

Persons, War, and Structures: A Case for Structural Responsibility as Applied to Warfare

by

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B.S., United States Military Academy, 2002

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Abstract

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The just war tradition has largely consisted of dialogues, approaches, and frameworks dominated by the conceptual primacy of the individual. While such focus upon the individual is appropriate for many battlefield contexts, it is by no means exhaustive. My aim is to demonstrate that in addition to battlefield harms amenable to traditional individually-oriented approaches, there exists another set of unique battlefield harms problematic for such individualistic approaches and thus warranting a *structural* account instead. I will conclude that in order for Just War Theory to be fully adequate, it must both recognize the unique set of battlefield harms caused by structures as well as account for them by means of a notion of structural responsibility.

Table of Contents

Supervisory Committee	ii
Abstract	iii
Table of Contents	iv
Acknowledgements	v
Introduction	1
Chapter 1: A Hypothetical Scenario	7
1.1 Level 1: The Level of Engagement: Tactical Level Players	7
A) Description	7
B) Analysis: Structural Elements of the Tactical Decision-Making Context	11
1.2 Level 2: The Level of Planning: Operational and Strategic Players	23
A) Description	23
B) Analysis: Structural Elements of the Operational/Strategic Decision-Making Context	30
Chapter 2: Structures	39
2.1 Young’s Social Connection Model	39
2.2 Application	47
A) Technology, Machinery, and Automation	48
B) Institutional, Administrative, and Bureaucratic Forces	54
C) The Psychological Conditioning of Soldiers	61
Chapter 3: Worries and Concerns	68
3.1 Summary	68
3.2 Concern #1: The Role and Significance of Technology	69
The Concern	69
Response	71
3.3 Concern #2: The Portrayal of the Military	78
The Concern	78
Response	79
3.4 Concern #3: Implications for Individual Responsibility	83
The Concern	83
Response	84
3.5 Concern #4: The Scenario Is Not <i>Structural</i> At All	90
The Concern	90
Response	91
Conclusion	97
Bibliography	99

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Introduction

Moral analysis of war is dominated by the just war tradition. Within this tradition, the accepted categories of analysis have classically been divided into two major areas, *jus ad bellum*, or the ethics of going to war, and *jus in bello*, or the ethics of fighting well *during* war. In regard to the former area, the presumed starting point and locus of moral inquiry has been that of the nation-state. In regard to the latter area, the presumed starting point and *unit* of moral concern has been that of *the individual*. Throughout the just war tradition, specifically in the domain of *jus in bello*, the conceptual primacy of the individual has remained quite static as the emphasis has been largely placed upon identifying and demarcating the moral responsibilities of the fighting soldier, the order-giving commander, and various other predominantly *singular* agents.

In Michael Walzer's classic, *Just and Unjust Wars*, we encounter frequent examples and scenarios intended to elucidate certain *jus in bello* principles, the vast majority of which take *the individual* to be the proper focal point of ethical inquiry. Walzer's explication of the 'the moral equality of soldiers' as well as the principle of non-combatant immunity both stem from a conceptual emphasis upon the individual soldier.¹

Critics of the just war tradition have largely accepted this focus and emphasis upon the individual actor. In *Killing in War*, Jeff McMahan challenges the just war tradition's commonly accepted dichotomy between *jus ad bellum* and *jus in bello*. Here

¹ In terms of 'the moral equality of soldiers', it is morally permissible for a soldier to engage in combat with an enemy soldier by virtue of their mutually shared combatant status. In contrast it is not morally permissible for a soldier to engage in combat against a civilian because the civilian fails to share a similar combatant status. In both of these situations, the individual soldier is the conceptual unit that the enemy combatant and the civilian non-combatant is compared and contrasted against. See Walzer, *Just and Unjust Wars*, Chapters 3 and 11.

he argues that conditions for the latter cannot be satisfied without conditions for the former first being fully met.² In other words, on McMahan's account, there can be no such thing as a soldier 'fighting well' in a traditional *jus in bello* sense, if the nation-state for which he/she fights has not first met all prior criteria for *jus ad bellum*. Much like Walzer, McMahan's argument largely focuses upon the ethics of the *individual* soldier, both in terms of how he or she fights as well as his or her relationship to the nation-state for which he or she fights. While McMahan seeks to blur the line between *jus ad bellum* and *jus in bello*, his conceptual scheme is nonetheless predominantly focused upon the individual soldier in relation to the nation-state (and vice versa).

This focus upon the individual makes sense for certain decisions and situations. Nonetheless, there is a large range of decisions, situations, and contexts for which this highly individual-oriented framework is ill-suited. Specifically, it is ill-suited for decisions and situations where something morally troubling is more accurately described as produced by an *aggregation* or *collective* of actors than as produced by a single, individual actor.³

One such scenario can be found in the work of Christopher Kutz. In *Complicity: Ethics and Law for a Collective Age*, Kutz uses the 1945 Allied bombing of Dresden to demonstrate some of the inadequacies of an overly individualistic-oriented framework. Kutz notes the unique and problematic position in which the individual bomber pilot finds himself as he is epistemically cut off from the goals and intentions of the supervisors and strategic planners who are directing him. *Taken in isolation*, the disparate and individual contributions of the planners, organizers, messengers, pilots,

² Jeff McMahan, *Killing in War*, (Oxford: Clarendon Press, 2009. p.1-7).

³ Concept developed in collaboration with Dr. Cindy Holder.

and bombardiers tell a causal story where no one is immediately causally responsible save the bomber pilot who releases the bomb on the tail-end of the causal chain.

In such a case we can assign responsibility to the individuals who plan the route; but in other cases their planning has also been channelled to produce certain outcomes in ways of which they are not aware. In this thesis I will give an example of just such a case and use it to argue that to be fully adequate, moral analyses of war must take into account *structural responsibility* and not just what Iris Marion Young describes as *individual liability* for morally troubling outcomes and events.⁴

Put another way, my argument is that there is a set of battlefield harms that is important to subject to moral analysis but that resists such analysis when treated in terms of individual liability. I argue that in addition to those harms which can be adequately accounted for in terms of individual liability, there are *other* harms that warrant a different ethical account. These harms are fundamentally *structural* in nature and must be accounted for in terms of *structural* responsibility.

What I mean by 'structural' is the confluence of large-scale social and institutional processes as well as the network of infrastructural and technological arrangements that come together to create the general context and backdrop in which moral agents then act. Some of these structural features include large-scale economic policies, governmental laws and regulations, administrative and organizational templates, institutional practices (like marriage, property, etc.), and new social relations engendered by technology. In short, to make reference to 'structures' is to acknowledge the strong causal role that these myriad background forces have in

⁴ Ibid.

shaping *the decision-making contexts* of individual moral agent prior to the moment of decision. In other words, when we evaluate the moral actions of an individual in structural terms, we are recognizing that that individual is not deciding or acting *in a vacuum* but rather that prior to the moment of decision, that individual inhabits a socio-physical context largely structured by *the collective*. Thus, in referring to 'structures' or 'structural forces', what I am in effect doing is offering an ontology of *emergence*, one that argues for the whole indeed being greater than the sum of its constituent parts, but in a fundamentally *social* sense. Traditional accounts of ethical harms on the battlefield, I argue, significantly leave out this structural component.

This thesis is broken down into three major parts. Part I of my thesis is an account of a hypothetical combat scenario, one detailing a highly plausible harm that could occur (and reoccur) on today's twenty-first century battlefield. In describing this battlefield harm, I outline some of the major actions and decisions of the tactical, operational, and strategic level players contributing to the harm's production. What's more, I offer a beginning analysis of some of the structural preconditions that shape the players' *decision-making contexts* at each level of engagement (tactical, operational, strategic). What the reader should fundamentally take away from Part I is a greater appreciation for, and a greater understanding of, the overwhelming structural complexity and stage-setting conditions of many contemporary battlefield harms.

Part II of my thesis offers an in-depth analysis of the main working structures contributing to both the harm's creation and its systematic reproduction. Here, I make use of Iris Young's notion of *structural responsibility* to make greater sense of the hypothetical harm described in Chapter I. Young's main thesis is that the phenomenon

of 'the sweatshop' as arising from the larger global economy cannot be adequately explained in terms of *individual* liability. Given the complexity of the global economy as well as its fundamentally collective nature, what is required, Young argues, is a theory of responsibility that heavily accounts for *structures*, not just individuals, in its formulation. Analogously, my thesis argues that predictable and repetitive battlefield harms, like the one described in Chapter 1, are of a nature such that they fail to be adequately captured by a strict individual liability account. Therefore, what we need, I argue, is an analysis and account of such harms in fundamentally structural terms. The main structures that I identify as having the greatest causal efficacy in the harm's reproduction and the ones thus warranting the greatest degree of structural analysis are in the areas of technology, administrative/bureaucratic organization, and soldier training.

Part III of my thesis deals with potential worries or concerns emerging from Parts I and II. Specifically, these various worries and concerns can be grouped into four major themes or areas. These major themes are as follows: worries about my characterization of the role of technology, worries about my portrayal of the military, concerns about individual responsibility, and lastly, worries about whether or not the described event is fundamentally *structural* at all. In Part III, I investigate each of these worries, one by one, and show how these concerns can either be ameliorated or how they are founded upon a fundamentally erroneous starting point or misunderstanding.

