justified via the unjustified sacrifice of combatants' absolute right to life and liberty.

Chapter 4 – Double Effect and its Parasites

Introduction

The intentional killing of civilians is, for Walzer, one of most morally reprehensible acts that can be committed in war. In fact, Walzer argues that terrorism is intimately related to the intentional killing of civilian (2005: 51-66). Walzer outlines what he believes to be the crucial distinction between just war and terrorism, it is the moral difference "between aiming at particular people because of things that they have done or are doing, and aiming at whole groups of people, indiscriminately, because of who they are" (2006a: 200). In other words, just warriors target identifiable combatants who have forfeited their rights, while terrorists target civilians who have retained their rights. In this sense, the possibility of fighting a just war hinges upon the refusal to target people who have not forfeited their rights. Despite Walzer's opposition to the killing of civilians, he recognises that avoiding civilian casualties is a practical impossibility in modern war. Walzer argues that damage to civilians and civilian property, what is commonly referred to by the term collateral damage, is an unavoidable reality of warfare. To counter this inevitability Walzer seeks to justify collateral damage through the traditional just war doctrine of double effect:

> Soldiers could probably not fight at all, except in the desert and at sea, without endangering nearby civilians … Double effect is a way of reconciling the absolute prohibition against attacking noncombatants with the legitimate conduct of military activity (2006a: 153).

In short, double effect is necessary to render the dangers imposed on civilians, implicit to every war, morally justified. Walzer, nevertheless, distinguishes acceptable collateral damage from morally reprehensible terrorism by highlighting the difference in the guiding intention. On one hand, just fighters aim at legitimate targets and, sometimes, unintentionally harm civilians, while, on the other hand, terrorists intentionally aim to kill civilians. Intention, in this way, becomes the key moral factor in Walzer's separation of just war from terrorism.

The argument in the last chapter questioned Walzer's conception of innocence and the dividing line between combatants and noncombatants. This chapter, however, provides a critical examination of Walzer's justification of civilian causalities. To this end, I focus upon the doctrine of double effect and the related justifications Walzer provides for the killing of civilians in war. I argue that the doctrine of double effect is inadequate to morally justify collateral damage, and that the doctrine has much broader implications than traditionally conceived. Double effect is primarily associated with the immediate effects of military targeting, bombing, shelling and so on. This chapter, however, points toward a more expansive conception. Drawing upon the depiction of *ethics as response* outlined in Chapter Two, this chapter illustrates why the unintended and unforeseen effects of war fighting are constitutive of the terrain in which future ethical relationships take place. As such, this chapter draws attention to the ways unintended consequences of warfare produce new contexts and, therefore, new possibilities for ethical relationships. Ultimately, I present a conception of just war in which double effect cannot be detached from the question of justice. Walzer's justification of war is predicated upon a structure in which the dangers imposed on noncombatant lives are justified under the pretence of unintentionality.

The Doctrine of Double Effect

Walzer outlines four primary conditions of the classical just war conceptualisation of double effect:

1. It [the military operation] is a legitimate act of war.
2. The direct effect is morally acceptable.
3. The *intention* of the actor is *good*, that is, *he aims only at the acceptable effect*.
4. The good effect is sufficiently good to compensate for allowing the evil effect (2006a: 153, italics mine).

While all four conditions must be met, Walzer argues that the intention of the protagonist is the deciding factor in terms of the moral justification of the dangers acts of war impose on noncombatants. In a similar manner to his critique of terrorism, Walzer maintains that the

intention not to target civilians is central to fighting justly: "The burden of the argument is carried by the third clause … the killing of soldiers and nearby civilians, are to be defended only insofar as they are the product of a single intention, directed at the first and not the second" (2006a: 153). Essentially, intending to aim solely at the legitimate target absolves the combatant of all responsibility for any negative unintentional consequences.

The COIN manual echoes Walzer's sentiments by stating that "Soldiers and Marines may take actions where they knowingly risk, but do not *intend*, harm to noncombatants" (Petraeus 2007: 245, italics mine). In other words, U.S. troops in Iraq were permitted, in certain instances, to risk civilian lives provided they did not directly intend to harm them. Wright (2005) offers an illustrative example of this principle in action. He describes how artillery was deployed to subdue the hostile town of Nasiriyah and the 3,000 to 5,000 Saddam loyalists opposing the U.S. advance through the town:

> For some reason reporters and antiwar groups concerned about collateral damage in war seldom pay much attention to artillery … But the fact is, the Marines rely much more on artillery bombardment than on aircraft dropping precision-guided munitions. During our thirty-six hours outside Nasiriyah they have already lobbed an estimated 2,000 rounds into the city. The impact of this shelling on its 400,000 residents must be devastating … I feel relief every time I see another round burning through the sky. Each one, I imagine, ups the odds of surviving (2005: 152-153).

Wright captures the contradictory horror and relief of the artillery strike: Wright knew that damage was most likely being inflicted on civilians but simultaneously realised that this damage could be the difference between him living or dying. Yet, Wright's discussion puts intentionality in a rather suspect position. If those professing good intention, to aim solely at legitimate targets, potentially increase their own safety by endangering civilians, could they not simply feign good intentions? Could they not, for example, intentionally risk innocent lives in order to protect their own troops as Wright's discussion implies? What is important, in the context of Walzer's argument, is that good intentions are ambiguous in terms of double

effect, we are not certain that goodness of the act is truly intended rather than fallaciously professed.

Derrida explains that deceitful mimicry and simulation is always possible where questions of responsibility are concerned (2009: 27). In terms of the doctrine of double effect, it is always possible to feign good intention in order to advance a military objective through the killing of civilians. For example, it is always possible for combatants to intentionally risk civilian lives and subsequently claim that they did not realise any civilians were at risk. In short, it is always possible to simulate good intentions for strategic ends. As such, the conventional understanding of double effect opens the possibility of infelicity and dishonesty. For this reason the doctrine needs a supplementary[70] condition to adjudicate over the alleged *goodness* of the intention. To counter the possibility of dishonest appeals to the doctrine of double effect Walzer introduces the concept of *due care*. Walzer explains that due care balances combatants' acceptance of risk against the risks imposed on civilians: "The intention of the actor is good, that is, he aims narrowly at the acceptable effect: the evil effect is not one of his ends, nor is it a means to his ends, and, aware of the evil involved, he seeks to minimize it, accepting costs to himself" (2006a: 155). In this way an economy of risk is installed to temper the possibility of intentional infelicity: militaries who refuse to reduce the risks of collateral damage by accepting the costs fail the test of good intention and their acts are unjustifiable. This idea is reaffirmed in the COIN manual which encourages combatants to "preserve noncombatant lives by limiting the damage they do" and "assume additional risk to minimise potential harm" (Petraeus 2007: 247).

In Walzer's argument the acceptance of risk acts as a form of insurance against infidelity of intention, what I will term risk-as-insurance. The combatants' acceptance of risk assures us that they do not intend to harm civilians. However, Walzer recognises that this conception of risk-as-insurance is complicated by the tension between the strategic necessity of winning the war and the moral necessity of protecting civilians. In other words, if combatants take on too many additional risks in their attempt to protect civilians, they risk losing the war. As such,

[70] This allusion to the supplement should be read as analogous to the Derridean concept outlined in the previous chapters. In fact, it will be further explained how the concept of due care threatens to usurp the centrality of intention in regard to double effect.

Walzer argues that due care is an attempt to balance these dual requirements of just warfare. Walzer explains that while soldiers must accept extra risks to minimise potential harm to civilians, they are not required to undertake risks that place legitimate military operations in danger of failure: "War necessarily places civilians in danger; that is another aspect of its hellishness. We can only ask soldiers to minimise the dangers they impose" (2006a: 156). Due care, in this respect, constitutes a negotiation of two contradictory and heterogeneous necessities, the necessity to protect civilians butts up against the necessity to win the war. While the War Convention is founded on the sacrifice of combatants' absolute right to life and liberty, winning a war necessitates the *unintentional* sacrifice of civilian lives.

Walzer stresses that the War Convention invites soldiers "to calculate costs and benefits only up to a point, and at that point it establishes a set of clear cut rules" (2006a: 131). We should, therefore, expect the War Convention to provide clear rules of double effect and due care. Walzer responds by stating that the limits of due care are fixed at the point where undertaking further risks would doom the military venture or make subsequent military actions impossible (2006a: 157). Walzer, in this way, depicts a rather idealised conception of risk calculation: the image of a soldier marching toward their target knowing that each step decreases the risk they pose to civilians but also aware that each step increases the risk that the attack will fail. In this idealised narrative the soldier stops at the precise line between success and failure, and launches the attack. Good intention is validated by the acceptance of risk, while not fundamentally compromising the strategic aim. Nevertheless, because intentionality, determined by risk-as-insurance of fidelity, is valorised as the governing centre of morally justified collateral damage, we must ask how this ideal point is determined in the midst of war. How do we actually know that the condition of due care has been met in an actual wartime situation?

Pardon me for not Meaning to …

Walzer's conceptualisation of due care underscores a key aspect of his understanding of moral judgment in war. The specific purpose of due care is to demonstrate the goodness of intention not to harm civilians. Without due care there would be no way to prove the alleged goodness

of the intention and, therefore, the justness of the act. As such, due care is formulated as a means to communicate and, thereby, authenticate the justness of military actions that endanger civilians. In this sense, Walzer is telling us that acts of war are also communicable acts that require interpretation, and without the communicative aspects of acts of war moral judgement would be impossible. In important respects, the possibility of justifiable war presupposes that acts of war are communicable. Walzer's theory implies that the justness of the cause and the justness of the way the war is fought can be communicated to ordinary people. If the justness of acts war could not be communicated there would be no possibility for moral judgement in the ways Walzer suggests. In other words, if it is possible to regard a war, or an act of war, as just or unjust, this implies that wars and their operations must remain communicable. However, if we recall the discussion on Derrida's understanding of communication and iterabilty, Walzer's understanding of the communication of good intention, necessary to justify appeals to double effect, is called into question.

Walzer's formulation of double effect presupposes a particular understanding of intentionality and communication. Primarily, Walzer assumes that the good intention can be fully actualised on the battlefield, and fully communicated to those judging the justness of the act. Although Walzer proposes due care as a means to test the authenticity of intention, this still relies on a telos of pure fulfilment. Walzer presents us with a homogenous movement in which intentionality is fully translated into action: the combatant aims at the legitimate target with the singular intention of hitting this target and this target alone, and they undertake personal risks in order to reduce the negative effects to civilians. In Walzer's terms, the action must be the result of a single good intention. It is only by maintaining the purity of the fulfilled good intention, uncorrupted by the negative unintended consequences, that Walzer can exempt deaths resultant from collateral damage from the absolute prohibition on the killing of civilians. Intention is, in this way, split from the unintended consequences, and the means rather than the ends determine the moral signature of the act. In Walzer's model, once the good intention has been authenticated through a process of due care, it stands fulfilled in its entirety and the unintended residuum is viewed as structurally external to the intentional act. In other words, unintentional negative consequences, although lamentable, do not compromise the goodness and singularity of the intention; the good intention remains wholly good and wholly fulfilled inspite of the regrettable unintended effects.

The Derridean understanding of iterability challenges the possibility of fulfilled intention implied in Walzer's argument. As outlined in the second chapter, Derrida describes iterability as the ability of communication to function in the absence of its intended meaning. Iterability means that every communicable message must be readable and repeatable in the absence of the author and the singular intention of the message's production (1988: 8). In this respect, iterability signifies the becoming other of intention through communication, the risk of meaning to say something other than intended. Iterability, however, is simultaneously a necessary component of communication. Without the possibility of being misinterpreted, the communicated message could not possibly be read and repeated by another (or indeed by the self at another time). Derrida contends that

> (t)he unit of the signifying form only constitutes itself by virtue of its iterability, by the possibility of its being repeated in the absence of not only its "referent," which is self-evident, but in the absence of a determinate signified or *the intention of actual signification, as well as of all intention of present communication* (1988: 11, italics mine).

Because any communicable mark must be able to function in the absence of the initial intention of its production, communication is necessarily cut off from the singular intention present at the moment of its creation. In Derrida's words, "It is divided and deported in advance," and this is not an accident (1988: 56). What Derrida means by this is that the singular intention guiding an act of communication does not fix meaning. This is because acts of communication are addressed to other people who must interpret the meaning and, therefore, risk altering the intended meaning. Again this highlights the alterity implicit in communication and, as I will explain, in every possible intentional action. Recognising the positive condition of iterability as a structural requirement for communication also constitutes the necessary negative limit of intentionality: iterability allows us to communicate an intended meaning while simultaneously denying the uninterrupted and uncorrupted transportation of the singular intended meaning. In the context of Walzer's argument, the negative limit of iterability challenges the pure fulfilment of intention implied in the doctrine of double effect.

To clarify the link between intention and iterability, I will now discuss signatures which, like Walzer's depiction of due care, function as a seal of authenticity and fidelity. Derrida describes the functionality of the signature as an illustrative example of the dual role of iterability, the positive condition of communication and the negative limit. Derrida argues that the signature must be the product of a singular intention, that is, to authorise a singular event in the name of a singular author whose future absence is inscribed in the signatures very production. The signature is often employed, for instance, to assure us that the named signer endorses a text to which their name is attached. However, in order to authorise on behalf of the signer, the signature must be repeatable and imitable, a signature must be iterable. Therefore, the signature must detach itself from the intention guiding its production in order to function. As Derrida maintains, it carries a divided seal (1988: 20). The signature must be iterable in order to function as a mark that can be read and, thereafter, authenticated by a third party. Yet, because signatures are iterable (readable, repeatable) they must necessarily run the risk of being utilised for an event distinct from the intention of their production. For example, the signature runs the risk of being defrauded, of being attached to text or event that the signer does not wish to endorse. The divided seal of the signature is both a necessary component of its operational structure and the impossibility of its rigorous purity; its positive condition and its negative limit. In the structure of signatures we see another example of the impossibility of fulfilment of self-presence: the possibility of the becoming other of intention implicit in every conceivable communication undoes the completion of fully actualised intentionality.

Walzer's formulation of double effect cuts the singular intention off at the point it is actualised. The specific action is *de facto* just or unjust at the precise moment it is executed, and judged on the basis of due care. Consequences are removed from the moral equation because the good intention has already been assured via due care prior to the production of any consequences. The act is judged to be just or unjust before its effects have occurred. Walzer's conception of intentionality, in this respect, echoes advice outlined to U.S. Marines in Iraq by their commanders: "It doesn't matter if later on we find out you wiped out a family of unarmed civilians. All we are accountable for are the facts as they appeared to us at the time" (cited in Wright 2005: 53). In other words, Walzer's model and the Marines' advice

justify actions based on professed intentions and not actual end results. In contrast, the Derridean understanding of intention suggests that the risk of negative unintended consequences is a structural possibility in any act of war and, as such, cannot be discounted from the moral signature. Derrida's critique of this conception of intentionality does not, however, constitute a denial of the role of intention, it simply stresses the need for a new typology in which intention has a place but cannot govern the entire system (1988: 18). In short, Derrida's argument is primarily questioning the purported *undividedness* of intention (1988: 105).

The key lesson from Derrida's typology is that unintentionality is always already at work from within every possible intentional movement: "… it leaves us with no choice but to mean (to say) something that is (already, always, also) other than what we mean (to say)" (1988: 62). In terms of double effect, it leaves us no option but to *mean* to risk unintentional negative effects: as soon as a combatant fires at any target they necessarily risk adversely affecting civilian lives. The risks posed to civilians, therefore, cannot be logically or cognitively detached from the intention to launch the attack. In Derrida's words,

> As soon as [*aussi sec*] a possibility is essential and necessary … it can no longer either de facto or de jure, be bracketed, excluded, shunted aside, even temporarily, on allegedly methodological grounds. Inasmuch as it is essential and structural, this possibility is always at work making *all the facts*, all the events, even those which appear to disguise it (Derrida 1988: 48, original italics).

Derrida reminds us that once a possibility is necessary it cannot be excluded as a risk that is accidental and exterior. Because military actions, according to Walzer, necessarily put civilians in danger, the risk to civilian life cannot be discounted as some ditch into which intention can fall unintentionally. The parasite, in this case unintended consequences, is never simply external because it co-founds the very roots of the intentional act: "One neither can nor ought to exclude, even "strategically," the very roots of what one purports to analyse. For these roots are two-fold: you cannot root-out the "parasite" without rooting-out the "standard"

[*le propre*] at the same time'" (Derrida 1988: 90, original italics). Ultimately, an act of war could not possibly constitute an instance of *double* effect if the risk of negative effects were not already implicated in the act's inception. The word double already presupposes the potential unintended consequences. In this sense, the structure called standard, or ideal (in this instance, Walzer's singular good intention) is intricately dependent upon the necessary possibility of the parasite. In other words, a successful intentional act is only possible if that intention can fail. Military actions risk negative effects because the possibility of unintended effects is a structural necessity for any conceivable action. Therefore, in the absence of fully actualised intentionality we are left only with the relative purity of intentional acts, which are judged in relation to each other and not according to an illusionary ideal of purity (Derrida 1988: 18). Double effect cannot maintain the purity of the singular good intention in its entirety. Instead, it is judged on the basis of the commitment to minimise negative civilian impacts.

Nevertheless, Walzer clings to a typology that valorises the possibility of a fully realised intention detached and separate from the necessary risk of its failure:

> A soldier must take careful aim *at* his military target and *away from* non-military targets. He can only shoot if he has a reasonably clear shot; he can only attack if direct attack is possible. He can risk incidental deaths, but he cannot kill civilians simply because he finds them between himself and his enemies (2006a: 174, original italics).

Again, paying close attention to Walzer's language, we can see that the singular good intention (to hit the military target) is uncorrupted by the spectre of the unintentional (the risk of incidental deaths). Yet, Walzer clearly asserts that the principle of double effect can only be employed in cases where the risk of unintended civilian deaths is directly evident: "Officers can only speak in its terms, knowingly or unknowingly[71], whenever the activity they are planning is *likely* to injure noncombatants" (2006a: 152-153, italics mine). In this sense,

[71] On this point I am unsure as to whether the irony is intentional on Walzer's part. But it is interesting, nonetheless, that Walzer implies that officers can appeal to the principle of double effect, which we must remember holds intention as its governing centre, in a thoroughly unintentional manner.

Walzer's singular good intention is predicated upon the risk of unintended effects. In fact, the risk that is not simply a distant possibility, but on the very cusp of actualisation because Walzer maintains that militaries only talk in terms of double effect when their actions are likely to injure combatants. During the 2003 invasion of Iraq, for example, U.S. Secretary for Defence Donald Rumsfeld was required to approve any strike likely to kill thirty or more civilians. Rumsfeld approved all of the fifty submissions that were made (Gregory 2004: 207).

If the principle of double effect is only called upon in instances in which military actions are likely to injure civilians, then the risk of civilian harm must be intended if the target is fired upon inspite of this knowledge. In Walzer's terms, combatants who aim at legitimate targets, under the principle of double effect, must not only intend the possible risk of negative effects, but their *likely* realisation. As such, Walzer leaves us with an entirely pragmatic concept of intentionality. The combatant is not judged according to the actualised fulfilment of their singular good intention but against the relative purity of a divided intention. The combatant is judged on the basis of the extent to which the 'good' intention is achieved and the 'bad' intention (the likely risk) is minimised, and this judgement hinges upon the personal risk undertaken by the combatant to reduce the negative effects. In turn, this calculation becomes the defining moral aspect. As Asad argues, while a terrorist's conscience is never important, the sincerity of a military commander's intentions may be the crucial difference between an unfortunate necessity and a war crime (2007: 26). This transforms the supplementary concept of due care, the fidelity of intention proved by the risk accepted, into the primary adjudicator of the justness of acts of double effect.