The overall goal of this thesis is show how an individual responsibility account fails to exhaust the set of harms presently existing on today's battlefield, and how there exists a certain set of harms that warrant accounting for in fundamentally *structural* terms. Since present accounts of just war are highly informed by and structured by

notions of individual responsibility, my thesis in effect calls into question the completeness and adequacy of present-day just war formulations. To be a far more coherent and adequate framework, I thus argue that the just war tradition must be expanded so to account for cases of structural responsibility.

Chapter 1: A Hypothetical Scenario

1.1 The Level of Engagement: Tactical Level Players

Description

A) Consider the following hypothetical battlefield scenario. A UH-60 Blackhawk helicopter crew is flying a routine day-time flight mission over a particularly built-up urban area in the southern region of Baghdad in support of a light infantry brigade to which their battalion has been attached. They are hot. They are hungry. They are *exhausted*. Due to operational necessity, their unit's time in theatre has been extended past the originally projected redeployment date, and for all but the new lieutenant, this is their second time in theatre. Due to the recent spike in insurgent activity over the past two weeks, as reported from higher brigade intelligence, the frequency of flight missions has increased in order to serve as a show of presence and passive deterrence. The flight route they are flying is one that they have flown many times before, and despite a few infrequent instances of occasional harassment fire from a lone AK-47, as well as one legitimate 'close call' incident some time ago, the area of operation to which they have been assigned has, for the most part, remained quiet if not somewhat boring. They have been briefed repeatedly on rules of engagement criteria from their battalion JAG members. Over the past six months, their sister companies have not fared so well, losing two of their birds to an unlucky simultaneity of insurgent fire, ill-timed equipment hiccups, and erroneous decision-making from higher-ups. The recent downing of one of the battalion's lead aircraft via SA-7 rocket attack has sent a new wave of vigilance, sorrow, and anger throughout the entire unit.

The last communications check with battalion headquarters, some ten minutes ago, suggests that there are no reports of incident in the immediate battle-space, but calls to battalion headquarters, through the company, fail to re-confirm this because the company's senior radio telephone operator went down with heat exhaustion the day prior and has been replaced with a less experienced soldier running communications. He is flustered and slow to respond, as he is overly worried about getting yelled at for failing to use proper radio protocols.

An Iraqi wedding just finishes in a small neighbourhood in the area of operation where the Blackhawk crew is conducting their flight mission. A proud father steps outside, points an AK-47 in the air, and fires a short burst of celebratory fire to mark the occasion. To the immediate south, a block away from where the shots are fired, an infantry platoon radios to headquarters, reporting shots fired. The infantry platoon as well as headquarters knows that it is probably another routine case of celebratory fire (which the unit has *repeatedly* told the Iraqi populace to cease doing), nonetheless, the battalion headquarters receives this report and tells the Blackhawk to cover down on the infantry platoon's position just in case.

En route to, and within close proximity of the infantry platoon's last reported position, the Blackhawk crew spots a small group of 5 to 6 unidentified men, two of them carrying AK-47s, heading in the general direction of the infantry platoon's position. The crew begins to circle within close range of these men to get better 'eyes on' and to get positive confirmation that these men are indeed combatants. One of the men in the unidentified group kneels down behind a wall and appears to be prepping and readying to fire an RPG launcher. The layout of the buildings as well as the

architecture obscure the line of sight of the men for a moment, and the crew needs to think fast. The lieutenant is *somewhat* sure that what he saw was an RPG launcher but for a second, he doubts himself. In this moment he does not want to seem indecisive or unsure in front of his men, and he surely does not want to make another pass, wantonly risking his men's lives to re-confirm that what he saw was indeed an RPG launcher, only to get promptly shot down. Such a move would mark the height of idiocy and would cost him a great deal of trust within the unit to which he has been freshly assigned. Instead he goes with his training and with his instincts.

Faced with the pressure of the situation, erring on the side of caution (in terms of protecting his crew), and falling back on his training, the lieutenant quickly runs through all of the properly prescribed radio protocols to request permission to fire. Each second feels like an eternity, as the crew knows that they are not allowed to fire until the voice on the other end of the radio grants them permission to do so, yet they know that each passing second of delay exponentially increases the chances of the RPG round actually being fired in the direction of the nearby infantry platoon, their support helicopter, or themselves. The crew hears the radio telephone operator on the other end of the radio grant permission to engage. The Blackhawk quickly peaks up and around one of the buildings that they have been using as a means of cover and concealment and fires three bursts from their 30mm cannons, immediately killing the RPG firer, the two men with AK-47s, and the other targets. The enemy threat is

eliminated, everyone breathes a sigh of relief, and both the Blackhawk crew and the infantry platoon return to base for debriefing.⁵

Shortly thereafter reports come down from theatre command that two media embeds, two civilians, and two security contractors have been killed by a U.S. Army helicopter. As it turns out, what the lieutenant thought to be a potential RPG-firer, was really a news reporter crouching with his camera to get a better shot at a totally unrelated event, and the two men flanking him with AK-47s were security contractors, who, ironically, had been in Iraq themselves only a few years prior, as uniformed Army Special Forces soldiers. Heads begin to roll throughout the chain of command and punishments begin to get handed out. The lieutenant is relieved of command and he and his crew are punished for their negligence and blatant disregard for explicitly stated rules of engagement criteria. The Army then begins a thorough investigation seeking to find who is culpable for failing to report the presence of civilian reporters in their area of combat operations.⁶

⁵ The previous scenario is not one that is supposed to be 100% accurate to every factual and doctrinal detail. Indeed, with the ever changing face of battle in the current Iraq theatre, it is highly likely that the combat scenarios experienced by units and soldiers will be as individualized and unique as the units and soldiers themselves. The *purpose* of this hypothetical scenario is to demonstrate that such an event is indeed quite *plausible* and that given the plausibility of just such a scenario, we run into new and unique difficulties in our ethical assessment of decision-making in a 21st Century battle-field context.

⁶ The reader should note that previously described scenario is meant to serve as an illustration of the myriad networked institutional relations and processes at play on the 21st century battlefield as well as some of the *emergent* features of these relations and processes. As such, there are dozens of other complicated, ethically ambiguous tactical level scenarios likewise emerging from the larger institutional forces that are intersubstitutable with our specific example. The reader ought not become overly fixated on the specifics of the scenario but rather should view the scenario as just *one* symptomatic and revelatory instantiation of a larger causal system.

Analysis: Structural Elements of the Tactical Decision-Making Context

- B) Clearly an event such as the one described above is a terrible tragedy, but has anything or anyone in this situation gone morally wrong? Did the lieutenant and/or his crew actively seek to target civilians? Were they particularly trigger-happy? Did the crew not know their unit's explicit rules of engagement criteria or did they actively choose to neglect such orders? Did the lieutenant fail to go through the proper protocols in requesting permission to fire? In this scenario, were any unlawful orders given, or for that matter, any lawful orders refused? Were adequate measures taken to positively identify the potential threat without wantonly risking the lives of the crew?

What shouldn't be missed in our analysis of this scenario is just how complex an *event* this really is. For example, it was the helicopter crewman who actually pulled the trigger but the new lieutenant who gave the order to do so. Thus, both the crewmen and the lieutenant made decisions that produced the outcome of bullets striking civilians. In our attempt to assess the moral characteristics of this action then, we will have to determine whether the crewmen and lieutenant both contributed equally to the event or whether one of them should assume greater moral responsibility over the other. If we determine that they both contributed equally to the event, then we need to explain how and why. If we determine that one ought to incur more moral responsibility than the other, then we likewise need to explain how and why. Additionally, we will further have to determine what was fired upon, the circumstances and pressures under which the firing took place, the likelihood and predictability of an actual threat in such a scenario, and a determination of what

would count as a reasonable show of restraint as well as a sufficient cause for feeling threatened for a rational agent in such a scenario. Likewise, we will have to further determine whether the crew-members were entitled to fire upon what they fired upon, whether they took the proper procedures and adhered to the correct protocols in requesting to fire, and whether or not there were any fail-safes in place for members of the crew who might have wanted to challenge the lieutenant's orders to fire at that given moment in time.

Already, in order to describe the event at all, we have to engage with difficult questions about intentionality and the ascription of responsibility in contexts of collective or aggregated behaviour. However, a deeper analysis of the institutional, psychological, pragmatic, and epistemic factors leading up to and structuring the decision-making of the lieutenant and his crewmen, quickly suggests an even *more* complex story. If we backtrack a bit, we can begin to see the subtle yet powerful and interconnected forces channelling the helicopter crew's decision.

Firstly, let us briefly recount the narrative arc of how these rational agents arrived at this crucial moment of decision. The members of the crew have all come to this moment through various routes and circumstances. They most likely entered the military in their late teens or early twenties and did so for various reasons, from economic pressures to educational benefits to patriotism to motives more complex and personal and therefore resisting ready classification. The common thread, however, uniting them, is that they have all raised their right hand and have sworn an oath to defend the Constitution of the United States against all enemies foreign and domestic. In so doing, they have foregone many of their basic rights as civilians and,

as soldiers, have sworn to obey all legal and moral orders of their superiors. Additionally, these persons have been filtered through and have successfully completed Army “basic training”, an arduous six week process where they have made the successful transition from ‘civilian’ to ‘new soldier’.