In All Good Faith

By constructing a pragmatically defined conception of double effect, Walzer's justification for collateral damage rests upon "the seriousness of the intention to avoid harming civilians, and that is best measured by the acceptance of risk" (2005: 137). Risk minimisation, in this way, becomes the determining factor in judging the goodness of acts of war likely to injure noncombatants. It is, therefore, important that we analyse the implications of this for Walzer's overall theory of *in bello*. Walzer, unsurprisingly, is firm in his belief that risk-as-insurance

acts as a barrier to imitations and insincere appeals to the doctrine of double effect. This barrier is of fundamental importance to Walzer's argument because he acknowledges that statesmen will tell lies in order to frame unethical activities undertaken in the name of military strategy in a moral way (2006a: 19). In other words, Walzer anticipates that leaders will attempt to bend double effect to their strategic needs and, as such, double effect requires an enforceable system of due care through which appeals can be judged. Yet, in a simultaneous movement, the measures necessary to judge due care also signify the terminal breakdown of Walzer's theoretical fiction of a single undivided good intention. When discussing the topic of risk minimisation, Walzer states that military strategists "must take positive steps to limit even unintended civilian deaths (and they *must make sure* that the numbers killed are not disproportionate to they military benefits they expect)" (2006a: 317, italics mine).[72] Now Walzer has worked his argument firmly into a paradoxical position. On the one hand, if military strategists are able to *make sure* that the number of civilians killed is outweighed by the expected military benefits, they have strategically planned for these deaths. Civilian deaths are explicitly intended (albeit it as regrettable consequences of a necessary action) and, as such, noncombatants have become the object of a military attack. Civilian deaths have, in Kantian terms, become a necessary means toward a military end because the attacking force has planned for the expected deaths a specific number of civilians in their efforts to hit a legitimate target. On the other hand, if military strategists are unsure about the costs and benefits of the action, double effect can only ever be judged retrospectively on the basis of their consequences. Retrospective judgements are problematic for Walzer because they mirror realist ends-means justifications that he unequivocally dismisses as fundamentally amoral.[73]

Walzer's predicament is this: he can either present a model of double effect in which risk calculation is possible, hence, condoning the intentional killing of a set number of civilians as a necessary cost of war fighting, or he can disallow calculation, thereby risking the transformation of double effect into a wanton realist excuse for the killing of civilians in the name of strategic necessity. Ultimately, Walzer opts for the former depiction, reluctantly conceding (by way of a footnote) that the due care component of double effect is partially a utilitarian argument: "Since judgements of 'due care' involve calculations of relative value,

[72] The COIN manual provides a slight variation on Walzer's formulation: the expected damage to civilians must be balanced against the harm the target would cause if allowed to escape (Petraeus 2007: 247-248).
[73] See *Just and Unjust Wars* Chapter 1.

urgency, and so on, it has to be said that utilitarian arguments and rights arguments (relative at least to indirect effects) are not wholly distinct" (2006a: 156). Drawing upon this utilitarian argument, however, presents a major problem for Walzer's overall theory. Primarily, the utilitarian argument further undermines the idea of a singular undivided good intention. Because the calculations required by due care have already explicitly split intentionality (the intention to hit the military target and the intention to avoid killing more than X amount of civilians), the rights component of double effect collapses. The act of double effect is not conditioned by a singular good intention, to hit the legitimate target, but by a divided intention to hit the legitimate target and avoid killing a disproportionate number of civilians in the process. Rights, in this way, are entered into an economy in which civilian life is proportionate only to the value of the target. What we are left with is a manifest rule utilitarian argument: I can intentionally risk the deaths of a certain amount of innocent people provided the benefits derived from hitting the target outweigh the costs. In the absence of justification via singular good intention, the principle of double effect is supplanted by the concept of due care. The act is not validated by the intention not to target civilians but by a risk calculation that requires strategic planning for civilian deaths. The appeal to utilitarian calculation is important because Walzer assures us that his rights based model of morality "rules out calculation and establishes hard and fast standards" (2006a: 304). In other words, the doctrine of double effect does exactly what Walzer intends his system of morality to block.

Walzer wants to avoid utilitarian rules for a number of important reasons. In a direct attack on utilitarianism Walzer firmly asserts that

> Utilitarianism, which is supposed to be the most precise and hard headed of moral arguments, turns out to be the most speculative and arbitrary … We have no unit of measurement and we have no common or uniform scale … Commonly what we are calculating is *our* benefit (which we exaggerate) and *their* costs (which we minimise or disregard entirely) (Walzer 2005: 38-39, original italics).

In Walzer's own terms, then, we should expect double effect to be employed in such a way that exaggerates the benefits to *our* military operation and minimises the costs to *their* civilians. We should expect the doctrine of double effect to be employed as a means to justify military strategy rather than ethical responsibility. It is also important to remember that we are discussing the absolute right to life. Walzer steadfastly maintains that the civilians placed in danger during war have not forfeited their rights and, as such, for double effect to be justified, acts covered by the doctrine must not violate rights. Nevertheless, Walzer's depiction of due care suggests that risks to civilian lives must be balanced against the strategic value of the target. In other words, we must apportion a value to civilian lives. How, then, can we balance the absolute right to life against a military objective? In the case of utilitarianism, Walzer is quick to assert that such calculations are to be considered a form of bizarre accountancy: "… their inventions are somehow put out of our minds by the sheer scale of the calculations … To kill 278,966 civilians (this number is made up) to avoid the deaths of an unknown but probably larger number of civilians and soldiers is surely a fantastic, godlike, frightening, and horrendous act" (2006a: 262). Yet, if it is merely the scale of the calculations that is troubling to Walzer, then the principle of double effect cannot escape his critique. Although double effect may not reach such catastrophic figures in a single instance, its iterability (its imitation and repeatability) ensures the effects of justification are illimitable. If double effect can justify an attack in the first instance, it can, in principle, be repeated *ad infinitum*. Walzer's justification for negative unintended civilian deaths and injuries can potentially become a precedent applied to unlimited future cases.

More pragmatically, it is unclear how the calculations necessary for due care to function can be effectively made on the battlefield. Walzer's argument states that military strategists must know how many civilians they are likely to harm and how valuable the legitimate target is to the war effort. This suggests that Walzer's ideal of due care operates under the assumption that military strategists have access to information on the battlefield that allows them to make calculations necessary to minimise risks to civilians. Yet, U.S. combatants in Iraq were often operating under the acknowledgement that they would have to make strategic decisions in the absence of full knowledge. For example, the earlier example of shelling outlined by Wright highlights the lack of certainty and clarity faced by combatants at the moment military attacks are launched. As Wright acknowledges at the end of his stint as an embedded reporter, "no

one will probably ever know how many died from the approximately 30,000 pounds of bombs First Recon ordered dropped from aircraft. I can't imagine how the man ultimately responsible for all these deaths - at least on a battalion level – sorts it all out and draws the line between what is wanton killing and civilised military conduct" (2005: 438). In a similar manner to the discussion on roadblocks in the previous chapter, combatants targeting their adversaries in the ways implied by Walzer's conception of double effect do so without knowing the full implications of their actions. In fact, it is precisely this uncertainty that Walzer relies on in order to depict civilian casualties as unintended: if combatants launched an attack with full information and civilians were killed, they could not appeal to double effect. In other words, Walzer's understanding of double effect is premised upon the assumption that combatants must remain uncertain about the implications of their actions at the moment they launch an attack.

In contrast, the fulfilment of the good intention is treated unproblematically. In calculations of double effect, while the level of potential civilian injuries and deaths must remain unknown, it is assumed that the good intention can be achieved and the legitimate target will be hit and destroyed in the manner anticipated. In this respect, double effect rests upon an interesting fusion of certainty and uncertainty: the certainty that the good effect will be achieved coupled with the uncertainty surrounding negative risks to civilians. It is only by assuming that the good intention can be fully achieved that calculations of due care can balance the projected positive objectives against the negative risks. In other words, the uncomplicated achievement of the good intention is required for Walzer's calculation to work in a practical manner. Walzer's ideal is, in part, tied to belief in the concise and precise ability of military weaponry to hit targets. This belief is increasingly couched in the language of technology and so-called 'smart bombs'. These weapons and technologies are viewed as a direct extension of intentionality: we dial in a target and technology carries out our orders precisely. [74] Zehfuss argues that the discourses surrounding these technologies are designed to convince us that our actions are fused with our intentions, that we can directly control the effects of war (2011: 561). However, the actual application of the technology points to a far more uncertain status: smart bombs are only accurate fifty-percent of the time, have wide blast radiuses, and

[74] For a full discussion on precision bombing see Maja Zehfuss, "Targeting: Precision and the Production of Ethics", *European Journal of International Relations*, 17(3), 2011, pp.543-556.

ultimately rely on correctly pinpointing the target in the first instance (Zehfuss 2011: 549). Journalist Anthony Shadid's (2006) discussion on U.S. bombing of residential areas in Baghdad on the eve of the invasion provides an example of the limitations of precision weaponry. Residential bombings were justified on the presumption that the U.S. military knew that key figures in the Ba'athist regime where hiding in specific areas of Baghdad. Shadid argues that this military intelligence retrospectively proved to be based upon inaccurate information and no Ba'ath leaders where hiding in Baghdad's suburbs. In fact, Wright's admission that the Marines will never actually know how many civilians were killed in their march to Baghdad highlights the problems with achieving even retrospective certainty. As such, the idea that soldiers can know that the good intention *will* be achieved prior to a calculation of double effect is largely illusionary. Both the positive *intended* effect and the negative *unintended* effects are uncertain at the moment of actualisation. As with roadblocks, the operation of double effect underscores the role of undecidability implicit in every act of war. The spectre of unintended consequences signifies the possibility of the becoming-other of intentions implicit in all possible actions.

Policing with Due Care

Because Walzer's scales of risk and reward are premised upon assumed rather than guaranteed outcomes, even more importance is placed on how calculations of due care are made, and who presides over the sincerity of the commitment not to avoid harming civilians. Recalling that Walzer's critique of utilitarianism is premised upon the contention that the War Convention allows us to enforce 'hard and fast standards,' due care requires a clear mechanism through which risk-as-insurance of good intention can be verified. In other words, unless there is some way to enforce the hard and fast rules of due care, the line between sincere and insincere appeals to double effect (the precise line between moral and amoral action), then the principle of double effect can have no practical import. Surprisingly, then, Walzer purposely blurs the point at which due care has been met:

> Once again, I have to say that I cannot specify the precise point at which the requirements of "due care" have been met … The line isn't clear. But it is clear enough that most campaigns are planned and carried out well below the line; and one can blame commanders who don't

> make minimal efforts, even if one doesn't know exactly what the maximal effort would entail (2006a: 319).

Walzer argues that, although the precise point at which due care is achieved is shrouded in uncertainty, we will certainly know when minimal efforts have not been made. In this we find another example of Walzer's fusion of certainty and uncertainty: the uncertainty surrounding the precise point at which due care is met is tempered by the certainty that we will know if minimal efforts to minimise civilian risks have not been made. However, the concept of 'minimal effort' is itself a limited constraint in the context of war, and Walzer acknowledges that militaries will always look for a way to juggle the figures to suit their own interests (2005: 39). More importantly, it is even harder to determine if minimal standards are enforced, when we consider the fact that the minimal standard varies between cases. Walzer asserts that "the degree of risk that is permissible is going to vary with the nature of the target, the urgency of the moment, the available technology, and so on" (Walzer 2006a: 156). Walzer, in this way, introduces context as a variable in the double effect ledger: the specific context of the situation directly alters the minimal requirements of due care. Walzer's acknowledgement that minimal effort is dependent upon context is important because it suggests a fluid understanding of due care rather than a hard and fast standard. The fluid interplay between context and risk is illustrated in Corporal McIntosh's depiction of the battlefield. McIntosh argues that risk and necessity change during the course of battles and this shift in context alters the mindset and behaviour of combatants, "… in the heat of a firefight, the calculus sometimes change. A shot not taken in one set of circumstances might suddenly become a life-or-death necessity" (cited Filkins 2009: 91). In this sense, due care is a fluid and mobile concept that is identifiable only at the point combatants decide to launch an attack. This flexible conception of due care increasingly complicates the questions of where lines are drawn, how we know when if a particular minimal effort to reduce civilian harm has been made, and who actually judges if it has been made.

The question of who judges, or polices, the moral rules of due care is largely ignored in Walzer argument. In practical terms, military strategists and combatants are primarily placed in charge of the enforcement of due care because they must calculate between risks and

rewards, and apportion a relative value to each variable in Walzer's equation. Combatants must determine the strategic value of the target, assess the likely risks to civilians, and calculate the minimal level of risk reduction required. Nevertheless, if combatants are designated with policing duties in respect to the rules of double effect, then this poses some unavoidable problems for the possibility of judging intentions. Derrida argues that the indeterminate structure of laws open the possibility for the police to remake, rather than simply enforce, the law (2002a: 277). This understanding of policing has important implications for Walzer's depiction of double effect. In Walzer's argument, double effect comprises a fluid and flexible set of rules that can be remade illimitably depending on how they are interpreted by particular combatants within specific contexts. Because combatants must make context specific judgments of due care, there is no single rule or singular set of rules. Instead, a chain of individual decisions determines what constitutes a minimal effort to reduce harm to civilians. Presented in these terms, the police are effectively policing their own borders: the combatants professing the goodness of the intention are also determining the point at which the minimal requirements of due care are met. Policing, which is necessary to protect the doctrine of double effect, now threatens it, as a parasite, from within. More precisely, the police forces charged with enforcing the minimal standard of due care can potentially transform the standard to their own ends through interpretation of the law. Walzer's model of double effect justifies the killing of noncombatants on the premise of that the killing is unintended and the sincerity of the intention not to target noncombatants is validated by due care. Yet in practice, the minimal requirements of due care are fixed, at the point of the attack, by those whose intentions are in dispute.

In Walzer's depiction of double effect, the killing and injury of civilians is justified on the basis that combatants did not intend to harm them. In turn, the commitment not to harm civilians is judged in terms of due care, the efforts made by combatants to minimise risks to civilians. Yet, judgments of due care are principally placed in the hands of the combatants whose intentions are in doubt. Walzer's conception of moral judgment, however, does not intend for combatants to become the adjudicators of the justness of their own actions. Rather, 'ordinary people' determine if war is conducted within its proper moral boundaries (Walzer 2006a: 15). In this sense, we need to ask how ordinary people can possibly judge appeals to the principle of double effect. Walzer's belief that ordinary people judge the morality of war

is important because it suggests that the ordinary civilians who feel the consequences of military attacks are also implicated in the judgment of military actions. Shadid, writing from within Baghdad during the initial bombing campaign, provides an illustrative example of Iraqi judgements of U.S. bombing. Shadid describes how unintentional consequences potentially justified under double effect are experienced by those directly affected:

> The strike came at two P.M. on April 7, two days before the capital was conquered. A single B-1 bomber dropped four 2,000-pound bombs on a cluster of homes in the wealthy neighbourhood of Mansur, where American intelligence believed Saddam and his two sons, Uday and Qusay, were hiding … Residents said the bombs had sucked air from homes blocks away, as if the neighbourhood, in its entirety, gasped for breath … The mauled torso of twenty-year-old Lava Jamal was pulled out before they arrived. Moments later, a few feet away, others found what was left of her severed head, her brown hair tangled and matted with dried blood. Her skin had been seared off (2006: 131-133).

What is interesting in the attack on Baghdad is how the intentions guiding attacks are altered by the unintended consequences: the intention of the U.S. attack, to kill Uday and Qusay Hussein, is irretrievably distorted and deformed via the unintended consequences of its actualisation. In Shadid's experiences of the Baghdad bombings, the intentions guiding the attacks did not necessarily matter to those affected, as the Baghdad residents were confronted, not with the intention, but with the consequences of the attack (2006: 133). In other words, the important moral issue for ordinary Baghdadis was not if the U.S. had intended to harm civilians, but the actual harm caused to them and their neighbours. In this sense, the Baghdad residents determined the justness of the attack through the unintended consequences rather than the intention.

Nevertheless, Walzer does not intimate that the victims of the unintended consequences actually matter in the determination of the justness of the act. Instead, Walzer's argument suggests that ordinary people looking in at the war from the outside are in the best position to judge. However, this presents a difficulty because people outside the warzone are entirely

dependent upon first hand accounts in order to gain any understanding of how events unfold in any given war. In short, ordinary people outside the battlefield must rely on those inside to provide the information necessary for them to make moral judgments. Embedded reporters have proved to be one of the main first hand sources able to relay information on the planning of U.S. military attacks in Iraq to ordinary people. Hoyt and Palatella facilitated a discussion between a number of journalists on embedded reporting (2007: 97-111). While there was some disagreement on the extent to which embedding compromises journalistic ability to provide an accurate representation of events, the majority of journalists admitted that obtaining a comprehensive account of U.S. military actions in Iraq required some dependency upon military sources. Filkins provides an example of the extent to which reporters in Iraq relied upon military information: "A few months later, Hajji Hussein's kebab house was destroyed in an air strike. The Americans said it was a terrorist 'safehouse,' from which 'innocent civilians knowingly stayed away,' but I always wondered about that" (2009: 220). Though Filkins's reliance on the military account may seem to diminish the idea of journalistic objectivity and credibility, there are very few alternatives for gaining information on military operations in warzones. Primarily, journalists can either ask military sources who are invested in portraying their actions as justified, or journalists, like Shadid, can ask the local people who have survived the military action or locals who claim to have witnessed the event. Neither option gives ordinary people any solid ground to make the judgements about due care that Walzer's principle requires. As journalist Richard Engel contends:

> You have to rely on someone who's from there, who's bringing you the tapes, and then you have to piece together what happened from accounts from the military, accounts from eyewitnesses, accounts from hospital figures, all of whom have credibility problems. You have to piece together the best you can to come up with a mosaic of what's going on (Hoyt and Palatella 2007: 5).

Engel's argument illustrates why judgements of due care are saturated in the context through which they are presented: where the information is coming from, who is relaying the information and in what way is it relayed, and, perhaps most importantly, who is making the moral judgment and where they come from. Because the information necessary to formulate

judgments about actions in war is intertwined with the contexts of its representation and interpretation, there is no way for ordinary people to definitively judge appeals to double effect: there is no universal scale that is uniformly accessible to all people at all times. Walzer requires hard and fast rules to ensure that double effect remains a universal principle that is open to the judgment of ordinary people. Yet, the iterability underpinning all acts of war, any act of war open to moral judgment, denies the possibility of a singular universal account. In other words, there is no minimal way for ordinary people to judge the sincerity of combatants' intentions not to target civilians.

More problematically, if it were possible for ordinary people to effectively judge appeals to double effect, their judgments would be retrospective. This is important because retrospective judgement calls the possibility of double effect into question. In double effect, Walzer conceptualises justification as prior to the realisation of any consequences: the combatant is justified by their intention not to harm civilians prior to the action, and their good intentions must be validated by calculations of due care. As such, if an act of double effect is to be justified at the moment a military operation is launched it can only be policed by the combatants who launch the attack. However, Walzer's requirement that ordinary people judge the moral character of war fighting means that double effect cannot be judged in the present and, therefore, the fidelity of the intention not to harm civilians must be judged retrospectively. Importantly, retrospective judgment means that double effect is not a barrier to the imposition of unnecessary risks on civilians because the acts are judged after the unintended consequences have already occurred. Remembering that judgements of due care differ in every case, the condition of retrospective judgement, constitutes a supplementary deferral of justification. In fact, because judgments are dependent on the context in which the act is communicated, a definite singular judgement of justness, uniformly agreed by all 'ordinary people', is perpetually deferred. The sincerity of an appeal to double effect, both differing and deferring, constitutes an instance of *différance*. *Différance*, then, founds the difference between the act of terrorism that is always unjust and carried out in bad conscience and the genuine act of double effect which is always just and made in good conscience. In this way, the morality and good conscience promised in double effect is threatened with indistinction.

Deepening Double Effect

In the previous sections I have demonstrated why Walzer's conceptualisation of double effect fails to justify military actions that endanger civilians. Ultimately, Walzer's understanding of double effect reduces the principle to a practically impossible utilitarian calculation that can only be judged retroactively. Yet, the nucleus of double effect, the acknowledgement that certain acts of war produce unintended and unforeseen negative impacts upon civilian populations, has a more far reaching import in regard to explaining ethical responsibility in war. Walzer presents us with a narrow depiction of double effect that is applicable only to military activities that are likely to kill or injure civilians as a direct consequence. In this sense, double effect is geared toward ethical responsibility defined in terms of a self-enclosed time-space, ethical responsibility understood in terms of the immediate impacts of military attacks. In Walzer's analysis, combatants are solely responsible for the goodness of their intention to minimise the risks their actions pose to noncombatants, and combatants are only required to minimise the immediate effects their actions produce. Future consequences resulting from acts of war, therefore, are removed from combatant accountability. For example, if a military action unintentionally made a plot of land unsuitable for farming, combatants would not be responsible, in any way, for the loss of the owner's livelihood. In Walzer's model, the combatant is responsible up to the point the attack is launched and ethical responsibility is satisfied when the combatants make 'minimal efforts' to reduce the risk of harm to civilians. Walzer, in this way, presents us with a limited conception of ethical responsibility that neglects some of the most far-reaching implications of collateral damage. The purpose of this section is to demonstrate how *ethics as response* provides us with a better understanding of the ways in which ethical responsibility is related to acts of war.

Walzer discusses the negative consequences of double effect specifically in terms of noncombatants' right to life: combatants are required to minimise the risk that their actions will kill or harm civilians. In contrast, the destruction of infrastructure and property is either ignored or seen as a moral victory because it has not resulted in the direct loss of life: "One can destroy a great deal of property in answer to the destruction of human life" (Walzer 2006a: 218-19). The non-moral depiction of infrastructural damage exemplifies Walzer's

focus on the immediate implications of military action. In short, Walzer views damage to the infrastructure as a secondary concern that does not pose a major barrier to ethical satisfaction in war.[75] Nonetheless, infrastructural collateral damage is intimately related to long-term impacts on human life. For example, in the context of Iraq, the impact of bombing during the Gulf War of 1990-1991 drastically altered civilian life for over a decade, and continued to shape civilian lives under U.S. occupation and beyond. Journalist Rajiv Chandrasekaran explains that targeted U.S. bombing during the Gulf War damaged about 75 per cent of the country's power generating capacity, crippling the civilian power supply (2008: 167). Electricity is a crucial good in Iraqi society needed for water treatment, powering hospitals, along with domestic cooking, heating and lighting. Gregory spells out the devastating effects of the destruction of Iraq's electrical infrastructure during the Gulf War: "Without power, water-treatment and sewage facilities shut down, and thousands of people (particularly children) died from diarrhea, dysentery and dehydration, gastroenteritis, cholera, and typhoid" (2004: 168). As such, infrastructural damage is directly related to future risks to civilian lives.

The targeting of infrastructure is often a key component of military strategy because it potentially cripples the mobilisation capacity of enemy troops. Recognising this Walzer makes a distinction between goods that have a specifically military purpose and goods that are pivotal to the wellbeing of the civilian population. Walzer argues that the targeting of civilians who work in sectors such as power generation is unjustified because they make goods that are needed by both military personnel and civilians (2006a: 146). This is an acknowledgement that those who make the goods needed by the civilian population are immune from attack. Yet, he does not propose any moral barriers to the targeting of infrastructures necessary for the production of civilian goods. In other words, militaries must refrain from attacking civilians producing the goods that a civilian population needs to survive, but they have no parallel duty to avoid targeting civilian infrastructure. This idea of responsibility was echoed by U.S. military actions during the Gulf War. Shadid explains that U.S. targeting of Iraqi infrastructure was intentional and justified upon a utilitarian

[75] It should be noted that Walzer also ignores the way people relate to property, and its cultural, social and historical significance. For example, Sheikh Hamed, an Iraqi farmer, recounts the destruction of his orchard in terms of historical and familial mourning: "These are our grandfathers' orchards … This is our history. When they fell a tree, it is like they are killing a member of our family" (Jamail 2008: 261).

calculation: “The choice of these targets was justifiable; their losses would incapacitate the Iraqi army, recognised as an aggressor by the United Nations.” (2006: 44). In turn, Gregory contends that the U.S. military targeted infrastructure during the Gulf war despite the obvious dangers to the civilian population: “The U.S. intelligence agency had estimated that ‘full degradation of the water treatment system’ in Iraq would take at least six months, and its destruction would cause serious public health problems” (2004: 168). Despite the explicit understanding that the destruction of infrastructure poses major risks to civilian life, as illustrated in the example of Iraqi electricity, Walzer never directly discusses the destruction of property in terms of double effect and the protection of infrastructure, as such, is not deemed to be a moral imperative. Nevertheless, acknowledging that targeting infrastructure, intentionally or unintentionally, puts civilians at risk begins to explain why the ethical implications of military actions cannot be conceived in terms of a bounded timeframe.

The impacts of military actions are projected into the future because they help shape future contexts. The infrastructural damage inflicted upon Iraq during the Gulf War, for example, became an important component of the context in which the 2003 intervention took place. Maisaa Youseff argues that the systemic annihilation of material and social infrastructure in Iraq beginning with the Gulf War bombing campaign, and exacerbated through a decade of economic sanctions, is intimately related to the humanitarian arguments put forward for regime change in the run-up to the 2003 invasion:

> Unfolding those ten years, however, re-presents the severe and systematic destruction of Iraq’s infrastructure in every area of social and economic life, from public services such as healthcare and education to public as well as private initiatives in civil services, the arts, and the economy. An entire nation and economy were effectively de-developed: development in reverse. In an effort to pressure Saddam Hussein, an entire country was brought to its bare essentials ... the production of those Iraqis in need — as a direct result of American-led sanctions — and the posited need of Iraqis for a regime change cannot be considered unrelated (2008: 159).

Youseff's main point is that the depiction of Iraqi people in desperate need of rescue from an existence etched in human degradation and oppression cannot be separated from U.S. actions during the Gulf War. The destruction of infrastructure during the Gulf War contributed to the production an Iraqi population in need of humanitarian intervention and, in turn, the image of destitute Iraqis became an important component of the human rights arguments put forward to buttress the case against the Ba'ath regime.[76] Yet the effects of infrastructural bombing during the Gulf War have extended past the 2003 intervention into the occupation and beyond. For instance, the provision of electricity quickly became central to Iraqi perceptions of the occupation: "Everything followed from electricity, the cornerstone of modern life. With electricity went water, sanitation, air-conditioning, and the security brought by light at night. With electricity went faith in what the Americans, so powerful in war, were prepared to do after" (Shadid 2006: 159). In this sense, the destruction of infrastructure is never simply the loss of property or services as Walzer's theory implies: it represents a major shift in the way life is lived in a country. In Walzer's terms, the destruction of infrastructure has the potential to radically transform a community's maximal life.

Siege Warfare: An Illustrative Example

The targeting of infrastructure during the Gulf War is just one example of the importance of looking at the temporally unconstrained effects of warfare.[77] The underlying argument in the analysis of long term effects is that it is not possible to cut responsibility off at a specific point on the grounds of good intention, or adherence to moral rules. There are two primary reasons why we cannot de-limit ethical responsibility in this way: first, military actions are iterable and, therefore, always in the process of becoming other than intended and, second, the consequences of military actions engender future contexts that, to a certain extent, dictate the ways in which future ethical relationships can take place. In this sense, it is not possible to derive ethical satisfaction through compliance with rules like double effect because we do not ever fully know how the intended and unintended actions impact other people. One of the most illustrative examples of the implications of cutting responsibility off at a singular point is found in Walzer's discussion on siege warfare.

[76] For example, see Reuel Marc Gerecht, "Liberate Iraq," *The Weekly Standard* (May 14, 2001).
[77] 375,00 Iraqi university students, for instance, were unable to continue with their studies due to bombing damage during the 2003 invasion (Chandrasekaran 2008: 3).

Walzer describes siege as an instance in which combatants attempt to shelter themselves in a city or town among civilians in the belief that their enemies will relent due to fear of mass civilian casualties (2006a: 160-161). Siege poses problems for the principle of noncombatant immunity because it places the forces laying siege in a position where they can only attack their enemy by intentionally endangering a civilian population: the besieged combatants have taken refuge among civilians and their opponents would have to undertake great risks if they attempted to ensure the safety of civilians. Again, the dual imperatives of winning the war and protecting civilians are placed in direct conflict. Walzer attempts to resolve the tension between the imperatives by stating that combatants laying siege to the city or town are absolved of ethical responsibility if they offer civilians safe passage: "The offer of free exit clears him of responsibility for civilian deaths" (2006a: 169). Walzer's argument has two components: first, if civilians are forced to remain in the city/town, then those who force them to remain are responsible for the danger they face and, second, if civilians freely choose to remain in the city/town they lose their civilian rights. Walzer asserts that civilians who choose to remain, or are forced to remain, have been effectively conscripted into the besieged garrison and have, therefore, "yielded their civilian rights" (2006a: 168-169).[78] Once more, Walzer wants to impress forfeiture in terms of individual choice: if civilians refuse the offer of free exit then they forfeit their rights.[79] While, Walzer implies that the potential yielding of civilian rights in times of siege is regrettable, his central argument is that the combatants laying siege are not responsible for the risks imposed on civilians. If combatants offer free passage to those inside the besieged city or town they are absolved of their ethical responsibility to refrain from killing noncombatants; responsibility is cut off at the point the moral rule is followed.

[78] In many respects the offer of free passage more clearly resembles a direct threat: 'Leave the city or you will be killed.' It is important to remember, in this context, that Walzer maintains that no person can be threatened unless they have forfeited their rights through some identifiable act (2006a: 135). As such, in siege warfare Walzer permits combatants to directly threaten civilians on the basis that their adversaries have chosen to fight among them.

[79] It must be noted that this also signifies another instance in which the right the life is potentially lost due to an infringement of the right to liberty: civilians can be targeted because they have been forced to remain in the city/town.

The second siege of Fallujah in November 2004 provides an interesting example of Walzer's logic in action. Fallujah had an estimated population of 350,000 – 500,000 people and is considered one of the most important holy cities in Iraq. In April 2004 conflict sparked when Iraq civilians were killed by U.S. troops during a protest against the closing of a school. In response, Iraqi resistance fighters killed four U.S. contractors working for the Blackwater security company. The resistance fighters then dragged the mutilated bodies of the contractors through the streets and suspended them from a bridge (Chan 2004). The U.S. took swift action by laying siege to the city. The April siege symbolised a collective punishment of Fallujah residents for the crime of harbouring resistance fighters. In the words of U.S. Brigadier General Mark Kimmit, "Collective punishment is imposed on the people of Fallujah by those terrorists and cowards that hunker down inside mosques, hospitals and schools" (cited in Holmes et al 2007: 123). The initial siege ended in a stalemate with the policing of the city handed over to the local Fallujah Brigade comprised entirely of Iraqis.

Throughout the summer and autumn of 2004 U.S. intelligence identified Fallujah as a resistance stronghold. Consequentially U.S. Marines decided to launch a second siege with the aim of trapping a large volume of resistance fighters within an enclosed space. According to First Infantry Lt. Col. Pete Newell: "We don't want them to leave Fallujah. We want to kill them here" (cited in Lasseter and Allam 2004). Nonetheless, in line with the humanitarian motivations proclaimed in the Bush Administration's justification of the war and occupation, the U.S. wanted to demonstrate that they were taking precautions to minimise civilian casualties. The U.S. strategy in Fallujah resembled an abridged version of Walzer's model of siege warfare. The Marines offered free passage to all women and children, and elderly men (Jamail 2008: 135 & 234). Families were officially given seventy-two hours to leave the city or be designated as legitimate targets (Holmes et al 2007: 76). Similarly to Walzer's argument, the U.S. military viewed the offer of free passage as an absolution of the principle of noncombatant immunity. In the words of U.S. Marine Sergeant Medows, "We had dropped flyers a couple of days prior saying to people to get out of the area if they didn't want to fight, so basically anyone who was there was a combatant" (cited in Holmes et al 2007: 119-120). Yet, there were complications with the implementation of the strategy. For example, the majority of women in Fallujah were unable to drive and, therefore, were unable to leave the city unless their husbands drove them. With men barred

from leaving the city, numerous women were forced to remain (Holmes et al 2007: 58). More importantly, many civilians did not trust the offer of safe passage because civilians waving white flags had been shot by U.S. snipers during the April siege (Jamail 2008: 250). The Iraqi Red Crescent (IRC) claimed that they knew of at least one-hundred and fifty-seven families still trapped in the city at the time the siege was launched (Holmes et al 2007: 68-69). Ultimately, U.S. officials acknowledged that 30,000 – 50,000 civilians had remained in the city, albeit many months after the siege had ended (Jamail 2008: 234).

Walzer legitimises siege warfare in terms of a moral imperative: the offer of free passage absolves troops laying siege to the city/town of all ethical responsibility. The case of Fallujah, however, highlights why the specific context of a siege impacts upon how the offer of free passage is interpreted by people it is directed toward. Again, Walzer's argument presupposes a homogeneous model of communication in which troops inform civilians of their right to free passage and this message is unambiguously understood. In other words, communication operates in a linear uninterrupted manner: the intended message is fully understood by its intended audience. The Derridean depiction of communication as always in the process of becoming other than its intended meaning helps explain why Iraqi civilians remained in Fallujah. The U.S. offered conditional free passage to Fallujah residents, yet the interpretation of this offer transformed the siege into an instance in which the targeting of noncombatants was morally justified on the basis of misinterpretation rather than the free choice of Fallujah residents. Fallujahians did not necessarily understand or believe the offer of free passage, and many civilians could not actually leave despite wanting to. The net result was that a large number of civilians remained in Fallujah during the siege. As the example of Fallujah illustrates, Walzer's uncomplicated depiction of communication does not sufficiently account for the ethical questions raised by siege warfare. Walzer's model presupposes that the decision to remain in the besieged city/town is either inflicted by the occupying force or the free choice of civilians. Fallujah highlights why the ideal of free choice is inadequate because it ignores the iterable and transformative dimension of communication.

Siege warfare provides another example of the implications of Walzer's desire to cut responsibility off at the point a moral rule is followed. Walzer limits combatant responsibilities to civilians during sieges to the singular offer of free passage. Although the communication of free passage is problematic in itself, this is not the biggest problem in Walzer's argument. By cutting responsibility at the point free passage is offered, Walzer is also suggesting that combatants are absolved of all future responsibilities to the civilians who leave the besieged city. Walzer acknowledges that forcing civilians to become refugees is lamentable, he nevertheless maintains that this does not render siege warfare morally unacceptable (2006a: 169-170). The Fallujah example demonstrates why creating a vast population of refugees can potentially create new ethical problems. In response to the U.S. offer of free passage, 203,000 of Fallujah's 300,000 residents fled the city (Herring and Rangwala 2006: 181). The first impact of this was the many of the Fallujahian refugees were unable to return to the city,

> According to the official estimate 'almost 36,000 houses have been demolished, 9,000 shops, sixty-five mosques, sixty schools, the very valuable heritage library and most government offices. The American forces destroyed one of the two bridges in the city, both train stations, the two electricity stations, and the three water treatment plants. It also blew up the whole sanitation system and communication network' (Holmes et al 2007: 21-22).

The official estimation of the damage inflicted by the siege depicts a city that, for all practical purposes, had been rendered uninhabitable. As such, siege does not mark an enclosed epoch of the war, an event that punctuates civilians' return to normal life. The consequences of siege meant that many Fallujahians could not resume their lives in the city, and by May 2006 one-third of residents had yet to return (Holmes et al 2007: 24). In this sense, the idea that responsibility ends with the offer of free passage is simplistic because it ignores the risks imposed upon civilians who leave the besieged city. The migratory dynamics of Fallujah's refugees, however, contributed to more far reaching problems in Iraq. A sizeable proportion of Sunni Iraqis displaced from Fallujah were invited to live with relatives in other Sunni dominated cities, towns and villages. Difficulties arose because there was nowhere to house those displaced, and this led to concentrated campaigns to evict Shi'a minorities from Sunni

majority towns. Journalist Nir Rosen describes the impacts in the Anbar province, "That's when ethnic cleansing really got started. The first stories you heard of Shias being pushed from their homes, of getting letters, of their homes being bombed" (Hoyt and Palatella 2007: 95). In this way, the displacement of Fallujah residents contributed to the escalation of sectarian violence that marked Iraqi society in the following years. Indeed, the widespread Sunni boycotting of the Iraqi election and rejection of the political process was partially a response to the destruction of Fallujah (Allawi 2007: 340).[80]

The offer of free passage does not resolve the ethical problems associated with siege warfare. Free passage and the intentional creation of mass refugees from Fallujah produced its own chain of unforeseen consequences. The principle point is that acts of war must be viewed within a broader remit that extends beyond immediate impacts. In other words, we must account for the unintended and unforeseen consequences acts of war produce: the effects of actions overflow their immediate foreseeable, intended and unintended, impacts. Because we must knowingly risk unforeseeable consequences when we act, we must also accept responsibility for these consequences. This reconceptualisation of double effect creates a necessity to sustain responsibility across a de-limited timescale. We are no longer responsible up-to the specific point we have followed the moral rule because the consequences of our actions are projected into the future.

Ethics as Double Effect

Thus far this chapter has discussed double effect in terms of direct military actions. This is unsurprising given the narrow scope of double effect as defined by Walzer. Because double effect is concerned with foreseeable and calculable negative risks, it must necessarily focus on military activities that are likely to produce negative impacts in all contexts. A bomb dropped on a heavily populated area, for instance, is likely to kill or injure people. However, by broadening double effect beyond the direct and immediate impacts of the act, we have the opportunity to conceive of a new typology of double effect. In this typology unforeseeable

[80] Subsequently the U.S. military acknowledged that many resistance fighters had already vacated the city in anticipation of the siege. Ultimately, four days after the siege began resistance fighters captured the much larger city of Mosul, with 3,200 of the city's 4,000 police officers deserting their posts (Ricks 2007: 304). As such, the strategic imperative also proved largely ineffective.

and uncertain consequences become morally relevant, and this allows us to consider other actions associated with war and peace-building as acts that produce double effects. Because all wartime actions potentially produce negative unforeseeable consequences, this means that understanding the ethical implications and responsibilities attached to actions in war requires us to be attentive to specific contexts. Rather than reducing ethical responsibility in war to compliance with a rule set or principle as in Walzer's depiction of double effect, we must account for the mutations and transformations of the consequences, intended and unintended, that arise within the specific contexts created by acts of war. In other words, we must account for how acts of war effect (and affect) people in the future. The typology outlined here illustrates how the idea of just war can be understood as a reconceptualisation of double effect. That is, just war necessarily entails the risk of negative unintended and unforeseeable effects in the pursuit of its purportedly justified aims.

The sanctions regime enforced on Iraq from August 6 1990 until May 2003 provides an example of the link between the pursuit of justice and unintended effects. Sanctions were put in place in response to Iraq's invasion of Kuwait, and were viewed by the U.S. as an important component of the just resolution of the Gulf War. Walzer argues that Iraq, as an aggressor state, was put on parole and was, therefore, subject to constraints designed to make future aggression impossible. Importantly, he asserts that sanctions regime "was a just outcome of the Gulf war" (Walzer 2005: 144). The 'just outcome' of the Gulf War largely entailed an economic blockade against Iraq which produced devastating consequences for the civilian population. Under sanctions the Iraqi dinar dropped in value from 1 dinar equalling $3.20 in 1990 to 1 dollar equalling 2,550 dinars by 1995, Gross National Product fell by 50 per cent during the first year of sanctions and by 2000 Iraq was the third poorest country in the world. In 2000 senior UN official Rao Singh reported that some 500,000 children had died under the sanctions regime and by the same year 25 per cent of all Iraqi children had dropped out of school for economic reasons, and two million Iraqis, primarily from wealthier backgrounds, emigrated (Dawisha 2009: 123-128). Tellingly, by the end of the 1990s, 60 per cent of the Iraqi population were completely dependent on Oil-For-Food (OFF) rations for daily survival (Napoleoni 2005: 143).