This process will have included some, if not all, of the classic images one might typically think of when he/she hears the word ‘basic training’; shaved heads, marching, intentional mental, emotional, and physical duress designed to simulate the stress of actual combat, isolation from the outside world, the stripping of ‘civilian’ luxuries and civilian individuality, arduous physical exercise, austere living conditions, instruction on basic military values and the basics of soldiering, as well as quick and immediate verbal and/or physical discipline (and on the rare occasion, praise) exerted by drill sergeants in order to reinforce the inculcation and absorption of these new behaviours, values, and practices.

The aggregate effect of these new stimuli, thus comes with it, a certain set of normative values as well as certain default psychological responses. Broadly speaking, these normative and psychological defaults include: an ethic of seeing one’s own identity in terms of and in relation to ‘the team’ or ‘the group’, a subordination of one’s own individuality and individual desires and comforts in service of the greater good of the group or in service of the greater mission, and a valuing of physical courage, physical dexterity, and physical fitness over other human capacities.⁷ Additionally, this training process reinforces such things as; an honoring of uniformity over that of individuality, a tendency towards acting and thinking in

⁷ We might also call this process ‘valuational acculturation’.

terms of extrinsic reward (praise) as well as punishment (shame), a predisposition towards leading in some contexts and following in other contexts (depending upon rank), and a propensity towards thinking more in terms of linearity and hierarchy.

After successfully graduating from basic training, the lieutenant and his crewmen have moved on to their respective forms of advanced training, dealing more specifically now with the *actual mechanics* as well as tactical and technical aspects of operating and flying a rotary-wing aircraft. The crewmen have been trained for many months on all of the motor-skills, doctrinal procedures, physical tasks, orientation to specific equipment (weapons, navigation, communication systems, etc.), technical lexicon, and specific tactics and techniques necessary to be a competent and functioning crewmember for their specific position in the crew. The crewmembers have also been exposed to a fair amount of ‘cross-training’ in and amongst their specialized positions so that they have a basic understanding of how the tasks of their specific position tie into the operation and functioning of the helicopter crew at large as well as to the company’s greater mission.

For the lieutenant, the training has been extended for just under 2 years, to encompass the basic motor-skills for the actual piloting of a rotary-wing aircraft, the commanding of a crew, the planning of missions, and the fundamentals necessary to be a technically competent leader as part of an aviation unit. Prior to such advanced training, the lieutenant would have earned an undergraduate degree from an accredited university, either a ‘civilian’ university or by way of the U.S. Military Academy. At either of these institutions, the (soon to be) lieutenant (then only a

cadet) would have gone through four years of preliminary leadership training where he/she would have begun to be exposed to the above-mentioned values and practices.⁸

The lieutenant and his crewmembers, each moving through these various training channels will have done so alongside his/her enlisted or officer peers. Much like in basic training, the movement through these training channels will have been one steeped in a context of competition. That is to say, that there will be certain objective standards that must be met in order for one to become a member of a particular exclusive position, a particular unit, or particular group as well as additional criteria for one to become an *elite* within *that* exclusive group/unit, and so on. Thus, the lieutenant and the crew members' ability to meet these performance standards (relative to the performance of his/her peers) will largely dictate whether or not he/she earns access to the finite number of positions within certain units (some more or less elite). Thus, one's performance and ability to meet certain objective training standards, will influence his/her trajectory towards certain units and positions, requiring baseline competency in such areas. In such a military context, there will be, most likely, a fair degree of praise and recognition associated with the successful completion of these aforementioned performance criteria as well as a corresponding degree of shame associated with one's failing to meet such standards.

Regardless of his individual performance, the lieutenant and his crewmembers' assignment to their particular aviation unit will have nonetheless been largely dictated

⁸ It is important to note that the valuational aspects of such an education have a tremendous importance when it comes to assigning responsibility to the agents involved in our scenario. Given such an educational background, the majority of the weight of moral responsibility will often fall on the shoulders of the members of the officer corps, and justifiably so.

by greater Army personnel and troop requirements and mission demands; the result of decisions made months, if not years, ahead of time at the strategic and grand-strategic levels. Likewise, their unit's deployment to the Iraq theatre, assignment to their specific area of operation in Baghdad, and particular unit mission have all been the result of decisions and pressures created by persons, groups, and institutional apparatus both above their heads as well 'in the rear'.

Since arriving in their parent unit, the crewmembers have worked together, trained together, suffered together, and bonded together over months of gruelling pre-deployment training. And despite experiencing personality differences and occasionally getting on one another's nerves, they all nonetheless recognize one another as fellow comrades at arms, part of the same fighting team serving the common mission, and willing to lay down their lives for that mission and for one another if need be. They have indeed sworn an oath to the more abstract ideal of defending the U.S. Constitution, but now, in combat, the main motivation towards self-sacrifice as well as towards fighting, comes down less so to high abstractions to which they have sworn allegiance, and more so to the allegiance they believe they owe another. 'These are *my* men,' thinks the leader, 'and I owe it to my country to not risk or sacrifice their lives needlessly.'⁹

The crew's training, both pre-deployment and in theatre has been an amalgamation of countless exercises and flight hours dealing with everything from defense, to offense, to evasion, to putting rounds through targets, and seemingly every

⁹ In other words, the abstract concept of service and duty to one's country and to one's unit/troops has been operationalized and translated into real-world actions, specifically taking the form of tactical hesitancy and caution.

contingency in between. Pre-deployment, this training would have most likely taken the form of several months of ‘live-fire’ target practice as well as mock rehearsal scenarios at the National Training Center or Joint Readiness Training Center (the Army’s two primary centers for prepping units about to deploy for combat). These mock rehearsals and training scenarios would have been designed to emulate likely combat events created and built from reports of other unit’s prior experiences in theatre. These scenarios would have also been structured to simulate the real-world time pressures of an actual combat engagement and would have stressed and fostered certain automatic, reflexive, and instinctual responses and processing of the world.

Once in theatre, these rehearsed combat scenarios, combined with second-hand testimony from more seasoned veterans, as well as reports coming in from other sister units within the battalion at large, would have all contributed to an anticipated default ‘background’, *prior* to the crew ever leaving the battalion FOB (forward operating base) to run their first ‘real-world’ mission. It is highly likely that this background would have been one that engendered readiness for battle and combat vigilance, for this is precisely what the crew has trained for, what they expect, and what second-hand testimony confirms. Once having begun running real-world flight missions, it is also highly likely that even *one* ‘close call’ incident (a missed anti-aircraft gun attack for instance) would be more than enough to reinforce the legitimacy of this assumed background environment as well as to further vindicate the crew’s default posture *in response to it*. Such first-hand and second-hand inputs, as well as default muscle-memory and motor-skills training, is likely to structure the crew’s subsequent perceptions and emotional and behavioural responses to ‘similar looking’ or vague

sense-datum in future battlefield contexts. This only makes sense, as the default conceptual framework through which they have been conditioned to interpret the world is and has been the very thing that has kept them and their buddies safe and alive in battle thus far.¹⁰

The crew has been repeatedly briefed on the rules of engagement criteria by the unit's JAG members prior to and during their deployment, and an ethic of caution and restraint has been continually re-communicated and understood by members of their chain of command, at least in terms of practical application. For the most part however, many of the members of the unit see this mostly as C.Y.A. ('cover your ass') speak coming down from politicians and big brass at the Pentagon who are disconnected and out of touch with what it's really like on the ground. This is so because, despite explicit top down directives speaking to an ethic of added caution and restraint, the overwhelming majority of the unit's time, attention, and mission is and has been focused on real world tactics, training, language, physical equipment, weapons systems, anticipated and drilled scenarios, and the fostering of a warrior ethos that encourage a default attitude that is quite the opposite. These men and women may be briefed on their unit's rules of engagement criteria but the presentation of the *principles driving such rules of engagement criteria* will most

¹⁰The employment of such training practices then brings about somewhat of a moral dilemma. Indeed, if the real-world time pressures of an actual combat scenario oftentimes warrant *automatic tactical reactions* more so than calm, timely, well thought out deliberation, then the ethical dimension of a given battlefield action is to be found not only in the isolated event itself but also (and arguably more so) at higher levels away from the battlefield, where the decision was made to employ such automatic and 'reactive' training protocols in the first place. Thus, if a unit trains merely or even predominantly in reactive/reflexive tactics geared only towards 'attack and defend', but *does not* factor in similar reactive/reflexive tactics for scenarios involving civilians, non-combatants, or ambiguous battlefield data, then, when an instance like our hypothetical scenario occurs, it would seem incorrect of us to assess the event in isolation without taking into account such stage-setting factors.

likely be one of basic reward and punishment as opposed to a fleshed out explanation of the principles underpinning such directives. After all, these men and women are soldiers *in actual combat* and who must attend to the immediacy of just such an environment. There will be time for philosophizing later.

Thus, despite acknowledgement of the exercising of battlefield restraint, there is nonetheless a certain unstated ethic of readiness, bordering somewhat on ambitiousness, within the crew, for triggers to be pulled and rounds to be fired. This isn't so because these men are simply trigger-happy cowboys looking to brag about their number of 'confirmed kills', nor are these men insecure adolescent males with something to prove, disregarding orders of restraint and intentionally looking to get into a hairy, violent engagement so that they can have a story to tell to their friends back home. Rather, it is an odd combination and juxtaposition of competing motivations: towards self-preservation and wanting to make it back home to their families, alive and well and with all their limbs intact, towards wanting to protect and come through for their buddies and for their men when it is most important, and towards self-identification as soldiers and as *warriors* fighting for their country and thereby wanting, perhaps only subconsciously, to feel as if they have successfully fulfilled that expressed role and purpose.

This last motivation, often overlooked in its weight and importance, bears further consideration. We must remember that the lieutenant and his crew, in this battlefield context, first and foremost, self-identify *as soldiers*. Indeed, the isolated social context of their unit, in both training as well as in actual combat, their uniforms, their

equipment,¹¹ their language, etc. all serve to reinforce this self-perception, sense of personal identity, and thinking of one's self *in terms of*. Ready examples can be found within the specific unit, as well as within the greater military institution at large, that serve to perpetuate this self-concept. These examples most commonly come in the form of official insignia, badges, tabs, ribbons, awards, accolades, and incentives that often award physical heroism on the battlefield and the placing of one's self in harm's way in service of the greater mission or of one's fellow soldiers. These soldiers, having trained for so long and for the expressed purpose of combat, in some sense want to know, not just think, but *know* that they will respond honorably and courageously in the contexts for which they have trained so many hours. All of these motivations come together, along with the crew's specific psychological and physical training, to implicitly foster and reinforce a default disposition of erring towards the attack, despite explicit top-down orders towards the exercising of greater restraint.

In this hypothetical case of the lieutenant and his crew erring on the side of aggressiveness in the context of ambiguous sense data on the battlefield and under the pressures of real-time combat decision-making, we must not lose sight of the fact that the crew's autonomy and vantage point have been highly restricted. This is so because the crew's undertaking of their actions has occurred in virtue of their occupying a *very specific institutional role* within the larger bureaucratic

¹¹ Note that the overwhelming majority of the crew's 'equipment' are either weapons or systems in support of those weapons. In other words, the nature of their equipment isn't designed to build houses or take pictures or distribute food and water or fix downed power-lines. Indeed, they are a crew operating an attack helicopter that is equipped to deliver violence upon a designated enemy target. Thus, their presence behind the controls of such a piece of equipment, I argue, can't help but encourage one to see themselves in just such a role. This holds true for the operator of a forklift, the driver of a bus, or the pilot of an attack helicopter. As such, the institutional embedding functionally affects the role of the embedded in more than merely a social sense.

organization. Specifically, the crew's volitional capacities have been constrained to the following of (legal) top-down directives and orders.¹² Epistemically, the crew's vantage point has been restricted to a high reliance and dependency on second-hand testimony (or lack thereof) from the higher command structure as well as by mediation through various technological devices. Lastly, the flight path they have been ordered to fly, the physical capabilities and limitations of the rotary-wing aircraft that they pilot, the capacities and availability (or lack thereof) of certain weapons systems,¹³ the lack of visibility of the combat environment due to the architecture and building lay-outs, and the presence of the nearby infantry platoon, are all features of the decision-making context limiting the pragmatic agency of the actors involved. As such, the rational navigation of such combat decision-making contexts, by tactical level agents like the lieutenant and his crew, involve a tremendous amount of reliance and trust *upon*, as well as limitation and pressure *by*, the institutional body at large.

Had the lieutenant and his crew *known* that civilian cameraman and plain-clothed military contractors were operating in the area, and had they sufficient time and adequate protection to correctly identify their target, then we may surely think they

¹² Indeed, the lieutenant and his crew are legally bound to obey all legal and moral orders coming down from their superiors. The crew and the lieutenant cannot therefore disobey orders and refuse to fly on account of the fact that they suspect there *might* be some clerical blunder somewhere in the larger institutional body that *might* cause them unknowingly kill civilians. A demand for such epistemic certainty and more complete information from a low-level soldier before acting seems to contradict the very nature of that which he has dutifully signed on for. Thus, when the commander issues the order, 'There are enemies over there. Take the hill!', the private, acting in his subordinate role as soldier, does not have the luxury of saying, 'I lack sufficient evidence. Prove it.' Rather, he must simply take the hill or suffer the legal consequences of failing to do so. Such a scenario complicates matters as it compels us to ask to what degree epistemic certainty functions as a requirement for moral action. Is such certainty possible under a reaction-mode? If not, then can moral responsibility be assigned to reactions? Or must they be assigned to the training framework?

¹³ Note that the crew does not have, ready at hand, weapons systems fit with non-lethal rounds.

would have exercised greater restraint before firing. Given that the lieutenant and his crew did *not* know such information and given that the context of decision in which they were placed was structured by decisions made by agents *above* the crew's limited level of control and visibility, we must therefore look higher within the institutional body to discern the persons, decisions, and factors that majorly contributed to the structuring of the crew's context of decision.

If this is the case, then moral culpability now shifts away from the actual agents of the physical engagement and more towards the agents operating at higher levels of decision making. This would now include leaders at the operational and strategic level, generating and enacting policies and decisions conducive to such things as: fostering a trigger-happy ethic within their units, failing to properly communicate and enforce rules of engagement criteria, failing to give their units adequate training dealing with the discernment of ambiguous battlefield scenarios, and failing to take seriously the quick and efficient communication and de-conflicting of friendly and non-combatant units and persons on the battlefield. If not at the immediate level of engagement, then we must look higher up within the institutional architecture of the military at large in order to discern where greater moral responsibility and culpability resides.

1.2 The Level of Planning: Operational and Strategic Level Players

Description

A) If we move ‘upward’ several levels, away from the immediate battlefield context and more towards the level of operational and strategic players contributing to our hypothetical event, we find the following.¹⁴ Due to the sheer volume of persons, equipment, infrastructural elements, information, vagueness, chaos, etc. on the battlefield, as well as the overwhelming amount of speed, complexity, and simultaneity in which these elements all interact, we find at this military level, the necessity for the generation and use of new institutional, organizational, technological, and systemic apparatus. This apparatus is put in place in order to make sense of, manage, and control all of these varying elements, but it comes with the cost of increased specialization and division of labor amongst persons. What this means then, is that persons within the ‘higher’ institutional structure of the military, by virtue of their very institutional role, must direct their attention less so now to information *immediately* interpreted via the sensate body (like the lieutenant and his crew on the battlefield) and more so now to the management of the institutional levers and controls before them.

What this means in more practical terms then, is that we will encounter at this level a General (O-7) or full-bird Colonel (O-6) for instance, in charge of a staff or

¹⁴ U.S. Military doctrine makes the distinction between the tactical, operational, strategic, and grand-strategic/political level. The tactical level deals with the immediate battlefield context and deals with the company (120 personnel) or arguably battalion level (600 personnel) on down. The operational level deals somewhere around a brigade-sized element (3 battalions plus) to a joint task force of several brigades. The strategic level deals with theatre-sized operations (i.e. the oversight of several JTFs in the Iraq or Afghanistan theatre). And the Grand Strategic/Political level deals with Pentagon-level decision-making, long term projected war plans and scenarios, global military movements, etc.

series of interlocking staffs, each with a specific area of focus dealing with such things as; combat operations, support operations, intelligence, communication, logistics and supply, training, personnel, law, coalition and joint-service collaboration, etc. In each of these cases, the general, colonel, or high ranking officer at this level will no longer be interpreting the battlefield *immediately*, but rather as mediated through a web of representations. What's more, is that at this institutional level, the general will not even be separated from the battlefield simply by *one* level of representation but by several representations *of* representations. Hence, the *person*, Private First Class Simmons from Houston Texas, will be buried somewhere within the byzantine network of convoluted nomenclature representing Charlie Company 31st Aviation attached Infantry Battalion so and so as represented as part of Task Force X conducting missions such and such in A.O. 'Falcon' as represented by a red triangle on a map on slide 30 of a 75 slide PowerPoint presentation geared towards informing the general of recent goings-on in theatre.

Based upon this report and others like it, the general's decision to move that red triangle one quarter of an inch upward on the map will set about a whole series of decisions and events cascading back down through the web of representations resulting in massive movements of institutional machinery. Most of the elements of the institutional machinery will go as planned. *But* by virtue of the very logic of the military's bureaucratic structure, there will be certain second and third order effects ('externalities') that will inevitably occur as a result of the general's decision. These externalities will be at once unplanned for, un-(directly)-caused by, and un-

(immediately) witnessed by virtually all agents involved save the soldiers on the ground in harm's way.

What this means then is that higher up the decision-making ladder we go, the *less linear* (and more fanned out) relations between actual *persons* become. Thus the decision-making context inherited by the lieutenant and his crew would have been structured by *an amalgamation* of decisions made by not only the general but also by decision-makers higher up and more spread out within the larger military body. Hence, the factors and decision-makers contributing to the structuring of the helicopter crew's subsequent decision-making can *at least* be traced back to the following actors; the general (as well as his/her staff) in charge of the entirety of combat operations in that given region of Iraq, the head S2 (Intelligence) officer (as well as his/her staff) in charge of information management in theatre (to include the presence of friendly units), one or several liaison officers in charge of handling and relaying information pertaining to extra-unit coordination involving friendly, coalition, contractor¹⁵, and non-military personnel operating in the unit's area, the head Signal and communications officer (and staff) in charge of overseeing that all communications systems and subsystems within the unit be operational and manned by competent personnel, the J.A.G. officer (and staff) to ensure that all units be properly and adequately briefed on rules of engagement criteria, and the officer (and staff) in charge of unit training to ensure that all the members within the unit have

¹⁵ Note that as of 2009, there are over 900 private contracting agencies, employing somewhere between 190,000 to 210,000 personnel in Iraq alone. This gives some insight as to just how unwieldy and massive the management of information tracking friendly and civilian forces in theatre must be. (Source: Lucas, George. "This is Not Your Father's War, Confronting the Moral Challenges of Unconventional War", *Journal of National Security Law and Policy*, Vol 3, 331- 342. (2009): 2.)

proper exposure to ambiguous battlefield scenarios like in our hypothetical case study, and *all* persons within the chain of command (brigade, battalion, and company officers and NCOs) subordinated beneath these strategic/operational players.