Walzer acknowledges that sanctions, however targeted and smart, invariably risk negative impacts on civilians. Nonetheless, he maintains that the Ba'ath regime was ultimately responsible for the hardships endured by civilians and that the negative consequences were indirect (Walzer 2005: 155). In other words, Iraqis were forced to suffer because of the actions of their own government, not the actions of those enforcing sanctions. In turn, the imposition of 'smart sanctions' was one of the three key actions Walzer presented as a plausible alternative to war with Iraq on the eve of the 2003 invasion (2005: 159). Given Walzer's belief that sanctions were important to post-Gulf War justice, and a central component of an alternative U.S. approach to Iraq, it is surprising that his discussion on naval blockades concludes with a clear condemnation of the strategy on grounds of double effect. In the context of the British blockade of Germany during WWI, Walzer argues that the strategy directly prevented essentials like food reaching the German population and civilians suffered far more than combatants: "Civilians had to be hit before soldiers could be hit, and this kind of attack is morally unacceptable … This principle [double effect] rules out the extended form of naval blockade and every sort of strategic devastation" (2006a: 174). In terms of the Gulf War sanctions, this implies that the sanctions were unjust because civilians were punished as a means to punish the Ba'ath regime.

In spite of the ambiguous moral position of the sanctions regime, Walzer's inclusion of blockades within the rubric of double effect suggests that the principle is applicable to actions other than direct military attacks. It suggests that double effect is relevant in any case where military actions aiming to target the enemy risk negatively effecting a civilian population. In this respect, the Iraq war has played out within the eye of a myriad of unintended consequences stemming from both direct military actions and activities more closely associated with peace building exercises. Negative unintended consequences have resulted from military strategy: the U.S. bombing of Northern Iraq in 1998, for example, resulted in mass arrests of those hostile to the Ba'ath regime which ultimately led to a vacuum of U.S. intelligence within Iraq. Ricks explains that the mass arrests targeted opponents to the Ba'ath regime who were supplying inside information to the U.S., and the resultant information gap was exploited by exiles such as Ahmed Chalabi who fervently testified that Saddam Hussein possessed weapons of mass destruction (WMDs) (Ricks 2007: 19 & 57). In turn, the assumed existence of WMDs ensured that the U.S. military refused to detonate bunkers containing

weapons caches due to fears that they would trigger WMDs. These weapon caches subsequently became the main source of armament for the resistance (Ricks 2007: 145-146). Yet, negative consequences also stemmed from U.S. peace building attempts to win 'hearts and minds'. For instance, combatants attempting to build relationships with local Iraqis risked bringing mortar attacks down on civilian homes (Fick 2007: 300), and accepting hospitality put civilians in danger because they could potentially be identified as occupation sympathisers (Finkel 2011: 39).[81] Even the distribution of aid rations entailed negative implications because it was viewed as a humiliation by Iraqis who felt as though they had been reduced to begging in order to survive (Shadid 2006: 269). Reconstruction projects also contained an implicit element of double effect because they were targeted by insurgents as a means to demonstrate the inability of the U.S. to improve Iraqi infrastructure. In Filkins's words, "Anything the Americans tried there turned to dust. The Americans repaired a brick factory and insurgents blew it up. The Americans painted a school and the insurgents shot the teachers" (2009: 82-83). Chandrasekaran claims that reporters were not even allowed to report on reconstruction efforts due to fears that projects would be destroyed or the locals involved targeted (Hoyt and Palatella 2007: 136).

The examples listed above illustrate why any wartime action is an instance of double effect: we aim at a positive result but risk negative unintended and unforeseeable outcomes. The U.S., for instance, argued that their intervention in Iraq was justified because it would save Iraqis from the violent tyranny of Saddam Hussein. However, the toppling of the Ba'ath regime risked the creation of new violent threats and new tyrannies. Double effect resembles an alternative iteration of the sacrificial risk implicit in every ethical action. The good intention guiding the action necessarily and simultaneously entails the risk of unintended and unforeseeable negative impacts; responding to one hardship risks the unintended production of another hardship. In this sense, double effect mirrors the coupling of responsibility and irresponsibility implicit to the idea of *ethics as response*.

[81] This complicates the COIN directives that troops immerse themselves in local life and live among the population (Petraeus 2007: 40 & 239). How can troops embed themselves in a population with the express aim of protecting that population when doing so increases the likelihood of civilian deaths?

Conclusion

The main purpose of this chapter has been to demonstrate why the principle of double effect, as presented by Walzer, is incapable of justifying collateral damage. However, I have also sought to explain why the unintended and unforeseeable consequences implicated in the doctrine can help us understand the transformative character of war. Walzer wants to impress a conception of double effect in which the intention to do the right thing absolves combatants of ethical responsibility in regard to the consequences of their actions: actions are justified in relation to intended, rather than actualised, ends. This chapter has demonstrated that iterability forecloses the possibility of intentionality working in the way Walzer requires. Any potential action must risk consequences other than intended, and because this risk is part of the structural possibility of all actions, the risk of unintended consequences cannot be excluded from the analysis. Ultimately, Walzer's conception of double effect is supplanted by the utilitarian calculation of due care in which the goodness of the intention is validated through the minimisation of risks toward civilians. Walzer proposes a system in which the value of the target is balanced against the projected risks imposed on civilians. Because Walzer's system requires combatants to possess direct knowledge of the risks imposed on civilians, these risks must necessarily be intended. In the absence of knowledge of potential risks, the calculations necessary for due care to function cannot be undertaken. As such, Walzer's conception of double effect leaves us with a rule-utilitarian calculation conducted by the combatants plotting the attack. In turn, the fidelity of the intention to minimise risks to civilians can only be judged retrospectively. In Walzer's argument, judgements of due care differ between cases and judgment is deferred. In other words, the doctrine of double effect is underscored by *différance*.

Nevertheless, the unintended and unforeseeable consequences evident in acts described as instances of double effect tell us something important about ethical responsibility. Double effect constitutes the necessary structure of all action: the actor aims at the intended effect but can only do so by risking unintended consequences. In this respect, double effect parallels the fusion of responsibility and irresponsibility emphasised in *ethics as response*. We can only enact our responsibilities toward others by risking unforeseen, potentially negative, effects. Looking at the temporally expanded consequences that emanate from acts of war helps us to

understand why ethical responsibility cannot be satisfied via moral rules or appeals to good intention. Moral rules and good intentions can never fully control the outcomes they produce. Walzer does not deny this aspect of war, maintaining that war regularly creates "unpredictable, unexpected, unintended, and unavoidable horrors" (2005: 155). Because war risks changing the socio-political constructions within a community, those implicated in acts of war need to maintain their limited responsibility in relation to the new social contexts they help produce. The purpose of the next chapter will to be look more closely at the unintended and unforeseen socio-political formations war creates. More specifically, the following chapter will investigate how the expanded conception of double effect outlined above calls the possibility of achieving just resolution into question.

Chapter 5 – Self-Determination and the Violent Reconstruction of Iraq

Introduction

The last chapter concluded by arguing that the possibility of any ethical action is underpinned by the notion of double effect, the actor aims toward a positive intention but risks a myriad of unintended and unforeseeable negative impacts in the pursuit of this end. In turn, Walzer's understanding of a justifiable war is also underpinned by the notion of double effect: those responding to aggression or acts that shock the moral conscience aim toward a desirable effect, a just resolution, but can only achieve this result by risking the horrific consequences of war. In some respects Walzer acknowledges this depiction of war, conceding that "the resort to war is at best a desperate wager that things will be better" (1970: 60). As such, Walzer presents the idea of just war in terms of a moral gamble, we aim to makes things better but we are never certain if the resort to war will achieve this aim. Nevertheless, Walzer tempers the ethical uncertainty implicated in the resort to war through an appeal to moral certainty. Walzer argues that war can only be waged if we know what a just resolution would look like and that there is a strong possibility that war will succeed in producing this outcome (2012: 35). Again, Walzer presents us with a fusion of certainty and uncertainty: war is justified, despite its horrific risks, in cases where we know what postwar justice will look like and there is a strong chance we can achieve it. Importantly, Walzer presents a conception of war in which those justifying violence are, to a certain extent, satisfied that they can control the outcomes of their violence. War is justified on the grounds that we only wage it when we are relatively certain that the resort to violence can deliver justice.

In contrast to Walzer's taming of uncertainty via an appeal to justice, Derrida maintains a conception of ethical responsibility in which the possibility of justice is definitively precluded. For Derrida, the fulfilment of justice is impossible because we never fully know how our decisions and actions will impact upon others and how they will shape the future contexts that others face. In this sense, it is the fact that we are not fully in control of the consequences of our actions that denies the satisfaction of justice. Derrida argues that we cannot justify our actions on the basis of our intention to make things better because we cannot control how other people respond to the new contexts that our actions help to create. This, as I have explained in the previous chapter, signifies the becoming other of intention through action. In

terms of the decision to go to war, the Derridean model suggests that Walzer's justification is founded on a fallacious belief that we are in control of the consequences of our actions, and that we can ensure that our intention to make things better will be achieved. While the Derridean contestation of just resolution is, in part, another iteration of the critique of Walzer's conception of double effect, focusing just resolution takes us toward a more general rejection of Walzer's justification of violence. In other words, *ethics as response* points toward an understanding of war in which justice cannot be guaranteed in the decision to go to war. Instead, war signifies an ethical engagement in which the realisation of justice is perpetually deferred through the unintended and unforeseeable responses that the decision to engage in violence in the name of justice initiates.

The purpose of the following discussion is to highlight the problems with Walzer's depiction of just resolution through a reading of the new socio-political contexts that arose in the aftermath of the 2003 invasion of Iraq. This chapter makes two main arguments. First, the idea that we have control over the consequences of war is an illusionary ideal. And second, the new contexts that war creates have major implications for the forms of community and political engagement possible in war's aftermath. As underscored in the previous chapter, war is never simply restricted to battlefield actions because it produces effects that alter the socio-political environment. These transformations cannot be excluded from discussions on ethics and justice. This chapter presents an analysis of Shi'a religious political movements and Sunni resistance in postwar Iraq that highlights the ways in which the socio-political contexts that violence creates potentially undermine Walzer's ideal of just resolution. I contend that these formations exemplify two competing expressions of Iraqi politics that emerged in response to the conditions created by the U.S. invasion and subsequent occupation. However, these groupings should not be considered as unified categories. Rather, my argument emphasises how the solidification of Shi'a/Sunni politics and identities was, in some respects, an unintended consequence of the U.S. invasion. As such, the violent clashes between Sunni and Shi'a that intensified in the postwar era embody the unintended and unforeseen socio-political formations and fragmentations that the 2003 invasion helped produce.

The first section of this chapter unpacks Walzer's ideal of just resolution and demonstrates how it relates to the U.S. understanding of what post-Ba'ath Iraqi society should look like. The second section discusses how a resurgent Shi'a politics, framed in religious terms, was a response to occupation that articulated a particular interpretation of Iraqi self-determination. The third section presents Sunni resistance as a counter interpretation of Iraqi politics and community. The chapter concludes by arguing that the explosion of ethno-sectarian violence in Iraq witnessed in the aftermath of the January 2005 election demonstrates the inadequacy of Walzer account of just resolution.

Aiming Toward a Just Resolution

Just and Unjust Wars and Walzer's broader discussions of war are relatively inattentive to the question of postwar justice. Indeed, Walzer acknowledges that his conception of *jus post bellum* (just resolution to war) was unable to account for the problems that arose during contemporary humanitarian interventions after the end of the Cold War (2005: xiii). The main reason for this, Walzer (2012) explains, is that in his understanding of just resolution is intimately tied to *jus ad bellum* (just cause). Walzer's theory of *jus ad bellum* implies that war can be justified only when a community is faced with an aggressor who threatens their internal peace and stability. As we have discussed in the opening chapter, this understanding of justified violence presupposes that a community of members separated from the outside defines just and peaceful existence. In Walzer's terms, the world is at peace, when it is divided into established and widely accepted borders, and justice is challenged if an aggressor disrupts the arrangement (2012: 35). Walzer's central argument is that war is a crime because the aggressor violently disrupts the established conditions of peace within a bounded community. Walzer's image of just resolution logically follows from this ideal of internal peace, principally the idea that the primary aim of just resolution is to restore the conditions of internal peace: to restore self-determination (Walzer 2006a: 121-122). In this sense, Walzer's understanding of postwar justice is intimately related to his broader communitarian project. Walzer argues that the existence of a self-determining community signifies the possibility of justice and, therefore, just resolution must seek to return political control to the community threatened by aggression. As such, a just resolution is a resolution that protects the common life and shared meanings that members of a community have built

together. Further to this, Walzer stresses that those intervening against aggressors should not aim to change social meanings or even redress unjust distributions. In fact, the sole aim of just resolution is to restore the political foundations through which members of a community can continue to negotiate their shared resistance (2012: 36). In short, a just resolution is one that preserves the conditions for communal self-determination.

While conventional resolutions are relatively straightforward, Walzer (2006b, 2008, and 2012) argues that humanitarian intervention demands a more nuanced understanding of just resolution. Most immediately, the disruption of self-determination is coming from inside the community and not from an external aggressor. In cases of intervention, Walzer (2006a) reminds us that the state has turned so savagely on its own people that it is, in effect, suppressing the possibility of self-determination. Following this, Walzer suggests that the secondary goal of humanitarian intervention demands the creation of the minimal structures necessary for self-determination to flourish.[82] In response to excessive rights violations, Walzer contends that we must reconsider just resolution in terms of the creation of the minimal conditions through which authentic self-determination is possible:

> In the case of humanitarian intervention, *jus post bellum* involves the creation of a new regime, which is, minimally, nonmurderous. And it is more than likely that the creation of a new regime will require some period, perhaps an extended period, of military occupation (2012: 38-39, original italics).

In cases of humanitarian intervention, Walzer reconceptualises just resolution as the external cultivation of the minimal requirements of self-determination. While this, in certain respects, rearticulates Walzer's image of community, the ideal of protecting a set of people capable of producing a shared life from tyranny, it also suggests that creating the conditions for self-determination is, in certain instances, the responsibility of strangers. In contrast to ordinary political communities that foster self-determination auto-affectively, Walzer argues that post-intervention societies require external assistance in creating their maximal world.

[82] The primary goal for Walzer is to stop the immediate killing and mass rights abuses.

Walzer explains that external help is required because internal animosities often mitigate against nonviolent politics: "A devastated country in which the killers and the people they tried to kill (and whose relatives they did kill) live side by side is not a likely setting for democratic deliberation, popular engagement, and nonviolent opposition" (2008: 351). As such, the just resolution to an intervention is not conceived in terms of a return to the former conditions of peace. Instead, the intervening force(s) is responsible for ensuring that they leave behind a system of governance that is capable of promoting self-determination and protecting ordinary people from violence.

Walzer's acknowledgment that external actions are sometimes necessary to help a community cultivate self-determination marks an important departure in his understanding of morality. Throughout Walzer's entire oeuvre he persistently asserts that border crossings that attempt to alter internal meanings and values exemplify aggression, and the external transformation of the inside by the outside is morally wrong. When it comes to intervention, however, Walzer suggests that external transformation of internal politics is the right thing to do. Walzer attempts to reconcile the tension between the necessity for intervention and the necessity to preserve self-determination via an appeal to another iteration of his minimal/maximal (universal/particular) dichotomy. Walzer contends that *post bellum* responsibilities do not amount to the right to impose external rule, or political ideology, or a specific political system on liberated people; intervention should not aim to construct a full-blooded maximal life. Instead, the intervening force(s) must endeavour to found a model of self-determination that adheres to minimal morality while remaining attentive to local desires:

> The intervening state can't then impose its version of a just politics without regard to their version ... local understanding of political legitimacy is a critical constraint on what just warriors can attempt. *But it isn't an absolute constraint* (Walzer 2012: 43, italics mine).

Walzer signals an ideal of postwar justice in which the intervening strangers must take account of local understandings (maximalism), but ultimately have some scope to overturn

particular local values in the name of universal norms (minimalism). For example, Walzer defends the U.S. imposition of a democratic constitution in Japan after World War II even though it directly challenged existing Japanese customs (2012: 43). Walzer describes this ideal of intervention justice in terms of the interplay between local norms and minimal rights. In this sense, Walzer is pointing toward an understanding of post-intervention justice in which self-determination is a negotiation between existing maximal values and minimalism. This conception of justice, nevertheless, marks an important shift in Walzer's theory of morality. In contrast, to the image of minimalism founded within the intersection maximal moralities, outlined in Walzer's communitarian writings, Walzer is now implying that the creation of minimal foundations is sometimes necessary if fractured communities are to build a maximal world. The outside intervenes in order to establish the conditions through which a shared life can be fostered and, as such, minimalism founds the possibility of authentic maximalism.

Nonetheless, we must acknowledge that Walzer is only advocating this form of communal construction in cases where, he claims, existing governments have violently suppressed maximal life. What is more important, in understanding Walzer's reversal, is the distinction outlined in the first chapter between minimal structures and their maximal articulations. Although Walzer (2012) suggests that strangers can create political structures that defend minimal values, he does not necessarily believe that the imposition of minimalism undermines or alters the ability of a community to construct their own maximal life. In this sense, the imposition of minimalism constitutes the imposition of universal structures that are conducive to the development of genuine maximal life. In other words, the cultivation of minimal structures is equivalent to building the universal container that self-determination needs to grow within. For example, Walzer suggests that interventions should aim toward democracy because it is inclusive of all members of the community and is the form of political regime least likely to turn on its own people (2012: 44).[83] Yet, Walzer stresses that the argument he is making is distinct from cosmopolitanism because minimal democratic structures still allow local populations to substantiate their particular interpretation of what democracy means to them:

[83] This argument is closely aligned with Walzer's (1996) claim that U.S. democracy is particularly inclusive and compatible with self-determination.

> Struggles for democratization, whatever help they receive from outsiders, are always local struggles. Their protagonists do not aim at the triumph of cosmopolitan principles around the world. They want a state of their own, in the literal sense of that term—a state governed by the people who live in it, devoted to their welfare (2008: 355)

What is important to note is Walzer's belief that the minimal structures necessary for a just resolution to an intervention do not suppress the possibility of locals freely creating a shared life. For Walzer, a just intervention creates the minimal structures through which authentic maximal life is produced and protected without altering its substantive content. Just resolution, therefore, remains rooted in the ideal that war can leave behind a community whose shared values, common life and capacity for authentic community building has not been distorted by the intervention.

The Bush Administration and Just Resolution in Iraq

The 2003 U.S. invasion of Iraq provides an important case study in regard to Walzer's ideal of just resolution. Nonetheless, it must be acknowledged that Walzer has consistently rejected the argument that the U.S. invasion constituted a just war (2005, 2006b, 2008, 2012), and in a more general sense Walzer has definitively asserted that regime change, in itself, is never an acceptable justification for war (2006b: 105). As such, Walzer considered the U.S. invasion of Iraq to be unjust and 'potentially' an act of aggression.[84] Nevertheless, Walzer is clear that unjust wars can still produce just outcomes: "An unjust war can lead to a just outcome, and a just war can lead to an unjust outcome" (2012: 44). Walzer, in this respect, wants to convey an understanding of ethical responsibility in which doing the morally wrong thing in the first instance does not preclude the achievement of a morally right outcome. In contrast to his conception of double effect, Walzer argues that an unjust war can culminate in a just, morally satisfactory, outcome despite its wrongheaded origins. In other words, the consequences, not

[84] Walzer, however, is careful not to describe the war as an act of aggression. Nor does he call for other nations to help Iraq resist U.S. aggression. In this respect, Walzer is conflicted, recognising the invasion as unjust while hesitant to endorse resistance that would bolster the Ba'ath regime or criminalise U.S. actions. Ultimately, Walzer rests upon the uneasy argument that a U.S. victory promises greater relative justice than sustaining the Ba'ath regime (2005: 160-161).

the initial justifications, of the war are what matters when it comes to just resolution. Importantly for this discussion, Walzer's position on Iraq retains this division. For Walzer, the 2003 invasion was unjust but the U.S. remains obligated to provide a just resolution (2005: 160-161). As such, the U.S. was obligated to construct the minimal conditions through which Iraqis could once again participate in self-determination.