Somewhere in the informational shuffle, an email containing a memo stating that a new civilian news team will be entering the combat theatre, shows up in the inbox of one of the new mid-level intelligence officers on staff at the Joint Task Force Headquarters. Since it is a new news team and they have not been brought up to speed on standardized protocols for entering into theatre, the attachment is in an unreadable program format. The officer emails back the sender asking them to resend the document. Due to the Signal team's temporary reformatting of the security features of the SECRET-level computer network that she is on that day, her email instead gets lost in cyberspace and unbeknownst to her, is never received. Furthermore, due to her unit's personnel requirements and organizational template, as dictated by several staffs back at the Human Resources Center in Virginia many months prior to her unit's entry into theatre, she currently lacks a junior NCO (non-commissioned officer) to whom she can delegate such a task.

This is not a major concern for her however, as the entirety of her career she has been both encouraged and praised in her ability to make do with what she has, to 'suck it up' and accomplish the mission no matter what the cost, and if faced with an overwhelming task, to simply work harder. Furthermore, she finds herself in somewhat of a 'damned if you do, damned if you don't' kind of scenario. If, after all of the time and tax payer dollars spent on her education and training (both general and advanced), after all of the hard work she has put in and all of the badges, tabs,

and pieces of paper that speak to her being a competent, dependable officer, and after all of the superiors and former bosses who vouched for her and fought to get her this elite duty assignment, if after all of it, she ends up going to her superiors to admit that she feels overwhelmed and incapable of performing the role she has been duty-bound to fulfill, then such a move would not only be seen by many within her unit as a source of great shame but also as an instance of malingering or laziness or a neglecting of her duties. On the other hand, if she *does* take on this overwhelming position and something does go wrong, then she will likewise be looked at by many as being negligent in her duties.

Erring on the side of confidence in her own abilities and not wanting to appear weak or lazy or in need of assistance, the mid-level officer and her short-handed staff refrain from complaining or whining to their superiors for an additional staff member to share in the management of the flood of information coming their way, but instead stretch themselves even thinner on less sleep and more coffee. And so, the intelligence officer then goes about attending to the next 100 or so emails that will flood into her inbox over the coming week as well as the countless other ‘urgent’, ‘critical’, and ‘priority’ informational and intelligence inputs that she will have to juggle while awaiting the email reply from the news team.

Meanwhile at the Joint Task Force headquarters, the lieutenant general, working within the epistemic and volitional constraints of his given institutional role, continues to forge ahead with his contribution to the larger mission. He attends his daily B.U.B. (Battle Update Brief) and is briefed by the senior Intelligence officer as well as the rest of his staff concerning recent activities and events in theatre. Reports

of a recent spike in enemy activity in theatre compels the general to issue a directive to increase the show of force in several brigade areas of operation, one of which being the area covered by our helicopter battalion. There is no report yet of the new news team's entrance into theatre. Additionally, the general's subordinate commanders have made repeated requests to him for more and better trained troops as well as more and better quality equipment. He has listened to these demands for some time now and agrees that most of these requests seem quite reasonable. Since taking over this command position from his predecessor a year ago, he has tried his best to make do with the pre-existing staff he has inherited and has done his best to set up all of the proper systems, protocols, and initiatives in order to make this officially *his* unit now.

Throughout this time, he has made several repeated requests back to his superiors at the Pentagon as well as to chief members of H.R.C. for more and better personnel and equipment. Nonetheless, his higher-ups tell him that they are working their best within the constraints of greater mission demands and that given systemic budgetary and logistical hold-ups resulting from the institutional momentum of former initiative set forth some time ago by Congress, other sub-agencies within the Pentagon, and several military contracting companies, his requests are 'still in the process of being worked on'. He has made the case that without these vital troop and equipment assets, he does not feel that he can successfully accomplish the mission that he has been asked to accomplish. Nonetheless, they tell him the very same thing he has told his own subordinates in the past when faced with a similar situation, simply 'make it happen'. So he does.

As he reluctantly accepts his higher-ups' directive, the general thinks back to the advice of one of his former mentors who cautioned him about when in an officer's career it was necessary for one to 'fall on his or her sword'. 'You have to pick and choose your battles', was what he was told, 'and you have to decide what issue is worth sacrificing your career over and what good it will accomplish in the long run, for both you and your unit.'. The general realizes that things within his unit and within the Army at large are far from perfect and need to be changed. He also knows that he is up for promotion soon after his time in command and believes that in his future role at the Pentagon he will be far greater position of influence than he is currently. Given that there is no single, readily available, and immediate issue within his unit or the Army that he can clearly put his finger on and declare to his superiors, "*this is clearly wrong!*", and given that there is no single, decisive immoral or illegal order that has been impressed upon him to which he can refer to, he decides to bite his lip, to compromise and live to fight another day, and promises himself that he will one day make the reforms that his conscience compels him to, but just as soon as he is in a greater position of authority to do so.¹⁶

Several weeks later, both the general and the intelligence officer will hear of the journalists' deaths by means of a helicopter assigned to their Task Force.¹⁷

¹⁶ The general's decision-making process represents a tension between his duty to follow all legal orders from superiors and his duty to his troops to put his foot down and to resist following certain directives from above. The general reconciles this tension between competing duties by employing a more utilitarian approach, ultimately deciding that it is more ethical to stay silent for now, in hope of changing things in the future, rather than to dissent now, in hopes of changing things in the present but at the risk of career stagnation.

¹⁷ The recent Jan 16, 2011 *New York Times* article, "Military Struggles to Harness Flood of Data", reporting of a Feb 2010 fratricide incident in Afghanistan (a U.A.V. that killed 23 civilians) lends credence to just such a hypothetical scenario. Likewise, the Jan 2007, *Wikileaks* "Collateral Murder" video showing the death of 2 Reuters reporters at the hands of a U.S. Army helicopter, provides yet another informational input suggesting that the above hypothetical scenario is indeed quite plausible.

**Analysis: Structural Elements of the Operational/Strategic Decision-Making
Context**

B) What we see here at this level, is that we are dealing less so with actual *persons* and more so now with the interplay and collision of *groups* of institutional agencies, organizational structures, *persons* but only persons acting primarily within the capacity of ‘institutional figureheads’, technological devices, and pre-existing, vestigial protocols created and set in motion long ago by prior rational agents, that nonetheless continue to exhibit causal efficacy within and throughout the system despite the exiting of the originators of such policies. What’s more, is that given the extreme gravity and seriousness of warfare, the institutional climate that such operational and strategic decision-makers will be found at, will likely be one steeped in a culture of, ‘Go faster! Do it better! Sacrifice more! Dammit the lives of America’s sons and daughters are on the line!’ Consequently, for mid-level staff members frenetically scrambling to achieve the simultaneous ideals of both speed and perfection, and only maintaining such a staff job for a short amount of time before being rotated out,¹⁸ corners will almost inevitably be cut and cut accordingly given pre-existing restraints for whatever new project received. Hence, maintenance on the engine of the military machine will not and simply *cannot* be made by means of a full pit-stop, a calm and well thought-out re-design, and an extensive and/or total structural overhaul. War affords no such time-outs. Rather, given such a fast-pace climate, the high turn-over of personnel, and the pressures of real-world

¹⁸ Average staff time for operational and strategic players at the mid-career officer level might look somewhere around 12 months, give or take a few.

circumstances, maintenance on the military engine can and will only be done by climbing out and popping the hood with the machine still in motion.

The aggregate affect and culmination of these institutional and structural pressures upon the mid-level decision-maker as well as mid-level staff member are several. For the most part they involve both features of agency and epistemic access. In the case of the general, we observe that his agency and epistemic access are structured in the following ways. Agency-wise we can see that he has a tremendous amount of influence and power in that he commands tens of thousands of troops, millions of dollars worth of equipment, money, technology, and institutional mechanisms to effectively control and manage these assets in such a way as to accomplish the greater mission. Additionally, by virtue of his rank, his prior command time, his time in service, and his schooling and training, he has the know-how to wield and to lead such a large unit effectively. Lastly, by virtue of his position, he has been given a significant amount of latitude in his decision-making and in terms of exactly *how* he has chosen to accomplish the greater mission. However, for all of the power that he wields, the general's agency and volitional resources are nonetheless confined by the strictures of the larger institutional body. For instance, as we can see from our scenario, when he stepped into command, the organizational architecture of his staff as well as of the greater unit at large was already set in place. Furthermore, his unit's technological, equipment, budgetary, and troop resources as well as training cycles and internal unit rhythms were largely pre-established by templates and policies set in place by the U.S. Army some time ago. Even the general's attempts to demand more and better equipment and troops by

appeal to mission necessity, are nonetheless constrained by the larger institutional strictures of the Pentagon, H.R.C., military contracting agencies, Congress, and the U.S. Military at large. Lastly, we see that the general's decisions pertaining to the actual conduct of his given mission are nonetheless always girded by the parameters *of* that given mission as dictated by those above him. Despite all of the power that the general appears to possess at first glance, a more in depth investigation into the parameters of his decision-making reveal that his agency and volitional resources are far more constrained than originally thought.