In many respects the Bush Administration's overarching conception of just resolution in Iraq is aligned with Walzer's, at least in terms of rhetoric. Specifically, the primary pillars of freedom and democracy evident within the Administration's rhetoric closely correlate to Walzer's conception of minimal self determination. For example, in a speech to the American Enterprise Institute on February 26 2003, U.S. President George W. Bush stated,

> There was a time when many said that the cultures of Japan and Germany were incapable of sustaining democratic values. Well, they were wrong. Some say the same of Iraq today. They are mistaken. The nation of Iraq, with its proud heritage, abundant resources and skilled and educated people, is fully capable of moving toward democracy and living in freedom (Bush 2003).[85]

In Bush's speech we see a clear articulation of Walzer's conception of postwar justice, an intervention aimed toward sustaining democracy and legitimate government. In fact, Walzer tentatively endorsed the image of postwar justice the Bush Administration envisioned for Iraq:

> They [the things America is required to provide for the Iraqi people] include self-determination, popular legitimacy, civil rights and the idea of a common good. We want wars to end with governments in power in the defeated states that are chosen by the people they rule – or at least recognised by them as legitimate – and that are visibly committed to the welfare of those same people (all of them). We want minorities protected against persecution, neighbouring states protected against aggression, the poorest of the people protected against

[85] For a full transcript of the speech, see George W. Bush (2003) "Speech to the American Enterprise Institute," http://teachingamericanhistory.org/library/index.asp?document=663

> destitution and starvation. In Iraq, we have (officially) set our sights even higher than this, on a fully democratic and federalist Iraq, but postwar justice is probably best understood in a minimalist way (2005: 164).

Walzer maintains that the Bush Administration have perhaps aimed too high, but, nevertheless, supports the ideal of helping the Iraqi community move toward some form of inclusive socially attentive self-determination.[86]

The U.S. plan for Iraqi self-determination was broadly reflected in two strategic initiatives. First, U.S. political administration of Iraq was proposed as a means to cultivate institutions and legal infrastructures compatible with democratic politics, and, second, U.S. troops were committed to Iraq in order to foster long-term peace. In turn, these initiatives were enacted through the formation of the Coalition Provisional Authority (CPA) on April 21 2003 and the United Nations (UN) ratification of U.S. Occupier Status in Iraq on May 22 2003. The CPA aimed to develop Iraqi legislation that could pave the way for the emergence of a liberal-democratic society, the primary goal being the creation of a new constitution that would legally enshrine Iraqi democracy (Allawi 2007: 191-193). In turn, the UN resolution that legalised U.S. Occupier Status clarified the rights and duties of U.S. administration and troops in Iraq, and gave the CPA access to Iraqi funds deemed necessary to finance the transition to democracy (Karon 2003). These dual initiatives comprised the main legal infrastructures through which the U.S. attempted to build Iraqi democracy and protect ordinary Iraqis from violence. Importantly, the U.S. strategy coincides with Walzer's conception of post-intervention obligations: strangers protecting ordinary people from violence while trying to build the minimal conditions for democratic self-determination.

The purpose of this chapter is not to critically assess the effectiveness of U.S. actions in Iraq, as this critique has been made in more detail elsewhere.[87] Instead, this chapter provides a

[86] Is should be noted that Walzer has subsequently claimed that the U.S. did not live up to their *post bellum* obligations (2012: 44). However, Walzer's critique of U.S. actions in Iraq is concerned with the practical implementation of policy rather than the moral imperatives underpinning the Bush Administration's overarching goals.

more specific discussion on two important political responses to the conditions created by the invasion and the occupation: the Shi'a Politico-Religious Response and the Sunni Resistance Response. Of primary interest is how the U.S. strategy created new contexts that, in part, solidified ethno-sectarian divisions and transformed Iraqi society. In this respect, the U.S. ideal of just resolution is particularly important in helping us understand the link between postwar politics and ethno-sectarian tensions. Iraq's postwar population of roughly 27 million[88] primarily consisted of a large Shi'a majority (60-65 per cent) coupled with Sunni and Kurdish minorities and pockets of Turkoman and Christian peoples (Sirkeci 2005: 203). The U.S. strategy for developing Iraqi democracy was based around the assumption that ethno-sectarian identity was the primary social cleavage in Iraq. For example, the first U.S. attempt at constructing indigenous political infrastructure in Iraq was the formation of the Iraqi Governing Council (IGC). The IGC was a 25 member group appointed by the CPA in an effort to integrate Iraqis into the political process and to allow Iraqis to voice their perspectives on legislation proposed by the CPA. Although the IGC was, in practice, little more than a toothless debating chamber[89], its composition elevated the importance of ethno-sectarian identity markers. The IGC was appointed in a manner that directly apportioned political representation in relation ethno-sectarian divisions: 13 Shi'a representatives were appointed, 5 Kurds, 5 Sunni, 1 Turkoman, and 1 Christian (Jamail 2008: 182). Gregory argues that this strategy rearticulated the British colonial strategy that institutionalised the sectarian divides in the aftermath of the First World War (2004: 230). However, Allawi contends that the composition of the council was a broader reflection of the U.S. understanding of Iraqi society as a broken mosaic that needed to be painstakingly reassembled through the democratic process (2007: 109). Importantly, the formation of IGC reinforced an image of Iraqi politics in which ethno-sectarian identity was positively correlated to shared values and understandings. In other words, the U.S. believed that Iraqis were best represented by those who shared this particular identity marker.

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[87] For example, see Thomas Ricks, *Fiasco: The American Military Adventure in Iraq* (London: Penguin, 2007).
[88] Figure taken from Gilbert Burnham, et al (2006) "The Human Cost of War: A Mortality Study 2002-2006," http://web.mit.edu/cis/pdf/Human_Cost_of_War.pdf
[89] In operation, the Council was routinely ignored by the CPA, and legislation was often implemented without any regard for IGC views (Allawi 2007). By September 2003 Council members began to actively call for an end to the occupation (Chandrasekaran 2008: 209).

The U.S. conception of Iraq as broken mosaic parallels Walzer's concerns that post-intervention societies are brimming with internal animosities. In Iraq, this perception was not entirely unfounded. Ba'ath leadership was primarily Sunni, Sunni dominated regions were increasingly privileged by the Ba'ath throughout the 1990s, and Shi'a and Kurdish populations had suffered mass brutality in reprisal for post-Gulf War rebellions (Dawisha 2009). However, these antagonisms did not signify a society coherently divided in terms of ethno-sectarian heritage. Shadid explains that Iraqi society is better characterised as containing overlapping and disjointed familial, tribal and national alliances punctuated by religious identity (2006: 103). Shadid maintains that ethno-sectarian markers were not necessarily the central pivot of Iraqi identities organisation prior to the invasion. Yet the U.S. strategy ensured that the first visible articulation of post-Ba'ath politics was clearly demarcated through ethno-sectarian identity. In Chandrasekaran's words, the U.S. "made a point of categorising people as Sunni or Shiite or Kurd" (2008: 218). In turn, the U.S. emphasis on ethno-sectarian identity began to filter through Iraqi perceptions of politics and, in certain respects, influenced Iraqi political responses to the occupation.

The following sections of this chapter provide a discussion of two of the primary political responses to the U.S. occupation of Iraq, Shi'a Religious Populism and Sunni Resistance.[90] The purpose of this discussion is to explain, via a few important examples, why Walzer's belief that the construction of minimal structures does not necessarily alter internal self-determination is an illusionary ideal. The central argument is that violent intervention creates new contexts that transform the ways in which people engage with politics, their society and other people. In contrast to Walzer's claim that the creation of minimal structures does not necessarily alter self-determination, the next sections highlight why the socio-political conditions produced through war impact upon conceptions of community, politics and shared belonging. Ultimately, this discussion contends that U.S. attempts to create Walzer's purported universal structures of freedom and democracy cannot be separated from the reconstruction of Iraq's maximal life.

[90] A discussion on Kurdish politics and its overarching goal of securing regional autonomy is excluded from this analysis, primarily because the Kurdish political response is intertwined with broader issues of Kurdish marginalisation and repression within Islamic societies. As such, a detailed discussion on Kurdish politics in Iraq is beyond the scope of this project. For a broad discussion on Kurdish culture and politics see David McDowall, *A Modern History of the Kurds* (London: I.B. Tauris, 2003).

The Fall of Saddam and the Rise of Political Islam

Religious identity in Iraq was carefully managed under the Ba'ath regime, ensuring that religious authority did not stray into mainstream political life. Given the U.S. emphasis on freeing Iraqis from tyranny, it is unsurprising that the CPA lifted these prohibitions. Walzer agrees with the U.S. position, and a letter to European academics, endorsed by Walzer, emphatically states that religious freedom is an inviolable right of human beings.[91] In other words, religious freedom is a key aspect of minimal morality. Nevertheless, the liberation of Iraq's religious identities had major ramifications for postwar politics and society. In many respects the reclamation of Islam became deeply intertwined with Shi'a liberation from Ba'athism. The toppling of a large statue of Saddam Hussein on April 9 2003 in central Baghdad provided an early example of the emerging link between religious expression and liberation in the aftermath of the invasion. The toppling of the statue was a pivotal moment in the U.S. imagination of Iraq, with U.S. media outlets portraying the event in terms of symbolic unity between Iraqis and U.S. troops against Ba'athist rule.[92] The media narratives claimed that a group of Iraqis were chipping away at the base of the statue for hours to no avail. Witnessing the failed attempts, U.S. Marines stepped in dragging the statue to the floor with their tanks. Iraqis were said to have responded in jubilant triumph slapping the statue's decapitated head (New York Times 2003). In many respects this representation of the event echoed Walzer's conception of postwar justice, strangers helping members do what they wanted, but lacked the power, to do: overthrow the tyrannical regime.

Yet, reactions within the Baghdad crowd comprised a more fragmented and confused response than the U.S. media portrayed. The crowd's behaviour, for instance, was dominated by feelings of anger toward Ba'athism rather than joy at liberation, and an undercurrent of humiliation emerged when Marines draped the statue in a U.S. flag (BBC News 2003). Importantly, the primarily Shi'a crowd vocally expressed their anger, joy and sorrow in explicitly religious terms. Shadid claims,

[91] Jean Betkhe Elshtain et al (2002) "What We're Fighting For: A Letter From America," *Institute for American Values*, http://www.americanvalues.org/html/wwff.html

[92] For example, see CNN, "Saddam Statue Toppled in Central Baghdad, *CNN* (April 9 2003), http://edition.cnn.com/2003/WORLD/meast/04/09/sprj.irq.statue/

> As they toiled, groups of religious Shiite Muslims gathered on the side of the square. "There is no god but God; Saddam is the enemy of God," they chanted. Some seized the opportunity to pray in open, no longer at risk of suspicious stares. Others beat their chests in a ritual of grief know as *lutm*. It was the first time I had seen such a display of religious practice in public in Iraq (2006: 148, original italics).

The religious overtones described by Shadid hint at the role religion would play in the reconstruction of Shi'a identities. More immediately, it was evident that freedom from Ba'ath oppression was quickly related to freedom of Shi'a religious expression. Shi'a constituted a subjugated majority in Iraq since British colonisation in 1918, and the suppression of Shi'a religious identity had been a major component of Ba'athist rule (Dawisha 2009). With the Ba'ath regime overthrown, Islam became a rallying point for the public articulation of Shi'a identity and discontents. The most visible announcement of this resurgent identity unfolded in a mass pilgrimage to the holy city of Karbala in late April 2003. The pilgrimage marked the anniversary of the death of the Imam Hussein, perhaps the most beloved prophet in the Shi'a faith, and between one and two million Shi'a travelled, many for days, to Karbala to partake in the ceremony (Cockburn 2007: 89-90). The pilgrimage solidified an important link between Shi'a liberation and Islam: the ability to celebrate one's faith openly became intertwined with the emergence of a Shi'a community released from the shackles of Ba'ath control. While the U.S. wanted to characterise liberation in terms of a movement toward democracy, Shi'a communities reassembled within a primarily religious narrative. According to journalist Alissa Rubin, "… the administration wanted to tell the story of budding democracy … There were some elements of it, but there was also a sort of eruption of long suppressed religious feeling and populist politics" (Hoyt and Palattella 2007: 46).

The outpouring of religiosity did not, however, signify a clearly defined Shi'a religio-political platform (Nasr 2004). Rodger Shanahan explains that Shi'a politics became increasingly crowded in the postwar era, and despite comprising the largest population demographic, Shi'a parties struggled to unite and cement their authority on the national stage during the first year of the occupation (2004: 952). In addition, the main Islamic Shi'a parties were either divisive or fragmented. The Supreme Council for the Islamic Revolution in Iraq (SCIRI), for instance,

was closely allied with Iran and, therefore, distrusted by Shi'a nationalists, and the Da'awa party had fractured into a number of, sometimes antagonistic, sub-divisions throughout the 1990s (Allawi 2007). In short, although Shi'a communities, in the main, believed that the Shi'a majority should lead the new Iraq, there was no unified vision of what Iraq's future should look like. Instead, various local Shi'a responses began to combine religion and politics in an attempt to articulate images of the new Iraqi society.

The Sadrist movement provides an illustrative example of how this model of Shi'a politics began to develop in the postwar era. The movement was led by the young Shi'a cleric Mqutada al-Sadr, the son of a Grand Ayatollah murdered by Ba'athists in 1999.[93] The Sadrists were based in Saddam City, a sprawling Baghdad slum with a mass populace suffering from appalling social conditions. In some respects the Sadrist military wing, the Mehdi militia, represented the first boots on the ground in postwar Baghdad. The fall of the Ba'ath regime precipitated a mass public outburst of disorder, looting and violence. In the midst of the chaos, Sadrists seized the initiative by symbolically renaming their slum 'Sadr City' in honour of their martyred Ayatollah, and Mehdi troops took direct responsibility for public security and service provision. Sadrists quickly identified themselves as the primary source of postwar security and political authority: they organised armed Mehdi brigades to protect local Mosques, businesses, and hospitals from looters (Gregory 2004: 226), the Mehdi instituted itself as a local police force (Jamail 2008: 119-120) and the movement began to cultivate independent infrastructures for local service provision through Shi'a Mosques (Napoleoni 2005: 137). Sadrists even presented themselves to U.S. troops as mediators through which aid could be distributed (Fick 2007: 341-443) and the Mehdi appealed for military resources to rout out former Ba'athists (Wright 2005: 414). The hands-on response of the Sadrists stood in contrast to that of U.S. troops who watched the postwar carnage unfold as they awaited superior orders. Soon locals began to trust the Sadrists as the primary security force in Sadr City.

[93] Al-Sadr's father, Grand Ayatollah Mohammed Mohammed Sadiq al-Sadr had originally been endorsed by the Ba'athists as a form of Iraqi Shi'a nationalism opposed to Iran and its supposed links to the Shi'a orthodoxy based in Najaf. However, as the Ayatollah's popularity grew he began to vocally oppose the Ba'ath regime culminating in his assassination alongside two of his sons (Cockburn: 92).

While direct militia activism announced Sadrist presence, their sustained appeal was underpinned by religious authority. In the immediate aftermath of the invasion Sadrist clerics issued a *fatwa*, a binding religious decree in the Shi'a faith, ordering all Shi'a to ignore U.S. authority and fight against Western cultural corruption of Islamic values (Cole 2003: 554). Sadrists represented a direct challenge to the U.S.'s proposed plan for Iraq because they were explicitly rejecting U.S. authority on the basis of the perceived antagonism between Western norms and religious precepts. In Walzer's terms, the Sadrists rejected the U.S. ideal of minimal structures in favour of their own conception of Iraqi maximalism cast in religious terms. The Sadrists were able to garner popular legitimacy through the martyrdom of Sadr's father. Sadr's legacy of personal loss became an integral component of the movement's political appeal and his stature grew as a symbol of those who had suffered under Saddam.[94] Importantly, the Sadrist movement encapsulated an increased willingness on the part of religious authority to step into the political arena. In the words of Sadrist cleric Ali Shawki, "The religious man is not confined to the pulpit … He can act as a military, political, social, and spiritual leader" (cited in Shadid 2006: 189). Shadid stresses that the Sadrist conception of political ideology did not expand beyond a somewhat hazy notion of the centrality of Islamic values (2006: 208). Nevertheless, the movement's overt political ambitions marked a departure from traditional Shi'a conceptions of religious authority (Cole 2003), and the movement differentiated itself from other Shi'a movements through its direct and vocal opposition to the occupation (Goldwin 2012: 450). Interestingly, during the early stages of the invasion the movement attempted to foster a broad Iraqi nationalist opposition to the U.S. by allying with Sunni resistance fighters (Allawi 2007: 168). In this respect, the Sadrists were interested in creating an Islamic state in opposition to the U.S. occupation rather than an explicitly Shi'a political authority. In total, the Sadrists embodied a grassroots localised Shi'a political response that opposed the occupation through an explicitly Islamic and nationalistic framework.

The example of the Sadrist movement stands in stark contrast to the impression of postwar politics outlined by Walzer and anticipated by the U.S. In his discussions on intervention, Walzer conceives political structures as something built up the intervening force(s) to

[94] Sadr employed this ideal as a means to undermine the political ambitions of returning exiles (supported by the U.S.) who had fled Iraq under Ba'ath rule to escape punishment (Napoleoni 2005: 136).

facilitate indigenous self-determination. Yet, the Sadr response highlights how oppositional political infrastructures can simultaneously be cultivated beneath the state level. What is important to take from the example of the Sadrists is that overthrowing a regime, especially the autocratic regimes implicit in Walzer's justification of intervention, can potentially open a vacuum of political authority. In Iraq, the deposal of the Ba'athists presented Sadrists with the opportunity to develop political infrastructures that ran counter to U.S. ideals. The Sadrists did not represent the form of democratic and popular legitimacy that the U.S., and Walzer to a certain degree, desired. Instead, they garnered support through religious authority and military force. Nevertheless, the Sadrist movement was primarily parochial in design, and was in some respects antagonistic toward other Shi'a groups. For example, the movement was accused of attacking rival clerics in Najaf and assassinating a Shi'a Ayatollah linked to the U.S. (Allawi 2007: 171-172). As such, the Sadrist example helps us to understand how Shi'a politics began to evolve in tandem with religious populism, but it does not explain how a Shi'a political platform, united around Islamic precepts, emerged in Iraq toward the end of 2004. To understand this development we need to look toward the U.S. attempt to draft an Iraqi constitution.

The Constitutional Debate and the United Iraqi Alliance

The creation of an Iraqi constitution was central to the U.S. conception of Iraqi self-determination. In fact, the CPA explicitly stipulated that the possibility of democratic elections was dependent on the adoption of a new constitution. According the head of the CPA, Paul Bremer, "The Iraqis don't have a constitution. They need one, and you really can't get to sovereignty without elections, and you can't have elections without a constitution."[95] In some respects, the U.S. constitutional plans reflected Walzer's conception of the creation of minimal structures. Iraq had been under Ba'ath rule since the 1958 military coup and lacked a robust democratic infrastructure (Dawisha 2009: 209). Following from the U.S.'s own constitutional heritage, and prior experiences in Germany and Japan, the drafting of a constitution appeared to be the next logical step in the creation of Iraqi democracy. In Walzer's terms, the U.S. attempted to implement their maximalist interpretation of the minimal foundations necessary for Iraqi self-determination. However, the U.S. plan was

[95] This quote is taken from a PBS Newshour Interview with Paul Bremer on September 24 2003, http://www.pbs.org/newshour/bb/middle_east/july-dec03/bremer_9-24.html

increasingly seen as a concern by the Shi'a religious orthodoxy, and especially by Grand Ayatollah Ali al-Husayni al-Sistani, the highest Shi'a religious authority in Iraq. The story of the U.S. constitutional plan more explicitly highlights the problems implicated in Walzer's conception of the development of minimal structures. Walzer wants to convey a depiction of postwar justice in which building the structures necessary for self-determination is a negotiation between local norms and minimal values. Yet, U.S. constitutional ambitions in Iraq illustrate why the articulation of minimal structures can be interpreted as an illegitimate attack on a community's shared life.