The same can be said for the general's epistemic resources. At such a strategic-level, the general does not have anything even approaching immediate epistemic access to the totality of the effects of the institutional body that he pilots. He does not have a 'god's eye view' on his unit or the battle-space and, being only human, we cannot fault him for lacking one. The stacking and combination of each new informational input creates a computational explosion incalculable for any one human mind. Even with the help of highly intelligent staff members working around the clock and with the best of computational technology, things still fall through the cracks. There will be imperfect data, collected imperfectly, communicated and represented imperfectly, re-represented imperfectly once again, all with lag-time setting the epistemic parameters and context in which the general will make his decisions. His decision will then cascade back down and through the imperfect informational grid in which its context was born, with a similar lag-time, and *the meaning* of what he has said or intended will almost inevitably mutate by some degree (according to the personal interpretation of the order by each subsequent

decision-maker along the chain of command) causing second and third order effects unforeseen by almost all agents involved. In other words, an epistemic filtering occurs. If things are running well, then such externalities will instantiate themselves harmlessly in the form of wasted time, the re-repeating and cancelling of directives, the break-down and repair of equipment, the loss of face by certain leaders, dropped calls and informational snafus, etc. In more extreme instantiations, the aggregate of such externalities will function to create stage-setting conditions for lives to be needlessly lost. Much like the lieutenant and his crew, we cannot fault the general for his lack of an omniscient vantage point or of total control over the meaning of his directives. The context of decision that he inherited came with certain constraining parameters set in place by the larger institutional framework.

What then can we say about the volitional and epistemic resources of our mid-level S-2 Intelligence officer? Is she in any better position than that of the general? Much like the general, the intelligence officer finds herself deeply embedded within the larger institutional apparatus of the military, and as such, acquires a specific set of epistemic and volitional parameters, constraining her context of decision-making for her given role. Agency-wise, by virtue of her rank and position, she has command over a small staff to whom she can delegate work. Additionally, being in a fairly elite position within the unit she has gained a certain degree of added respect and clout.¹⁹ Lastly, the influence of her job position closely effects the decisions of the general staff and thereby has a trickle-down effect influencing orders and actions all the way

¹⁹ In other words, as a soldier successfully inhabits these more elite positions, he/she garners added respect and credibility within the unit, greater power, but also a greater responsibility.

down to individual companies and platoons acting at the tactical level. Nonetheless, the latitude of her agency is still not as free as one might originally think.

As we see from our scenario, the intelligence officer's volitional resources are highly constrained by the machinations of the larger institutional body. For instance, she finds herself in a position where the unit is short-handed and lacking an additional staff member to whom she could delegate tasks and responsibilities. This is so, not because of any sort of decision located locally within the unit, but because of larger personnel and unit template decisions made in the rear some time ago. Additionally, she finds herself highly dependent upon, and likewise highly at the mercy of, many of the computational platforms and automated devices that are technically under the stewardship and maintenance of a separate department than hers. Lastly, we find that given her specific institutional role, she and her staff are extremely overwhelmed by the sheer volume of informational inputs coming her way. But despite being overwhelmed, our intelligence officer nonetheless finds herself within a unit environment where there is incentive towards martyring one's self through overwork and where any sort of request for help is perceived as a form of laziness or weakness.

Epistemically, we see very much the same theme repeat itself. By virtue of her rank and her specific role in the intelligence branch, the intelligence officer has access to certain types of classified intelligence information not normally available to same-level officers working in other branches of the army. Additionally, she has access to the information and intelligence inputs coming from subordinate units, lateral units, and from higher ups. And lastly, she will have both her staff and a network of computational and automated devices to tame, control, and make sense of these

informational inputs. Despite access to these informational resources, the S-2 officer will nonetheless be lacking significantly in certain key respects. First of all, as we see from our scenario, the sheer volume of information with which the intelligence officer must deal leaves her in a situation where some information will, almost by necessity, be truncated, misrepresented or mis-communicated, assigned an incorrect weight in its level of significance or importance, or simply dropped altogether. Additionally, the intelligence officer does not have epistemic access or a direct line of sight on *the causal chain* that her intelligence reports contribute to. She might have a general idea as to how her reports will be interpreted and what directives might come from them, but beyond that she does not know exactly what the general and his staff will choose to do with the information she reports to them or how it will physically manifest itself in terms of tactical level movements on the battlefield.²⁰ Lastly, she lacks epistemic and cognitive access to the many other dynamic events and institutional movements within the unit occurring outside her specified lane. Thus, when the intelligence officer is filtering as best she can through the torrent of information coming in her direction, she lacks clear visibility on the causal chain (actual or potential) connecting her specific intelligence input with a specific physical event on the battlefield. The intelligence officer is thus significantly hemmed in by her institutional role, just as much it would seem, as that of the general or of the helicopter crew.

²⁰ This is not to say that the Intelligence officer has zero responsibility whatsoever. Indeed, by virtue of her rank and job description, she is responsible for the overall functioning of her staff. What should be of note however is that because of her very institutional role and job description, she is, to a very large extent, *epistemically blocked*, from being able to witness the second and third order effects of the structures that she participates in and contributes to.

A careful analysis of our hypothetical scenario reveals that several themes iterate and perpetuate themselves throughout the entirety of the military institution, for all rational actors, independent of the institutional level at which we find them. The first and most recognizable theme is one of obedience and rule-following. For all members of the military, regardless of rank, they are all nonetheless soldiers who have raised their right hands and have sworn an oath to obey all legal and moral orders of their superiors. Thus, when we find a member of the military performing or participating in a given action X, chances are, that person is doing X because he or she was, either explicitly or implicitly (due to job description), legally *ordered to do X*. In fact, if X is an action that falls outside of the soldier's given job description, chances are that that soldier is neglecting his/her job. What this means then is that to a very large degree, a soldier's perceived domain of ethical responsibility will be heavily dictated by his or her stated job description. This seems like a terribly obvious point when viewed in isolation. However, when coupled with the second theme in our analysis, a slightly different picture emerges.

The second theme in our analysis is one of delegated epistemic responsibility. As a soldier performs action X in his or her specified institutional role, the unsaid notion is that his or her epistemic responsibility only extends as far as the parameters of that given role (or to be fair, perhaps even slightly beyond that role). Thus, when a soldier is given the legal order to perform action X, the empirical evidence justifying or warranting the performance of this action is seldom up for debate. The recipient of such an order must simply follow the order without having the capacity to question why or to demand further explanation. Hence, when the company commander says,

“there are enemy soldiers on the far side of that ridge. Take the hill!” his soldiers do not, in that context, have the right to respond with, “I lack sufficient evidence, prove it.” To engage in such a debate about evidential justification and the merits and pitfalls of knowledge via testimony in the middle of a fire-fight would be not only highly dangerous but also arguably unethical in that it would unnecessarily risk the lives of one’s fellow troops. Hence, the unsaid reason as to *why* a soldier ought to perform X boils down to 1.) because X is a legal order given by a superior, and 2.) because the epistemic responsibility piece justifying X, is picked up by someone else somewhere else within the larger system and the soldier needn’t worry about that epistemic piece but only the epistemic vantage point of his/her specified role.²¹ As such, the soldier (from private to general) is going on faith that somewhere else in the system, some other person or group of persons is doing his/or her job correctly; in the gathering of information, the interpretation of information, and the conveying of information and that the technological and institutional systems in place allow for these persons to do so both efficiently and effectively.²²

What’s more is that given the soldier’s specialized institutional role and the corresponding duties that role entails, for that soldier to seek to increase his/her epistemic access to the evidential justifications behind his or her received orders, is to

²¹ Indeed, this is what allows the fighter pilot to drop his payload without having the responsibility of doing a first-person reconnaissance on the actual target he has attacked. Rather, the reconnaissance, designation, and decision to attack a specific target all occur elsewhere within the larger institution well beyond the pilot’s specific role. For the most part, his moral duty as pilot is to more or less be as effective and precise of a technician as possible.

²² For both the officer and the enlisted person, his/her canonization as soldier took the form of a two-part oath; to ‘support and defend the Constitution of the United States against all enemies, foreign and domestic’ and to obey all lawful orders. The unsaid notion to this oath, that the soldier puts his/her faith in, is that there is a causal connection from the latter contributing to the former.

more or less temporarily *abandon* his or her assigned duties. Indeed, both the private and the general are too busy to be postponing their respective duties to search through the innards of the institutional machinery to gain greater epistemic access before following an order in isolation. Furthermore, even if they chose to act on such an impulse, the pragmatic reality of the situation would be that they would quickly be blocked by the intractable obstacle of one if not several security clearance firewalls.