As we have discussed in the previous section, the deposal of the Ba'ath regime left a vacuum of authority in Iraq. Shi'a communities soon began to turn toward the mosques and the religious orthodoxy based in Najaf for leadership. To the fore of the resurgence of organised religious authority was Grand Ayatollah al-Sistani. Sistani was an Iranian descended from a long line of Shi'a clerics. An exceptional seminary scholar, Sistani soon became the primary source of Shi'a authority in postwar Iraq (Shadid 2006: 224-226). Sistani's conception of the relationship between religious and political authority, however, greatly differed from the more direct political ambitions of the Sadrists. In contrast, Sistani belonged the Quietest tradition in Shi'a Islam, which advocates minimal involvement in daily politics, and although Sistani wanted to see Shi'a Iraqis in charge of the political process, he warned his followers not to resist the occupation, advising them to adopt a neutral stance (Nazir 2006: 56). In other words, Sistani called upon the Shi'a majority to bide their time and seek to take control through the election process. Sistani's position in the immediate aftermath of the invasion suggested that the Najaf orthodoxy was happy to accept the occupation providing that it culminated in a Shi'a led Iraqi government free from U.S. influence. Nevertheless, this did not mean that Sistani and other prominent clerics were willing to accept the radical transformation of Iraqi society that the U.S. envisioned. Allawi explains that the Quietest endorsement of political disengagement is predicated upon the assumption that the political system is already underpinned by Islamic values (2007: 208-210). In a similar manner to Walzer's claim that authentic self-determination is designed to protect minimal rights, Sistani viewed politics as a positive good only if it served to protect Islam. Now we can see the constitutional debate in terms of a contestation of what universal morality means. On one hand, the U.S. articulated universalism through the Western ideal of liberal secular

democracy and, on the other hand, the Shi'a orthodoxy viewed Islam as universal framework central to any authentic Iraqi state. In Walzer's terms, two maximal interpretations of minimalism came head-to-head in the constitutional debate.

The perceived threat posed by the U.S. constitutional plan stimulated Sistani to engage in more overtly political activities. Sistani responded directly to the U.S. refusal to hold elections prior to the drafting of a constitution by issuing a *fatwa* on 25 June 2003. The *fatwa* explicitly stated that the forces occupying Iraq had no right to draft a constitution or appoint the members of any constitution-drafting body prior to elections (Al-Rahim 2005: 53). Importantly, Sistani's actions suggested that he was willing to undertake a more directly active political role if he felt Islam was at risk. Sistani's political importance was demonstrated in January 2004 when over 100,000 Shi'a took to Baghdad's streets calling for elections, and by the beginning of 2004 Sistani had emerged as key political figure in Iraq and a potential rallying point for Shi'a politics (Jamail 2008: 96). Although the U.S. could not ignore Sistani's political influence, they, nevertheless, refused to fully accede to his demands. Instead, they hoped to foster a compromise through the creation of a proto-constitution, the Transitional Administrative Law (TAL). The TAL was drafted in early 2004 by the IGC, under the authority of the CPA. Bremer played a key role in the drafting process and the TAL was signed into law on March 8 2004 (Wheatley 2006: 535). On the surface, the TAL was designed to be a temporary constitution that could be redrafted by an Iraqi parliament once elections had been held, a minimal foundation amenable to local reconstitution. The U.S. argued that the TAL provided the necessary legal infrastructure to hold democratic elections and protected Iraqi self-determination by offering the possibility of a redraft. However, the TAL also symbolised an implicit attempt to solidify the socio-political foundations of the emerging Iraqi state: it was written in English, based on secular values, and Islam was described as *one* source of law rather than *the* primary source of law (Allawi 2007: 220-222). Crucially, the TAL contained a clause granting Kurdish Iraqis a veto over any subsequent re-draft. Sistani was not appeased and publically rejected the TAL on the grounds that the Kurdish veto was counter to democratic rule, and that the document was inattentive to Iraq's religious values (Rahimi 2004: 16).

The implementation of the TAL signalled to Sistani and Shi'a Islamic political parties that if they wanted to have any chance of creating an Iraqi society underpinned by Islam they would have to develop a more coherent political platform. The SCIRI had previously attempted to cultivate a collective position through an organisation called The Shi'a House. However, a unified Shi'a response did not emerge until Sistani aligned himself with the group (Allawi 2007: 343). Sistani's involvement in The Shi'a House facilitated the creation of the United Iraqi Alliance (UIA), a broad alliance of Islamic Shi'a political parties. The UIA was dedicated toward the election of a Shi'a led, Islam-orientated Iraqi government, and promised the creation of a non-radical stable Iraqi state (Rubin 2005: 70). The final piece of the UIA jigsaw arrived in August 2004 when al-Sistani brokered a peace settlement between the U.S. and al-Sadr, bringing the Sadrist movement firmly under the UIA banner. With the Sadrists on board the UIA conjoined all the primary Islamic Shi'a political groupings in Iraq in a formidable electoral force backed by Iraq's major Shi'a religious authorities. Nevertheless, the UIA did not mark the cementation of a singular Shi'a politics. Instead, it indicated an alliance built around Sistani's call for Shi'a to unite in defence of Islam. In a postwar society that lacked any well developed political support bases, and questions of who had the right to rule prevailed, alignment with Sistani provided a clear pathway to political legitimacy (Filkins 2009: 246). In contrast, Shi'a parties who refused to ally with the UIA were relegated to the margins of Iraqi politics. Decisively, Sistani issued another *fatwa* on the eve of the election proclaiming voting (presumably for the UIA) to be a religious duty for all Shi'a (Jamail 2008: 264). Ultimately, Sistani's endorsement of the UIA cemented a Shi'a politics in which ethno-sectarian identity was the primary ideological signifier.

The invasion helped produce an understanding of society in which freedom from Ba'ath repression was directly tied to freedom of religious expression. As religious voices and institutions became the dominant form of postwar authority, Shi'a communities and politics began to rally around Islam as an organisational focus point. In this sense, the political structures that the U.S. sought to create dovetailed into resurgent Shi'a religious identities helping to create an expression of politics unified around religious authority and values. The evolution of Shi'a politics in response to religious populism and U.S. constitutional plans highlights a major problem with Walzer's ideal of creating minimal structures. As Walzer acknowledges, minimalism can only be expressed through the idiom of a particular maximal

morality (1994: 9). The TAL and wider CPA legislation articulated a distinctly Western conception of society and politics: Western styled democracy backed by free-market economics and secular liberal values. This reconfiguration of Iraq's socio-political frameworks triggered a defensive response within the Shi'a community. In this respect, attempts to create minimal foundations risk the production new socio-political contexts which, in turn, impact upon how politics and self-determination unfolds. In Iraq, U.S. attempts to produce a Western styled Iraqi democracy solidified Shi'a politics under the dual banners of ethno-sectarian identity and Islam. As such, intervention cannot be justified in defence of self-determination because it alters social configurations, and reconstructs the ideals of self-determination that emerge in postwar societies.

Sunni Resistance and De-Ba'athification

While the Shi'a response to invasion and occupation cemented into a unified political defence of Islam, Sunni responses were increasingly articulated through violent resistance. In contrast to the Shi'a response, Sunni resistance never coalesced into a singular or unified movement. Instead, Sunni resistance embodied a multitude of diverse groups that developed in tandem to a combination of local discontents and broader ideological narratives. This depiction of the Sunni resistance was unpacked in a 2003 U.S. intelligence study which concluded that the 'insurgency' was fuelled by a web of local factors, deep rooted grievances, and widespread hostility to the presence of foreign troops on Iraqi soil (Allawi 2007: 186). The purpose of the next section is to discuss the evolution of Sunni resistance in light of two primary contentions: first, resistance movements grew in response to actions undertaken during the occupation and, second, resistance violence constituted a form of political engagement that appealed to marginalised Sunni communities. The central argument guiding this discussion is that U.S. actions and legislation in Iraq created a context in which Sunni populations felt like they were being actively excluded from Iraqi society and politics, and their grievances were being ignored. In turn, these perceptions of postwar Iraq strengthened resistance activities as a form of viable political engagement. In short, U.S. actions marginalised Sunni communities and resistance offered a platform for political empowerment.

During the early stages of the occupation, the U.S. characterised Iraqi resistance under two distinct headings: Ba'athists seeking to return Saddam Hussein to power, and foreign jihadists fighting a broader war against the West. U.S. Defence Secretary Donald Rumsfeld, for instance, described the resistance as Ba'ath party "dead-enders" (cited in Kelly 2003) and Bremer claimed that al Qaeda was leading the resistance (Allam 2003). The central motif in the U.S. depiction was that resistance was coming from the relics of Iraq's despotic past and foreign religious fanatics. In other words, the resistance did not represent the views of ordinary Iraqis. In some respects, the U.S. picture is not entirely inaccurate: there is some evidence that suggests former Ba'ath security forces were engaging in resistance activities and sabotage (Ricks 2007), and foreign fighters were crossing Iraq's borders in relatively large numbers (Napoleoni 2005). The U.S. depiction, however, was misguided and detracted from the broader Sunni resistance developing in response to discontents that directly related to U.S. actions. Carter Malkasian argues that the broader Sunni resistance did not represent a coherent or unified movement, nor did it adhere to a singular ideology or political goal (2006: 271). In this sense, Sunni resistance comprised of a multitude of local, often loosely connected, groups who, for various reasons, opposed the occupation: "... initially the insurgents emerged ... from personal, tribal, sectarian, Islamic, Arab and nationalist resentment at the myriad of humiliations of the fact and conduct of the occupation" (Herring and Rangwala 2006: 167). To understand why Sunnis resisted the occupation, therefore, it is important to look at a few examples of how U.S. policies marginalised Sunni communities.

Ahmed Hashim explains that while Sunni's enjoyed a privileged position under Ba'ath rule, many Sunnis resented the regime and some Sunni communities (for example, Sunnis in Samarra) actively opposed it (2003: 3-4). In fact, Adeed Dawisha argues that during the 1990s the Ba'ath began to cement privilege more directly within Saddam Hussein's tribal community in Tikrit, thereby alienating the majority of Iraq's Sunni population from Ba'athism inner circles (2009). However, we cannot ignore the fact that the invasion marked the end of Sunni dominance over Iraqi politics which had lasted since the British occupation in the early twentieth century. The Sunni transition to a minority role was, perhaps, always going to be a thorny issue in the postwar era. Nonetheless, the invasion precipitated events that exacerbated Sunni perceptions that they were being unfairly targeted because of their ethnic association with Ba'athism. Postwar looting provides a good example of how this

perception was cultivated. Wealthy Iraqis were by and large Sunni and, therefore, were more likely to own the most expensive homes and businesses. As such, when looting broke out, Sunni homes and businesses were the primary targets, not necessarily because the owners were Sunni, but because were the most economically attractive to looters (Napoleoni 2005: 141). While the Bush Administration was happy to brush off looting as liberated Iraqis "blowing off steam" (cited in Hoyt and Palattella 2007: 31), the refusal of U.S. troops to stop the looting was interpreted as a direct attack on Sunni communities. Sunnis felt that U.S. troops stood aside because Sunnis had supported Saddam and deserved to be punished. Despite the perceived injustices, looting did not cement Sunni marginalisation. Instead, U.S. plans to radically restructure Iraq's public sector and military became the focal point of discontent.

Walzer's conception of post-intervention justice is underpinned by the ideal of creating minimally 'nonmurderous' regimes, i.e. regimes that will not turn violently on ordinary people. In turn, Walzer (2006b) argues that changing the regime should be a goal of any legitimate intervention. Therefore, we can assume that replacing the previous, 'murderous', regime is integral to Walzer's conception of justice. In the context of Iraq, Walzer (2005) is clear that the deposal of the Ba'ath regime would help bring justice to Iraqi society. In a similar manner, the U.S. justifications for the war were predicated upon a definite rejection of Ba'athism, and the Bush Administration promised to purge Ba'ath party members from Iraq's public institutions. De-Ba'athification soon became one of the CPA's most pressing concerns. Yet, de-Ba'athification necessitated a radical overhaul of Iraq's economy and society. Under the 1990s sanctions regime, and its restrictions on international trade, Iraq's economy had become increasingly centralised (Dawisha 2009). In postwar Iraq, unemployment stood at 70 per cent making the public sector one of the few remaining sources of reliable, legal, income (Cockburn 2007: 16). The problem with de-Ba'athification was that public sector employees were often required to join the Ba'ath party or face unemployment. Ba'ath party members, in this respect, were often Iraqis who held no political allegiance to Ba'athist ideology but wanted to secure a stable income. The U.S. recognised this and attempt to avoid punishing public sector workers by restricting de-Ba'athification to the four upper ranks of party membership, claiming that this would limit dismissals to 20,000 stanch Ba'athists (Ricks 2007: 160). The U.S. rolled out de-Ba'athification through CPA Order Number One on May

16 2003. However, they misjudged the implications of the order and a total of 85,000-100,000 people, including 40,000 ordinary teachers, were ultimately dismissed (Pfiffner 2010: 79). The order affected Sunni communities to a far greater extent than Shi'a and Kurdish ones because Sunnis were more likely to be employed by the state and to be members of the Ba'ath party. In some Sunni areas the order crippled public infrastructures: for example, local schools had to close in isolated North Western Iraqi villages and towns (Chandrasekaran 2008: 81).

De-Ba'athification was followed, on May 23 2003, by CPA Order Number Two which disbanded the Iraqi security forces. The order was, once again, underpinned by the ideal of purging Iraq of Ba'athism. In the case of security forces, the U.S. was steadfast in its belief that Iraq's military institutions needed to be completely dismantled. In the eyes of the Bush Administration, the intervention was necessary because of the brutal nature of Hussein's regime and the security forces were the primary instruments of this brutality. As such, the dissolution of security forces was seen as a necessary and symbolic move away from Iraq's former identity. In the words of a senior CPA official, the U.S. wanted to "show the Iraqi people that the Saddam regime is gone and will never return" (cited in Arraf 2003). Nevertheless, the second order had dramatic implications for Iraqi society: it dissolved the Army, the Ministry of the Interior which included police and domestic security forces, and presidential security troops. In total 700,000 Iraqis were dismissed from military jobs (Ricks 2007: 162). Again, Sunni communities were most affected: for example, 100,000 ordinary soldiers and 1,100 officers lived in the largest Sunni city, Mosul (Hashim 2003: 7). In Iraq's devastated economy the effect of disbanding the security forces was crushing, and close to a million security personnel were left without any income, or any means to support their families. Shadid argues that targeting Iraq's security forces created a reservoir of angry and humiliated Sunni men who possessed some degree of military training (2006: 181). De-Ba'athification, in this way, set the stage for the sustained resistance movement that emerged in Sunni regions during the following years. Soon the Sunni Triangle, an area in North-Western Iraqi dominated by Sunni populations, became the centre of resistance operations (Foot et al 2004: 57). In more general terms, the dissolution of the Army, one Iraq's oldest institutions, convinced Iraqis that they were living in a fallen state under foreign control.

The opening months of the occupation resulted in a dramatic shift in the status and societal position of Sunni populations. The consequences of looting and, more importantly, de-Ba'athification transformed some of the most economically stable communities in Iraq into collectives united through poverty and exclusion. This, in turn, began to cement Sunni perceptions that they were being written out of Iraq's future. As Hashim contends, Sunnis felt that the reversal of their socio-political fortunes, and their inadequate political representation in the IGC, was an attempt to punish Sunni populations for Saddam's crimes on the sole basis of their ethno-sectarian identity (2003: 4). The post-invasion plight of Sunni populations highlights the inadequacy of Walzer's conception of regime change. Walzer argues that regime change means getting rid of those responsible for state brutality, and this implies a rather straightforward deposal of state leaders, mirrored by the Bush Administration's pack of playing cards representing the main Ba'ath offenders. However, Iraq shows us that the more problematic decisions revolve around ordinary citizens who were employed in wider state apparatuses, both administrative and military. Walzer's conception of morality stresses that people should not be punished on the basis of who they are, but on the basis of individual actions. Iraq illustrates why it is difficult to ascertain individual culpability in regard to state crimes: in a regime shrouded in secrecy it was impossible to know who had committed what acts, and why. To punish state employees, in any responsible way, would entail a prolonged and expensive judicial process, and the U.S. did not even entertain this possibility. On the other hand, de-Ba'athification highlights how generalised approaches to regime change sow the seeds of long-term opposition to any new regime. What is important here is that regime change never simply entails the deposal of a 'murderous' state. It is simultaneously bound up in the larger question of how we justly determine who is responsible for state brutalities and the ethical implications of determinations of guilt.

Resistance as a Political Response

The last section explained how the U.S. desire to purge Iraq of Ba'athism created the foundations for a sustained Sunni resistance to the occupation. The marginalisation of Sunni communities intensified throughout the early years of the occupation: the CPA banned anti-occupation protests (Jamail 2008: 35), the U.S. military incarcerated vast numbers of Sunni

males in an effort to defeat the resistance (Ricks 2007: 195), and the Abu Ghraib prison scandal intensified feelings of humiliation and injustice in Sunni communities (Jamail 2008: 195-196). In addition, Sunnis felt they were not effectively represented by the Interim Government (Hashim 2003: 4) and broadly rejected the precepts of the TAL (Allawi 2007: 223). By the end of 2004, following the destruction of Fallujah, Sunnis were steadfast in their belief that they were the primary victims of the occupation. In summation, Sunni populations were certain that Iraq's future was being written without their input. The purpose of this section is to explain why resistance violence articulated the political desire for meaningful opposition to the occupation and the U.S.-designed democratic process.

In a similar manner to Shi'a politics, the Sunni resistance was ideologically underpinned by Islam. Although local religious leaders became important figureheads for resistance movements, Sunni Islam is not organised around a formal orthodoxy like the Shi'a variant. In addition, the authority of traditional Sunni clergy in Iraq had been undermined by their complicity in the cultural policies implemented under Ba'athism. With the lack of any central religious leadership, resistance movements began to organise around a number of divergent religious positions. For example, returning clerics who had been exiled under Saddam advocated a unified Sunni/Shi'a rejection of the occupation (Hoyt and Palatella 2007: 27), jihadist clerics often endorsed Wahhabism and Salifism which proposed the formation of Sunni dominated Islamic state and the subjugation of Shi'a (Allawi 2007: 234-235), and young Sunni clerics also began to directly organise localised militant activities in the vein of the Sadrists (Shadid 2006: 361). These ideological differences were mirrored by deep political divisions within the resistance. In 2005, for example, Iraqi nationalist groups began to target foreign jihadists because they rejected the killing of Shi'a civilians (Filkins 2009: 273-276).

Despite their ideological differences, the vast majority of resistance groups were broadly united in their ambitions to hamper the occupation's reconstruction efforts and prevent Iraqis from working with the occupation (Hashim 2003: 9). In other words, resistance was united against the occupation rather than in favour of a singular vision for Iraqi society. In this respect, religion often provided a grander framework through which these ambitions could be

promoted and articulated, recasting resistance to the occupation as a heroic defence of Islam. The conception of resistance as an expression of religious honour soon began to filter into everyday understandings of what it meant to oppose the occupation. The father of a dead resistance fighter highlighted the importance of the heroic religious narrative: "He was killed for defending his principles and defending his religion. Only the bravest and most heroic will expose their chests to the Americans" (cited in Shadid 2006: 359). As the father's claim suggests, religion provided the prospect of redemption from the humiliating reversal of Sunni fortunes. Sunni's who had been marginalised and humiliated on the basis of their presumed complicity in Ba'ath brutality could redeem their honour through a sacrificial defence of Islam. [96] Islam provided the primary ideological justification for resistance activities. Nonetheless, the resistance did not emerge, in the first instance, as an explicitly Sunni response to the occupation. In fact, during the first year of the occupation resistance groups constituted more diverse collectives. In April 2004, for example, a Baghdad resistance fighter described how his group, containing Shia, Ba'athists, Sufis, tribalists and Arab fighters coordinated attacks in retaliation to U.S. violence in the city (Jamail 2008: 153). Glenn Robinson argues that early resistance movements, in this sense, viewed themselves as a united national front against the occupation, saving Iraq from the tyranny of a foreign, non-Muslim occupier (2007: 270). Nevertheless, resistance movements in Sunni provinces remained fearful that Shi'a domination of the political process would cement Sunni marginalisation, even if the occupation was defeated. The solidification of a unified Shi'a political platform in the run up to the January 2005 election intensified these fears (Allawi 2007: 182).