For both the general as well as the private attempting to gain greater visibility on the epistemic inputs justifying their superiors' orders, chances are they will both quickly hear some version of, "you are not authorized access to such information. Other people have got it handled. Get back to work." Hence, for both the high-ranking general and the lowly private, the charge that they, "knew what they were getting into", or that they, "know what they are contributing to", is highly suspect. Rather, what is more likely the case is that both the general and the private do *not* know directly what it is that they have 'gotten into' or to what effects that they actually contribute to. Rather, they are following legal orders in their given institutional role, working to the best of their ability, and are more or less *trusting* that the orders coming down from above are sufficiently informed and justified by accurate and timely evidential inputs. The question then arises, under what circumstances is a soldier warranted in questioning or giving up that trust in the larger institutional body, and to what extent? Under what circumstances is a soldier morally obligated to do so?

Chapter 2: Structures

2.1 Young's Social Connection Model

What emerges out of our hypothetical scenario as described in Chapter 1 is a curious phenomenon whereby *the very structure* of the interpersonal relations, decisions, and actions amongst *the collective* repeatedly interposes itself upon the decision-making context of *the one*, constraining to a large degree, both his/her volitional and epistemic capacities. If we are to ask ourselves, “who is responsible for *acting* on the mistake?”, then we can clearly and decisively point to the immediate actors involved (i.e. the lieutenant and his crew). However, if we are to ask the question, “who specifically is *responsible* for the mistake?” or “*where* specifically did the mistake occur?” then we encounter a far greater difficulty in properly answering such questions. In order to generate a sufficiently robust explanatory account that accurately maps onto the actual phenomenon and whereby attribution of causality and responsibility can be fairly apportioned amongst agents, we must tell a far more complex story. What we indeed witness in our scenario, *because of the structure and logic of the military institution itself*, are repeated instances of such things as: diffusion of responsibility, an etherealization of personhood the higher we proceed up the chain of command, dispersion of epistemic access as well as epistemic responsibility, permutations in the meaning of orders, directives, and information both up, down, and throughout the chain of command, collisions of conflicting and aggregated decisions, mediation via technological, automated, and computational devices, a highly frenetic environment, and compounding of errors, etc. etc. etc. As such, the questions of ‘*where* (specifically) did the mistake

occur?’ or, ‘*who* (specifically) is responsible for the mistake being made?’ lose much of their meaning. This is so because the *locus* of the error, resulting in the tragedy of innocent lives being lost, is simply no longer concentrated in one salient and recognizable agent, small group, decision, or institutional location. Rather, the mistake permeates throughout large parts of the institutional structure and is thus at once, everywhere and yet nowhere.

In order to begin to make greater sense of just such a scenario, what is required is a better and more nuanced characterization of *the problem itself*. One such model, I argue, that may provide us with both a relevant conceptual framework as well as a working language whereby we may better capture and characterize the actual problem at hand, as opposed to merely attending to its symptoms, can be found in the work of Iris Young.

In, “Responsibility and Global Justice: A Social Connection Theory”, Young advances what she calls a *social connection* model of responsibility. She defines this model of responsibility as one whereby, “all agents who contribute by their actions to the *structural processes* that produce injustice have responsibilities to work to remedy these injustices.”²³ A ‘structural process’ or ‘structure’, Young defines as follows,

“Structures denote the confluence of institutional rules and interactive routines, mobilization of resources, as well as physical structures such as buildings and roads. These constitute the historical givens in relation to which individuals act, and which are relatively stable over time. Social structures serve as background conditions for individual actions by presenting actors with options; they provide channels that both enable action and constrain it.”²⁴

²³ Iris Marion Young, “Responsibility and Global Justice: a Social Connection Model,” in *Social Philosophy and Policy*, 2006, Vol 23; 102-130. 103.

²⁴ *Ibid.* p. 112.

Young uses the specific example of the modern day ‘sweatshop’ as an illustration of a special *kind* of injustice, one produced not just by a single isolated actor or by a small group of actors but rather an injustice resulting from *an entire network* of social, economic, and governmental relations as well as large and small scale practices involving thousands (if not millions) of human agents. She denotes these unique cases of injustice as *structural* injustices. Her claim is that given the sheer magnitude and complexity of the causal interrelations between such massive numbers of agents, traditional formulations of apportioning responsibility (what she calls ‘liability’ models) are found wanting in several respects.

According to Young, under a traditional liability model, “one assigns responsibility to a particular agent (or agents) whose actions can be shown to be causally connected to the specific injustice. Furthermore, the actor is presumed to have acted voluntarily and with adequate knowledge of what his or her actions were contributing to. Hence, under this framework, agents are found *not* liable if their actions were performed involuntarily or if they were justifiably unknowing of the situation. Young contrasts this ‘no-blame’ version of liability with what she calls *strict* liability. Under a *strict* liability scheme, culpability for the production of a harmful end-state is charged upon actors deemed causally connected *independent* of their motives or intended end-state, as in the case of one’s property damaging another’s property for instance. Young groups both no-blame as well as strict blame versions of liability equally under the general canopy of the liability model.

Young argues that such liability-based conceptualization of responsibility are exceptionally appropriate for certain situations as in the case of a particularly ruthless

factory boss who runs his sweatshop by means of physical violence. In such clear-cut situations, a standard liability formulation of responsibility seems fully capable of fairly apportioning culpability to responsible agents as well as providing a scheme for both punishment and correction. Furthermore, in such a situation where a direct and recognizable causal link can be drawn from the isolated actor and the isolated injustice, the dispensing of a liability model seems most appropriate. However, Young argues, despite the ousting of a tyrannical factory boss, an ethical assessment of the social and economic structures that originally created and perpetuate the poor working conditions under which such a tyrant could be even *allowed* to achieve a position of such power in the first place seems to go unaccounted for. What Young argues is that, *in addition* to questions concerning liability in isolated situations, there is yet another set of questions that must be asked that relate specifically to the ethics of *large-scale structural injustices*. These questions, she argues, a liability model of responsibility seems inadequate in answering.

To begin to deal with some of these questions that provide difficulty for the standard liability model, Young offers us what she calls her *social connection model of responsibility*. She is quick to note that her theory is not meant to be seen as one standing in direct opposition to a more standard liability scheme nor is it meant to replace it. Rather, she sees it as a complementary conceptual scheme that can be highly useful in instances of greater aggregated intentionality and large-scale social and institutional intertwinement much like in the case of sweatshops arising from the confluence of economic, governmental, and consumer forces.

Young argues that her social connection model exhibits the following unique features:²⁵

- 1.) *Not isolating*-In a traditional liability framework, isolated individuals or small groups of individuals are focused upon as being strictly liable or culpable for the bringing about of a particular negative consequence. This scheme works well in apportioning ethical responsibility in an isolated incident involving a limited number of agents within close and intimate proximity (physically and temporally) to the negative event (like, for instance, in the case of a court proceeding sorting out responsibility for a particular domestic dispute). This scheme, however, seems to be rendered increasingly inaccurate and ineffective the larger the *degree* of complexity built in and the more enmeshed the interconnectedness amongst agents becomes, such that a jump to a whole new model of responsibility, in *kind*, is necessary. This, Young argues, is the strength of her social connection model, particularly in that it focuses less on locating and blaming *isolated individuals* as the causal locus for a particularly deleterious outcome, but rather, attempts to assess the locus of causation more systemically or *structurally*.
- 2.) *Judges background conditions*-The second key feature of the social connection model of responsibility is the causal weight and importance that it places on *background conditions*. In a traditional liability model an otherwise 'normal background' is presumed to be already in place, while the unethical or unjust act is seen as being an aberrant *deviation* from the normal baseline of

²⁵ Ibid. p. 119-121.

rational human behaviour. In other words, under the traditional liability scheme, there is something of an assumed 'fair playing field' or 'equal starting point' from which equally footed rational agents then navigate their ethical worlds, either successfully or unsuccessfully. And in a traditional liability model, the failure of a person to successfully navigate his/her ethical world demonstrates, for the most part, an ethical failing on the part of *that sole individual* in some way shape or form. In contrast, a social connection model focuses much more on a different question, asking 'what were the background conditions and circumstances that compelled or structured this rational agent's decision-making process such that he/she chose to commit an ethical wrong?' Under this scheme, a social connection model views repeated instances of isolated unethical wrongdoings as symptomatic and exemplary of a possible overarching social structure(s) that itself may be conducive to such actions.

- 3.) *More forward-looking than backward-looking-* A third defining characteristic of a social connection model of responsibility as opposed to a liability model is its more forward-looking orientation. In a more common liability model, Young argues, the conceptual gaze and focus is more towards the assignment of moral culpability and blame upon agents for an unjust event that has already occurred. This is both a fine and necessary function for any worthy scheme of justice. However, in addition to such thinking, if a political community finds a certain consequence to be unethical, unjust, or harmful, insofar as they do not want the event to occur again, then there must be an

additional focus upon questions of systemic causal factors and future prevention. Young states,

“Because the particular causal relationship of the actions of the particular individuals or organizations to structural outcomes is often impossible to trace, there is no point in seeking to exact compensation or redress from only and all those who have contributed to the outcome, and in proportion to their contributions. The injustice produced through structures has not reached a terminus, but rather is ongoing. The point is not to blame, punish, or seek redress for those who did it, but rather to enjoin those who participate by their actions in the process of collective action to change it.”²⁶

Young notes that in such cases of large-scale aggregated action, the application of a liability model of responsibility often only attends to punishing wrongdoers for past injustices but in doing so, may only be attending to the symptoms of a larger problem gone unaddressed.