The January election proved to be a pivotal moment in the development of a distinctively Sunni resistance that definitively rejected the democratic process. The resistance argued that anyone involved with elections was an occupation collaborator and a traitor to Iraq and Islam. Sunni communities responded by boycotting the election, and the resistance increasingly engaged in violent actions, such as the assassination of Sunni politicians running in the election (Dawisha 2009: 254). In turn, the violent rejection of Iraqi democracy had major implications for how the election was conducted. Perhaps most importantly, it solidified the

[96] Gregory argues that this, in turn, allowed resistance fighters to see themselves as part of a broader defence of Islam against occupying forces in other Islamic nations (2004: 145).

ethno-sectarian divide. The election was contested anonymously because of fears that candidates would be targeted by the resistance, and ethno-sectarian agendas emerged as the only identifiable political markers (Jamail 2008: 262-264). In the absence of visible public debate or canvassing, Shi'a and Kurdish candidates began to appeal to ethnic, tribal and religious loyalties, while Sunnis largely withdrew. Ultimately, Sunni candidates, mostly campaigning under liberal-secular platforms, won a mere 17 of the 275 contested seats, firmly placing Sunni communities outside the mainstream political process (Dawisha and Diamond 2006: 94).

The January elections indicated a willingness by Sunnis to shun the political process. The October 2005 referendum on a new Iraqi constitution, however, cemented Sunni disillusionment with Iraq's emerging democracy. Opposed by Sunni politicians and communities, the constitution enshrined Shi'a conceptions of Islam in Iraqi law and finalised Kurdish autonomy (Cockburn 2007: 196).[97] More importantly, the constitution was ratified despite Sunni populations voting en masse to reject it (Dawisha 2009: 252). In many ways, their inability to block the constitution finalised the realisation of Sunni fears that Shi'a and Kurdish interests would prevail at the expense of those of Sunni communities. Seeing themselves as marginalised from society and politically impotent, Sunnis increasingly began to turn to violent resistance as a means of political empowerment. In the context of political failure, violent resistance appeared as one of the only ways in which Sunnis could have any impact on Iraqi society, and the resistance shifted from an articulation of the Sunni rejection of the occupation to a firm rejection of the Shi'a led government. The broad rejection of the democratic process did not solidify into the formation of a unified resistance. Instead, it retained its fragmented and incohesive character. From May to October 2005, for example, 103 different Sunni groups claimed responsibility for attacks (Filkins 2009: 235-238). Nor did it mean that Sunni communities approved the targeting of government forces: for instance, a January 2006 poll found that despite 88 per cent of Sunnis approving attacks on U.S. troops, 77 per cent of Sunni respondents disapproved the targeting of Iraqi security forces.[98]

[97] In turn, the Kurdish regional authority drafted their own constitution that superseded the Iraqi one (Dawisha 2009: 264).

[98] Figures taken from Worldpublicopinion.org (January 31 2006) "Poll of Iraqis: Public Wants Timetable for US Withdrawal, but Thinks US Plans Permanent Bases in Iraq," http://www.worldpublicopinion.org/pipa/articles/brmiddleeastnafricara/165.php

The evolution of Sunni resistance illustrates that the violent clashes between Sunni and Shi'a Iraqis was not an inevitable outcome of the liberation of Iraq. Instead, what is important is the interplay between the U.S. conception of postwar justice, the Shi'a political response, and the way this impacted upon Sunni perceptions of their future in Iraq. The U.S. desire to create structures of democratic self-determination and purge Iraqi politics of Ba'athist influence ushered a socio-political transformation of Iraq in which Sunni were marginalised and Shi'a felt that their religious values were under attack. In turn, the collective Shi'a political response further isolated Sunni populations and intensified their disillusionment with the democratic process. It is within this context that resistance moved toward a broader rejection of Shi'a leadership. In other words, the solidification of ethno-sectarian divisions developed as a response to the conditions created under the occupation. The conditions of occupation helped to create two conflicting understandings of Iraq's future that were increasingly cast in ethno-sectarian terms. The ideal of creating minimal structures of justice unintentionally produced the conditions for a dramatic renewal of violence.

Civil War and Postwar Justice

The January 2005 elections heralded the beginnings of a violent struggle between the Iraqi government and Sunni resistance. Immediately after the election the government began to incorporate Shi'a and Kurdish militias within Iraq's security forces. The main militias incorporated were the Kurdish Peshmerga [99], Sadrist's Mehdi and the SCIRI's Badr Brigade.[100] The Shi'a militias soon began to dominate important sections of Iraq's security forces. For example, U.S. officials estimated that 90 per cent of police in North-East Baghdad were affiliated with the Sadrists by the end of 2005 (Allawi 2007: 423). However, the force that proved most controversial was the Special Police Commandos, a counterinsurgency unit under the authority of the Ministry for the Interior. The Commandos were comprised of 10,000 former Badr Brigade members under the leadership of Bayan Jabr, a former head of the Badr Organisation (Napoleoni 2005: 201). The unit constituted the largest contingent of the new Iraqi Army and was directly charged with tackling resistance groups. For their part,

[99] The Peshmerga became the regional military and police force in the Kurdish autonomous region.
[100] The Badr Brigade initially began as a unit of Shi'a Iraqis trained by the Iranian military during the Iran-Iraq War, but became an exclusively Iraqi outfit during the post-Gulf War Shi'a uprising (Katzman 2008: 170).

the resistance began to increasingly target state security forces: for example, 616 police officers were killed between January and April 2005 (Cockburn 2007: 192). More importantly, the shift toward Iraqi security forces recontextualised Shi'a perceptions of resistance violence. Resistance violence was no longer seen in terms of the rejection of U.S. occupation, it now signified a refusal to allow Shi'a to take legitimate control of the country (Allawi 2007: 385).

Resistance violence escalated throughout 2005 and the tipping point came on February 22 2006 when resistance fighters blew up an important Shi'a shrine in the Sunni town of Samarra. The response by the state security forces, and angry Shi'a communities, was ruthless: in the days following the bombing fifty Sunni Mosques were burned to the ground, Sunni prisoners were lynched in Basra, and over 1,300 Sunni bodies were discovered in and around Baghdad (Cockburn 2007: 206-207). Over the next few months, Ministry of the Interior forces were accused of acting as sectarian death squads, and reports started to intensify that Commandos would swoop into Sunni areas killing civilians and taking prisoners (Filkins 2009: 120). In addition, U.S. troops discovered a Commando operated Baghdad prison holding physically abused Sunni prisoners (Allawi 2007: 422). The state response to resistance violence perpetuated an incessant cycle of revenge and retribution, and by autumn 2006 110 – 130 people were dying every day in Iraq via targeted sectarian attacks (Dawisha 2009: 262). Iraq was suddenly in the grip of a bloody civil war and the country was being redrawn on ethno-sectarian lines. Mixed communities began to dissolve as large numbers of Iraqis migrated to regions where communities shared their ethno-sectarian identity. Sunni and Shi'a populations began to retreat within themselves in the hope that homogeneity would provide peace and security. By the end of 2006 Iraqi society had been radically reconstructed in terms of its ethno-sectarian divisions, and politics was entrenched around these divisions. The ethno-sectarian dived has remained after the U.S. withdrew from Iraq. The recent April 2013 elections, for instance, were marred by Sunni claims that voting was postponed in Sunni provinces because of the sectarian motives of the Shi'a government (Arango 2013). In other words, the trenches drawn in response to the invasion and occupation have emerged as the defining feature of Iraqi politics and society in the post-Ba'ath era.

Walzer justifies war on the grounds that it can restore the minimal foundations of self-determination without altering the ability of the community to build a shared maximal life. The evolution of Shi'a politics and Sunni resistance in response to the occupation illustrates the problems with this conception of postwar justice. The ideal of replacing tyrannical regimes and restoring self-determination may seem noble, and even ethically unproblematic. However, the practical implications of this ideal, in Iraq, led to the cementation of ethno-sectarian identities and the reproduction of violence. What is most important here is the impossibility of articulating minimal values. Walzer argues that postwar justice is a minimal ideal involving the reconstruction of the universal structures of authentic self-determination. Walzer's depicts minimal morality as universally shared and accepted norms. Yet the minimal ideals, as we have explained in the first chapter, are inarticulate and require maximal interpretation. In other words, we never actually see minimalism because it can only be represented through a maximal visage. In this respect, reconstructing the minimal structures of self-determination is not a negotiation between universalism and local particularism. It is a negotiation between particular interpretations of local norms and a particular interpretation of universalism: it is a political battle to define the community's values.

Walzer begins from the premise that one set of ideals are universal and the other set are particular, his minimal/maximal dichotomy. Nevertheless, the purported minimal ideals are not necessarily recognised as universal because they can only be presented in a maximal vocabulary. As such, minimalism has no role in postwar justice because it never actually appears. Instead, Walzer's ideal of postwar justice is better understood in terms of competing maximal articulations of what a just society means. Iraq provides an example of this form of competition. Conflict escalated because the U.S., the Shi'a religious orthodoxy and the Sunni resistance all believed that they were articulating universal values: liberal democracy, Islamic precepts, Iraqi nationalism, Wahhabism, and so on. Minimalism does not offer a way forward, in this respect, because it doesn't actually exist. Iraqis did not accept Walzer's purported universal foundations because they interpreted them as an attempt by the U.S. to enforce Western values. The case of Iraq illustrates why Walzer's ideal of deposing a brutal regime without inflicting major impacts upon a society is simplistic and illusionary. Regime change is not restricted to a replacing a few key leaders and constructing the universal foundations deemed necessary for a just society. Instead, regime change entails the reconstruction of vast

networks of governmental administration, services and security forces. Importantly, it means that you have to make decisions about who should be punished for the regime's crimes and who should not. In Iraq, the decision to punish Sunnis employed by the regime had major impacts on Sunni perceptions of their role in Iraq's future. It marginalised large numbers of Iraqis creating a socio-political context in which resistance activism became a form of counter-politics. Ultimately, the twin pillars of Walzer's image of just resolution combined to produce a context in which the Shi'a defence of Islam and Sunni alienation collided in a violent contestation over Iraq's future identity. The chain of events that was set in place by the invasion fundamentally changed the ways in which Iraqi politics and self-determination could take place.

Conclusion

The main point to be taken from this analysis of postwar Iraq is that just resolution cannot be viewed as a defence of self-determination. War and intervention have the potential to radically alter the terrain in which politics and community take place; war risks changing society and the way people interact with their society. War changes the character of the community it seeks to liberate from tyranny. It does not protect self-determination because it changes the nature and identity of the self who engages in politics. More specifically, war remains bound up in the sacrificial structure of *ethics as response*: the defence of self-determination must risk violently transforming a community's maximal life. Walzer depiction of just resolution, therefore, cannot justify the call to war. Walzer's justification of war begins from the assumption that there is a universal understanding of what a just society looks like, and he justifies war in cases where there is a 'strong possibility' that violence can protect or produce a just society. These twin certainties assure us that we will know when war is the morally right course of action. Yet, Iraq calls these certainties into question and, perhaps most importantly, suggests that attempting to enforce the purportedly universal structures necessary for a just society can have dramatic implications. In Iraq, the Bush Administration's belief that particular institutions, norms and social values were universally desirable moved Iraqis to reject the occupation and act to defend their view of what Iraq's society and politics should look like. Some Iraqis turned to the democratic process and others turned to resistance violence. Nevertheless, the majority of Iraqis rejected the U.S. image for

Iraq's future: they saw it as a Western construct and a threat to their values. In turn, Iraqi responses to the occupation fundamentally changed the character and composition of Iraq's socio-political environment. In Walzer's terms, Iraq's maximal world was radically altered by the invasion, the occupation, and Iraqi responses.

The transformation of Iraqi politics and society tells us that we do not have control over the types of socio-political formations war creates. Walzer's certainty that we can control war's outcomes, that there is a strong possibility we will produce just societies through war, is problematic. The U.S. could not control the emergence of Shi'a religious populism or the evolution of Sunni resistance, and attempts to control Iraqi society in this way would entail a level of socio-political control that exceeded Ba'ath repression. If the U.S.'s postwar strategy and policies had been better planned this may have reduced the levels of social antagonism and violence. However, better planning and policy execution could not have ensured that Iraqi society remained unaltered by the invasion and occupation. War remains an instance of double effect in which the intended outcome always risks unintended and unforeseeable consequences. Walzer's twin certainties simply do not work because there is no universally agreed understanding of what a just society entails, and there is no way to ensure that the just outcome is achieved. What is crucial is the acknowledgment that the decision to engage in the violent defence of self-determination risks unintended and unforeseeable alterations to the way a community determines its future. In this respect, Iraq highlights a conception of just resolution cast in terms of *différance*: Shi'a, Sunnis, and the U.S. presented differing interpretations of what Iraqi society should look like. The clashes between these interpretations reproduced a cycle of violence that deferred the emergence of the type of peaceful community Walzer envisions in his justification of war. Iraq illustrates why the noble intentions of a just war cannot guarantee a just resolution. Importantly, we cannot ensure that war will produce justice because we have no way to control how other people respond to the new socio-political contexts that war and violence create. War, therefore, cannot be justified via Walzer's conception of just resolution because the consequences of war always risk becoming other than our resolutions intend.

Conclusion – Responding to Iraq

Ethical Responsibility is Untidy

The overarching aim of this thesis has been to illustrate why it is impossible to find clear solutions to the ethical questions posed by war. Walzer does not necessarily disagree with this contention, describing war as an unending debate. Walzer, in this respect, does not view his rulebook as the last word on war, but as a starting point for a sustained political engagement. Walzer's argument, however, starts from the premise that we must accept a set of universal truths before we can begin to debate the morality of war: we must acknowledge that human beings all share an underlying moral reality that is unproblematically represented by human rights discourse, we must accept that that it is morally permissible to kill certain individuals in war without sacrificing their rights, and, perhaps most importantly, we must recognise that self-determining states, separated by established borders, constitutes the authentic mode of human existence. Yet, Walzer's universal truths, in many respects, represent some of the most important ethical and political questions that arise in discourses surrounding violence and justice. Walzer's foundation is, in this sense, loaded with ethical and political assumptions framed as unproblematic ontological facts. Most problematically, Walzer's foundation presupposes that the question of what justice means has already been resolved. Walzer points toward an image of justice that is inseparable from his communitarian understandings of politics and society: a just war is a war that protects or reconstructs a self-determining state. In other words, Walzer presupposes that we have resolved the biggest question before we even begin to discuss the relationship between violence, ethics and justice. Walzer's certainty that his minimal/maximal ontology mirrors moral reality, therefore, helps him to resolve much of the ethical complexity and messiness bounded up in questions of war.

Walzer presents ethical responsibility in terms of moral clarity. This clarity is founded upon Walzer's belief that all humans share an underlying sense of what it means to act in a morally right way, minimal morality. In turn, Walzer presents his rules of war as the codified embodiment of universal morality. Walzer's central argument is that adherence to the moral rules of war is tantamount to acting responsibly: when we are faced with difficult decisions that risk adversely affecting other people, we consult the rule book and this will provide us

with a template for the correct response. In short, Walzer reassures us that the morally right courses of action are explicitly codified in his articulation of the rules of war. Walzer, in this way, presents us with an understanding of violence in which we remain certain and in control: we are certain that we know what the right thing is because it is outlined in the rules, and we know that we have done the right thing if we act in accordance with the rules. The moral rules, in this respect, allow us to fully resolve questions of ethical responsibility in war. Perhaps more importantly, Walzer suggests that the stuff we cannot control is not really important to our understandings of morality and ethical action. The moment we act in accordance with the rules our responsibilities have been fulfilled, regardless of the consequences. In Walzer's model of ethics, we are responsible solely for what we can directly control, our compliance with the rules, and the consequences that follow from compliance are simply not part of the moral equation.

In contrast, *ethics as response* attempts to reintroduce the uncertain and uncontrollable aspects of action back into our understanding of ethical responsibility. The first certainties that this thesis challenges are Walzer's foundational ontological assumptions. The underlying goal of this challenge has been to question Walzer's depiction of moral reality and, thereby, open our discussions on ethical responsibility in war to the possibility of a fresh start. While Walzer wants to fix the terms of our debates on war, *ethics as response* explicitly calls for fluid, contextually dependent, discussions that remain attentive to the particular circumstances in which violence is proposed as an ethical response. In other words, *ethics as response* endorses an understanding of discourse in which every single debate on war retains its inherent alterity: every discussion on war is every bit other. In rejecting the possibility of general justifications of war and violence, we begin the task of building sustained ethico-political engagements with the consequences of violent actions.

The critique of Walzer's ontological foundations was outlined in the opening two chapters of this thesis. Walzer wants us to accept that the possibility of politics, morality, and justice is predicated upon the existence of self-determining, auto-affective, collections of related people separated via fixed boundaries: Walzer's image of community. Walzer argues that justice is equivalent to a political community determining its own life without external

interference. In turn, Walzer assures us that if the outside remains in its proper place we will be able to preserve justice. Yet, when we critically reflect upon Walzer's ideal of community we find that the distinction between inside and outside is always already in question, and, more importantly, that the formation of the inside is impossible without the relation to the outside. In this sense, Walzer's understanding of justice asks us to close our communities off from the possibility of their own emergence. Walzer's conception of justice seeks to close us off from our exposure to alterity and, therefore, it aims to limit ethical responsibility through a mythical imagining of community. In respect to morality, Walzer's rules of war are underpinned by the existence of a universal sense of right: minimal morality. However, when Walzer unpacks his ideal of universalism we see that it does not exist as an articulate language. Instead, Walzer claims that universalism is inherently recognised by all people regardless of the particular language it is expressed in. Although minimalism is silent, it is intimately understood because it is attached to our sense of what it means to be human. To accept this conception of universalism, therefore, we must put our faith in Walzer's belief that what is inarticulate can be faithfully represented by human rights discourse. The opening words to Walzer's rules of war, in this respect, represent a vibrant act of faith, and not the stable ontological foundation that his justification of violence requires.

The philosophical critique of Walzer's conception of ontology and morality call his overarching justifications of war into doubt. It does not, however, illustrate why Walzer's rules of war, the War Convention, fail to resolve the ethical questions that arise within war. In this respect, my analysis of the Iraq War helps us to understand why resolving ethical questions via adherence to general rules and axioms limits our ability to respond to the needs of those affected by war and violence. Importantly, it shows us why we can never be fully satisfied with our decisions to send men and women into situations where we expect them to kill or be killed. The discussion on noncombatant immunity, for instance, argued that Walzer's justification of the killing of combatants undermines the core of his moral argument. Walzer's justification is premised upon the caveat that people cannot be targeted during war unless, through some act of their own, they have forfeited their right to life. In turn, Walzer assumes that all active combatants face each other on the battlefield as people who have surrendered their absolute right to life. Nevertheless, Walzer's argument suggests that all combatants have forfeited their rights regardless of what they actually have done and are

doing on the battlefield. Walzer, therefore, presents us with a general justification for combatant deaths premised entirely upon the fact that combatants are trained to be dangerous 'men', and that they have *allowed* themselves to be trained on dangerous men. On one hand this justifies the killing of combatants based on who they are rather than what they have actually done. However, more problematically, Walzer's discussion on moral equality clearly states that combatants do not fight freely, in Walzer's terms, they have been put to it and their activities are not of their own choosing (2006a: 30). As such, Walzer's justification of the killing of combatants is premised upon the unjustified revocation of their absolute right to freedom: Walzer can only justify the foundation of his War Convention by sacrificing absolute rights. Our ethical responsibility to combatants, in other words, must be sacrificed in the name of our responsibility to defend self-determination.

Although it is important to acknowledge that Walzer's rules of war necessitate the sacrifice of responsibility, the larger problem with conventional models of ethics is that they discourage active thinking about what it means to act responsibly. The War Convention precipitates ethical and political disengagement in a number of ways. For example, in his discussion on the killing of combatants Walzer suggests that combatants' rights are only forfeited for the duration of the war, and after the war is over they are free to return to civilian life. This simplifies the decision to send people into combat because it allows us to see it as a temporary sacrifice necessary if we want to defend our communities from external aggression. Nevertheless, the mental and physical traumas sustained by U.S. combatants in Iraq highlights why the decision to engage in war has socio-political consequences that spread beyond the battlefield. War's messiness cannot be confined to the singular space of the battlefield because combatants return to civilian life with their subjectivities fundamentally altered. Exposure to war transforms people and this ripples through the families, communities and societies to which combatants return. The decision to send men and women into a violently traumatic environment, in this respect, creates a plethora of socio-political impacts that we cannot ignore. If we want send men and women to kill on our behalf, we have to account for the residual impacts this creates and this entails a far deeper and sustained engagement with consequences they bring home. In short, the foundation of Walzer's War Convention only works if we allow ourselves to disengage from the wider implications.

The just war doctrine of double effect, discussed in Chapter Four, most directly illustrates the dangers in resolving ethical questions by applying general rules. Walzer's understanding of double effect suggests a model of ethical action in which intentions are disconnected from consequences. More precisely, Walzer argues that if we can prove that our intentions are good, we are not responsible for unintended and unforeseeable negative outcomes. In this sense, Walzer conceives ethical responsibility as existing up to the point of the action. We are responsible for acting in the right way, but we are not responsible toward the people who are affected by the action. Walzer, therefore, replaces the ethical relationship between the active subject and those affected by the action, with a bureaucratic relationship between the subject and the law. For Walzer, the subject is solely responsible for their compliance with the law (acting in the right way). If the subject is judged to have complied with the law their responsibility has ended, they are assured that they have done the right thing and can be fully satisfied with their action. This articulates a conception of action captivated by the myth of control: we do the right thing by acting in accordance with the rules, regardless of the actual consequences. In juxtaposition, *ethics as response* demonstrates why the risk of unforeseeable and unintended consequences is an essential component of every possible intentional action. In fact, Walzer acknowledges that double effect is relevant only in cases where civilians are *likely* to be killed, and we must ensure that the number of civilian lives risk is proportionate to the value of the target. As such, Walzer presents us with a conception of action in which we must risk negative consequences and we are explicitly aware of the negative effects we are likely to produce. In this respect, we cannot ignore the negative unintentional consequences acts of war risk producing because they are part of the structural possibility of every act. The Derridean contestation of intentionality rejects the myth that to act ethically means to be control of our actions. In Walzer's understanding of ethics, responsibility is solely related to the aspects of our actions that we control. For example, in his discussion on siege warfare, Walzer argues we act in the right way if we offer free passage to civilians wishing to leave the besieged city or town. The offer of free passage, however, can potentially transform socio-political contexts, as it did in the case of Fallujah. Walzer, in this respect, ignores the uncontrollable aspects of action: we are responsible solely for what we intended to happen and not what actually did happen. In contrast, *ethics as response* is a call for us to face the challenges posed by taking unlimited context into account.

It is an attempt to reconceptualise ethical action as a productive transformation of context that requires a sustained engagement with how new contexts affect, and are affected by, other people.

The postwar socio-political reconstruction of Iraq helps us understand what it means to maintain our responsibility in relation to the uncontrollable and unforeseeable contexts our actions help create. Walzer's ideal of just resolution suggests that we can end wars with the unproblematic return to peaceful self-determination, and, importantly, that we can be relatively certain of achieving a just resolution: we are in control of the results of our violence. Again, Walzer's ideal of just resolution is underpinned by the belief that we all share a core moral reality that necessitates universal socio-political structures. The transformation of post-Ba'ath Iraq, however, highlights why the desire to build these purportedly universal structures risks reproducing violence. The intervention of the U.S. and its allies in the name of Iraqi freedom set in motion a chain of responses that has transformed Iraqi politics and society. Iraqi society has not changed in way the U.S. intended or promised in their call to war, and this is, in part, because Iraqis did not regard Walzer's purported minimal ideals as universal norms. Instead, they viewed the minimal ideals as a direct attack on their own conception of what Iraqi society should look like. Nevertheless, this is not the most important point. Rather, what Iraq demonstrates is that war can change communities in ways that we have not anticipated and, therefore, the decision to go to war in the name of peace can never definitively guarantee a just resolution. The violent transformation of Iraq illustrates why we need to reflect upon the uncontrollable messiness that arises from war and how this impacts upon other people. Iraq asks us to stay engaged with the persistent nagging doubts that we have over our complicity in the perpetuation of violence. That we acknowledge that the way we talk about war, justice and ethics has real world implications and impacts.

What the Hell is Water?

Walzer's central argument is that his theory of war offers us tools that clear up the confusion and messiness that we are faced with when we start to think about what it means to act ethically in war. In Walzer's terms, the pressure and immediacy of the decisions we face

during times of war rob us of our capacity for patient reflection. Walzer's rules, in this respect, provide clear and accessible guidance to help us act in a morally justified manner under the duress experienced during conditions of war: when we are faced with a troubling decision, that will most likely place lives in danger, we can consult Walzer's rulebook and it will help us clarify what the correct response should be. This is an understandable aim, and is certainly not an inherently negative aspiration. We all want to gain the satisfaction derived from doing the right thing and acting in the right way, and conventional rules help us come to terms with difficult decisions by providing a safety net. Yet, this desire to know what the correct ethical response is, and thereby satisfy our desire to know that we have the right thing, weakens our active political engagement with the world around us. The authoritative security of rules and guidelines allow us to switch off our thinking, it enables us to stop thinking about how our actions may affect other people and get on with the mechanical task of implementing the established rules. Adherence to rules depoliticises the problems we are faced with by assuring us that the problems were never really problems because they have already been resolved by someone else at an earlier time.

David Foster Wallace, in a 2005 keynote address to graduates from Kenyon College, provides an interesting discussion on why resting upon conventional assumptions disengages us politically. Wallace recounts a didactic story of an encounter between two young fish and an older fish. As the two young fish are swimming around the older fish enquires, 'How's the water?' The two younger fish swim on for a bit before asking each other, 'What the hell is water?' The point behind Wallace's parable is that the things we tend to accept with the least critical reflection often embody some of the most pressing aspects of our realities. For example, the notion that it is morally acceptable to kill certain people in certain circumstances underpins all justifications of war, and we often simply accept this fact because it seems so intimately related to the practical reality of war. How could it be otherwise when war suggests that at least some of those doing the fighting risk death? In contrast, Wallace suggests that questioning the seemingly uncomplicated aspects of our reality can lead us back toward a more active political engagement with the world around us. Primarily he is arguing that we can resist the urge to unconsciously accept that some things must be understood in a specific way by critical engaging with everyday assumptions. For instance, in regard to the killing of combatants we might want to think about the specific

consequences that could arise if an individual is killed during war: how it could affect their loved ones, how it could set a precedent that enables someone to justify further killing in the future, how it could motivate retaliatory violence, and so on. In other words, if we critically examine what seems so obvious and so definitive, we start to develop a deeper relationship with our capacity for critical thinking and political engagement. Questioning the seemingly obvious aspects of reality, in this sense, puts us back in the midst of ethical relationships: we are no longer thinking about the rules, we are, instead, reflecting upon how our actions might affect other people.

Wallace argues that positive aspect of active engagement unfolds in a plethora of, often minor and seemingly inconsequential, ethical relations; "The really important kind of freedom involves attention and awareness and discipline, and being able truly to care about other people and to sacrifice for them over and over in myriad of petty, unsexy ways every day". What Wallace nicely articulates is the important relationship between critical thinking, political engagement and ethical responsibility. We can never change the way we think about what it means to act ethically in war if we do not begin to question the foundational assumptions that appear so obvious and certain. Conventional responses to the questions raised by war are not inherently wrong, or even drastically misguided. They are often very thoughtful and well articulated, and this is part of the reason why they can seem so attractive. Robust models of conventional ethics are carefully constructed by intelligent people with admirable aims. Conventional models, nevertheless, nourish the idea that we can switch off from our ethical engagement with other people. They suggest that we can resolve ethical problems, in some ways and some respects, if we stop thinking critically and commence the bureaucratic administration of justice. This is part of the reason why Walzer started writing about war in the first place: he was unhappy that people had resolved to think about war in a particular way, and attempted to provide a platform through which ordinary people could start thinking critically about war again.

The purpose of this project has been to demonstrate that Walzer's attempt to give discussions on war a fresh start remains bounded in a bureaucratic conception of responsibility. Walzer's conception of wartime morality attempts to resolve the most problematic ethical questions via

the application of general rules, norms and guidelines. Primarily, this thesis illustrates why conventional rules serve as a means to placate our desire to fulfill our responsibilities to other people. Conventional models of ethics claim to offer ethical salvation: if we follow the rules acted in the right way and we know that we have acted in the right way. The aim of *ethics as response* is to highlight the need for a critical reconceptualisation of the accepted ways we begin to think about questions of justice and war. This conception of responsibility calls for us to face the challenge of the unflinching ethical hold other people have over us at every moment. *Ethics as response* asks us to see the ethical dimensions of war in terms of a daily political engagement. It demands that we resist our desire to solve war's ethical questions once and for all, and accept the challenge of responding to a call for justice without the possibility of satisfaction.

Shattering Sisyphus

In the conclusion to his discussion on ethics and international politics, Bulley presents the mythological narrative of Sisyphus's punishment as an allegory for Derridean ethics (2009: 112-113). Bulley contends that the image of Sisyphus ceaselessly pushing a boulder toward the crest of a steep hill only for gravity to drag it back to the bottom before it traverses the peak symbolises the impossibility of justice: we orient our action toward the impossible ideal in the knowledge that our efforts will always fall short. Although the image of Sisyphus captures the desire for an active and sustained engagement with ethics, the metaphor is still captivated by the ideal of control. Bulley's metaphor is underpinned by a routine familiarity: Sisyphus is always pushing the same boulder up the same hill aiming toward the same impossible goal. In this respect, Bulley presents a normalised notion of ethics, we know what to expect from ethical action before we even begin, and our ethical failures lead us back to a familiar starting point. Perhaps most importantly, the metaphor excludes the notion of the ethical relationship itself, Sisyphus is the only actor involved, he alone pushes the boulder, it is his burden and justice is his deferred reward.

What I would like to suggest is that the impossibility of justice is not premised upon our inability to push the boulder over the peak, it is not the consequence of an impossible horizon.

Instead, justice is an experience of the impossible precisely because we always push the boulder over the peak, and we cannot avoid doing this. When we act ethically we push our boulders toward justice, toward our desired outcomes. However, at the very moment we believe that we completed our task, we lose control and the boulder cascades over the edge, our actions always go further than we would like them to. We want to conceive ethical action in a way that allows us to achieve satisfaction and cessation. We want to perch our boulders on top of the cliff and bask in the satisfaction of accomplishing our task. We want to know, definitively, that our actions have accomplished a clear resolution, that they have reached a resting point. Yet this ideal of stasis represents what I believe is a better figure of impossibility. It is never possible to reach the satisfaction of stasis because it is never possible, in all rigorous certainty, to know that we have done the right thing. In this respect, knowing that we have done the right thing is beyond the horizons of our thought not because our actions always fail, but because our actions set in motion events that are never fully under our control and always risk becoming other than we intended. As such, the impossibility of justice is not that success is beyond our reach. Rather, we cannot achieve justice because we cannot fix the outcomes of our actions. In pushing our boulders toward the peak we are pushing them toward other people and toward an unforeseeable future that lies beyond our control.

What is important is the acknowledgement that justice is deferred because we don't know how our actions will impact upon other people. When we act, other people are affected: sometimes physically, sometimes emotionally, sometimes ideologically and so on. Our actions may result in dramatic changes to social and political contexts. At other times they may become a rallying point for political activism. Most often our actions will have what we describe as minor or negligible impacts. But what matters is not the scale or immediacy of the impact. Instead, it is the fact that we cannot guarantee how other people respond to our actions. In other words, the action is not an end in itself. The action opens itself toward other people who are free to react to our actions in a multiplicity of different ways. We push the boulder over the cliff. It falls to the earth and shatters into the possibility of infinite interpretations, reactions and responses. This makes the question of ethical responsibility messy and complicated. It is no longer the question of how a singular subject can act in a morally justifiable way towards others. It is a question of the relationship between the

subject's singular action and the myriad of responses and consequences that follow this action. Yet, as Nancy reminds us, the ethical relationship never exists abstracted from this chain of response, "there is only an infinity of shatters" (1991: 101). In this respect, to act ethically means to be faced with a multiplicity of potential responses all of which risk an infinite number of unforeseeable consequences. Our limited capacity for action means that we have to choose between multiple responsibilities and multiple actions that can affect other people in innumerable uncontrollable and unforeseeable ways.

This is the model of ethics proposed by the idea of *ethics as response*. It is a call for us to remain connected to the consequences of our actions, and the way other people respond to the contexts we help create. This conception of ethical responsibility resists the notion that the ethical act completes the circle and becomes an end in itself. It rejects the idea that acting in the right way is the rightful end of our responsibilities to other people. *Ethics as response*, instead, asks us to see ethical responsibility in terms of a sustained political engagement, a movement between action and response: a chain of responses without the possibility of stasis. It is a model of ethics that takes the form of a reflective critical engagement with the daily decisions we all face, and the consequences that follow from the decisions we make. Taking account of consequences, of the new contexts our actions help create, is the nucleus of the Derridean understanding of justice as an experience of the impossible. There is no way that any one can respond to all the ripples their actions create and, in this sense, a sustained ethical engagement requires subsequent decisions and responses, further chains of action, consequence and response. This is why Levinas (1999) maintains that ethical action deepens rather than fills ethical responsibility: our actions pave the way for further responses and other ethical commitments. In regard to Walzer's ideal of empowering ordinary people, *ethics as response* remains a call for people to start thinking about the ethical questions posed by war. Unlike Walzer's model, it does not suggest that we need to accept some fundamental assumptions, or that we need a common language to start thinking about war, or that we can stop thinking critically about these questions. *Ethics as response* does not offer the imminent horizon of justice or resolution. In contrast, it asks us to remain troubled by war and to keep asking questions about why we are sometimes comfortable with the prospect of men and women being killed on the battlefield in the name of some greater good.

Responding to Iraqis

The U.S. intervention in Iraq was predicated upon the idea that violence was justified because it promised the creation of a free and safe Iraq. The 2003 invasion, therefore, highlighted the complicity or cooption of human rights discourses within the mechanics of contemporary Western violence: violent intervention in Iraq was justified, in part, as a defence of Iraqi rights. In another respect, the invasion articulated the deep tensions contained within human rights discourse. Iraqi rights needed to be protected from Ba'athist oppression, but protecting Iraqi rights necessitated risks to Iraqi lives and the lives of coalition combatants. In other words, the contemporary Western ideal of justifying violence in the defence of rights is bounded within the logics of sacrifice: rights can only be protected if we are willing to risk the destruction of lives. The aftermath of the 2003 invasion and occupation underscores the risks that accompany the desire to protect or liberate people through violence. Not only were lives lost during the initial period of fighting, but the invasion culminated in a nation beset by deep social, political and economic problems, and dramatic ethno-sectarian divisions punctuated by violence. The current socio-political contexts in Iraq, however, are not simply the result of neoconservative ideology or poor military strategy. Instead, the analysis of postwar Iraq, presented in this thesis, highlights that the way we (both academics and non-academics) think, talk and write about war and violence is implicated within the fabric of Iraq's violent postwar reconstruction: the way we commonly think about questions of war, ethics, justice, politics and community creates discursive contexts in which particular responses become more likely. Walzer's claim that constructing social and political unity can advance peoples' security, for instance, was a central component of the U.S. plan for post war Iraq, and, in turn, ethno-sectarian divisions in Iraq were driven by the belief that homogeneity and shared identity positively correlates to safety and peace. The dominant discursive frameworks, in this way, provide a canvas upon which certain responses and certain actions appear more appealing: our most prevailing images of reality tend to reproduce themselves.

The attempt to liberate Iraqis from tyranny has, in a number of ways, exacerbated the daily risks of violence in Iraq. The U.S. intervention, in this respect, has proven a resounding failure. This thesis, nevertheless, maintains that the persistent problems of violence in Iraq

should not frighten us away from further political engagement with Iraqis and their emerging society. It rejects the claim that our previous failures should push us toward disengagement, and that we should just let Iraqis get on with rebuilding their own country. In other words, *ethics as response* rejects the assumption that self-determination will necessarily resolve Iraq's problems. Instead, it calls for a reinvigorated political engagement with Iraq that incorporates the different modes and conceptions of ethical responsibility outlined throughout this thesis. The question of how we respond to the ethical problems that have arisen in Iraq hits upon what I believe is an important failing in the way we conceive ethical engagement. When we are asked to respond to Iraq and Iraqis we generally imagine sweeping and immediate impacts, the idea that we can dramatically change Iraq for the better with a few major actions. However, this image of ethical action feeds back into the ideal of disengagement. It suggests that if we can achieve the sweeping changes we can once again forget about Iraq, we need to fulfil our responsibilities in the most direct way in order to solve the problems once and for all. In contrast, I would like to suggest a model of ethical responsibility that embraces what Wallace describes as the 'unsexy' political engagements that we encounter on a daily basis. This model of response does not aim toward a definitive resolution: it does not orient itself toward a situation in which we can proclaim that justice has finally and decisively been achieved in Iraq. Instead, *ethics as response* advocates a daily attentiveness toward other people in all the delicate and minor ways we have at our disposal. This attentiveness is even more important when we are faced with pressing ethical responsibilities in Syria and other nations in the midst of bloody war. The immediacy of the horror when we witness the large scale annihilation of life drives us to focus our attention upon the most blood conflicts, yet this simultaneously allows us to disengage from the lingering implications endured by those living within the former conflict zones. The violence experienced by Iraqis on a daily basis may not be as ferocious or pervasive as that in Syria, but it, nonetheless, demands our attention and calls for a response.

Ethics as response, in this respect, proposes that we stay invested in Iraqi politics and society, and keep thinking about ways in which we can help Iraqis build a new understanding of their society, an understanding in which Iraqis do not feel compelled to shut themselves off from alterity. Such an approach relies upon sustained effort and humility. It starts from the acknowledgement that we do not know what is best for Iraq or Iraqis. But the ideal of *ethics*

as response remains hopeful that we can, perhaps, help Iraqis, in some ways and means, to negotiate a new relationship between each other, their communities and socio-political divisions. This is not an easy task because we are faced with a context that has been shaped by decades of war, fear and distrust. In other words, we are starting from a position in which Iraqis have felt a pervasive insecurity for a very long time, and building trust between Iraqis, let alone between Iraqis and the outsiders who have decimated their society during the last two decades, will be extremely difficult. But this is a worthy goal because it aims toward the reduction of human suffering. The task of formulating specific responses to the current problems faced by Iraqis is not within the scope of this thesis. In fact, it should not be because *ethics as response* is rooted in the belief that responses must be negotiated with others: it is not for any one, let alone me, to prescribe how people should respond to Iraq. Rather, this thesis is a call for other people to reengage with Iraq and the broader questions posed by war in their own small and daily ways. This work has attempted to provide our discussions on Iraq with the possibility of a fresh start. It is up to collectives of other people to negotiate how we can use this fresh start to begin to think about how we can help Iraqis in a more practical way.

The goal of this project has been to offer an alternative way of thinking about the relationship between violence and justice. I do not want, or expect, a wholesale shift to happen fully or in a single swoop. I do not expect any set of people to immediately reject the conventional assumptions that are engrained in our understandings of war. Instead, I am hopeful that the questions I have raised about the ways we routinely talk about and justify violence will have some small ripples within discourses on war. This is the starting point to what I would like to be a long engagement with others who are interested in questions of war, and an opportunity to rethink some of the assumptions that we often ignore. Above all the preceding argument asks us to remain troubled by the justification of violence. Not in the sense of a definitive rejection, because this is also tantamount to a philosophical disengagement, but as a nagging reminder that even the most noble and morally palatable deployments of violence risk adversely affecting others in ways we do not intend or foresee. *Ethics as response* is a call for others to remain troubled and remain engaged.

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