Alternatively, a social connection model of responsibility helps to mobilize both immediately recognizable perpetrators but also self-perceived *neutral or marginal* agents who share an active interest in not seeing the harm repeated, but may otherwise stand passive on the sidelines if failing to recognize their indirect contribution to the overall injustice.²⁷

4.) *Shared responsibility*-The social connection model departs from a liability model in that it places greater emphasis upon *shared* responsibility as opposed to singling out isolated guilty parties while absolving of all blame the

²⁶ Ibid. p.122.

²⁷ Young notes that isolated sweatshops removed from an economically impoverished populous usually tend to re-manifest shortly after their initial removal.

remainder of those persons who nonetheless contributed to the overall structural injustice but by a lesser degree.²⁸

5.) *Discharged only through collective action*- A final feature of Young's framework is the notion that forward-looking actions to right the apparent structural wrong can only be efficaciously discharged via a collective or group effort. Given that the production of the structural injustice required the coordinated efforts of thousands if not millions of willing participants²⁹, it is unsurprising that corrective action towards fixing future manifestations of the injustice should be discharged in a similar manner.

It is in these five major ways that Young's social connection model significantly diverges from the more traditional liability account of responsibility. Now that we have outlined these differences, let us move on to see how Young's insights specifically apply to our hypothetical combat scenario.

²⁸ Young notes the difference that Larry May makes between 'shared' responsibility versus 'collective' responsibility. In the case of collective responsibility, there is no notion of distributed or personal responsibility. Hence a corporation can be responsible for an event without its members being held responsible. Shared responsibility preserves responsibility between the group and its individual constituents.

²⁹ We shall count obedience, passivity, willed ignorance, and apathy as types of 'participation'.

2.2 Application

One important insight to be gained from a reading of Young's essay is the notion that there are certain *classes* of harms that cannot be accounted for in strict individual liability terms. This is so because the individual liability model of responsibility fails to capture key elements (i.e. *structural* elements) that contribute to both the harm's production and perpetuation, especially when the harm is of a collective and large-scale nature. Thus, in our assessment of the hypothetical scenario laid out in Chapter 1, we must ask ourselves, is this harm *of the sort* where the traditional liability model breaks down in one or several key respects? If so, then such a conclusion will begin to take us away from the use of an individual liability account and more towards the use of a social connection model of responsibility in our moral assessment of similar contemporary battlefield harms.

For the remainder of this chapter I will make the case that the harm described in our hypothetical scenario is indeed one fundamentally *structural* in nature and therefore highly problematic for an individual liability account. Furthermore, I will outline several of the main structural elements that cause the liability account to breakdown. These structural elements include: technological forces, institutional and bureaucratic forces, and the psychological conditioning/training of soldiers. Through an investigation of these factors, I will make the case that our hypothetical scenario ought to be seen as fundamentally *structural* in nature, emerging from the logical and relational interplay of the above-mentioned factors, and therefore warranting a moral evaluation in more social

connection rather than individual liability terms.³⁰ Let us now recap each of these structural features in kind.

Technology, Machinery, and Automation

A) In order to arrive at a more judicious moral assessment of present day battlefield harms like the one described in Chapter 1, one cannot do so without paying proper respect to the all pervasive role that technology plays in contemporary military decision-making. In prior epochs of human history, warfare, violence, and the taking of human life occurred, out of technological necessity, at the closest and most intimate of ranges. In such conflicts, combatants could literally see the eyes of their opponents, hear and feel their enemies die by means of their own hands, be bled upon, witness the carnage around them, all the while doing so with great risk of immediate physical harm. Such a battlefield context, invariably, would have made the brutal and visceral nature of killing another human being, immediately and undeniably clear. The horror and physical risk of warfare would have thus produced a certain psychological association to the moral weight and severity of killing another human being as well left open the greater possibility for one to recognize his or her enemy, even in the heat of combat, as a *thou* instead of a mere *it*. A combatant operating in such an environment would have also had a relatively unmediated epistemic ‘line of sight’ between his or her actions and their immediate moral implications.

³⁰ Once again, to say that the harm is fundamentally ‘structural’ in nature is not to fully pardon individual agents of moral culpability for their *local* contribution to the larger harm nor is it to suggest an indictment of the entirety of the institution of the armed forces. What is to be taken from the term ‘structural’, is the notion that in a very real sense, ‘the whole is greater than the sum of its parts’. As such, a more accurate moral assessment and indeed generation of an eventual solution to such harms, cannot be achieved by means of a strict liability formulation. Such classes of harms must be seen more systemically and thus warrant a social connection account.

Over time however, with advancements in technology and the advent of projectile and/or distance weaponry, from the spear, to the bow and arrow, to the rifle, to short and long range artillery, to aerial bombardments, to I.C.B.M.s (Inter-Continental Ballistic Missiles) and now to U.A.V.'s (Unmanned Aerial Vehicles), we have seen, throughout each advancing historical epoch, a further and further *distancing* occurring between soldiers' actions and the real world moral consequences of those actions. As such, visibility upon the causal link between a soldier's actions (i.e. the movement of a joystick, the pushing of a button, or the movement of tokens on a computer screen) and the moral consequences of his or her actions (i.e. the dropping of a bomb on a target) has been increasingly mediated and oftentimes obscured by a labyrinth of automated and machine forces. Whereas in the past, a soldier could witness, first-hand, the causal linkage between his/her actions and their immediate moral consequences (i.e. spear thrust = death of enemy), today's 21st century battlefield is marked with increasingly frequent cases where such a linkage becomes harder and harder for soldiers to make, precisely because of such automated and machine mediation. What we arrive at then is an increasingly reoccurring battlefield scenario where the full moral implications of the soldier's actions are never fully witnessed.

Returning now to our scenario, we see the repeated influence of these technological and automated forces at play and the difficulty that they create in attributing moral responsibility to one salient and recognizable location or person as the traditional liability model demands. At the tactical level, we witness various instances where automation and machine devices constrain and funnel soldiers'

volitional options as well as obfuscate soldiers' epistemic visibility. For instance, in the case of the lieutenant and his crew, the volitional parameters available to them at the time that they entered the battle-space were largely dictated by the technological capabilities of the rotary-wing aircraft that they were piloting. For instance, if *defensively* the aircraft had sufficient armoring such that a rocket propelled grenade did not pose a serious threat to its crew, or if the aircraft had better air maneuverability where it could more quickly and effectively get out of harm's way, then the pressure for the lieutenant to hurriedly choose to open fire would have been considerably alleviated and the tragedy likely averted. Likewise, *offensively*, if the aircraft had been equipped with non-lethal munitions, then such a technology would have provided the lieutenant and his crew with an option more attenuated to the actual battlefield scenario and would have provided an alternative to the binary choice of either 'kill or be killed.' Lastly, the physical distance with which the aircraft's cannon can effectively engage targets makes it considerably 'easier' (psychologically) for the lieutenant and his crew to open fire, as it would appear to them that they were firing upon person-like 'shapes' as opposed to actual persons.

In addition to considerations of agency, technology plays a tremendous role in structuring the *epistemic* parameters of the lieutenant and his crew as well. For instance, much of the crew's knowledge of the battle-space comes to them via information relayed through their radio and navigational instruments. Furthermore, the information deemed to be *relevant*, particularly in the case of transmissions received via radio, is something largely outside of the crew's control, as it is largely dictated by persons and groups higher up the chain of command and located away

from the immediate battle-space. Thus, the information that the crew receives from higher ups (and which thereby cognitively frames their interpretations and expectations of what is *meaningful* on the battlefield) is largely outside of their control.³¹ What is within their control is the adjusting and adapting of such information to their given specialized role/mission within the larger institutional body. However, if their specialized role is primarily geared towards dealing with the context of operating and piloting an *attack* helicopter, and if information coming from higher via radio does not report the strong possibility of civilians in the battle-space at that time, then the world outside of their helicopter will most likely be one framed and interpreted by their default training, predominantly geared towards combat. Put simply, if the radio does not *say* that there might be civilians, then the crew will most likely not be *looking* for civilians in the first place.

The role that technology plays in the structuring of decision-making contexts for soldiers, repeats itself once again at both the operational and strategic levels. Indeed, for the S-2 intelligence officer as well as for the general, we see that almost *the entirety* of their volitional and epistemic resources are shaped and mediated by automated and computational devices in one or more significant ways. In the case of the S-2 officer, her epistemic and informatic understanding of not only the battlefield but also of the internal and external workings of the military institution in which she finds herself, arrives to her via some form of automated or computational medium. Indeed we see that a large part of her decision-making context (as largely dictated by

³¹ In other words, the crew's background expectations and general 'combat posture' will be radically different if their chain of command tells them that they are flying a combat mission into a highly hostile environment versus if they are told they are flying into friendly airspace to deliver food and aid to refugees.

her institutional role) involves the sending and receiving of intelligence-related emails, long hours in front of a computer screen, the using and navigating of a particular computational platform, and the sorting and collating of various pieces of information in primarily electronic or digital form.

Furthermore, we see that a large part of where the breakdown in communication occurred (eventually leading to the unnecessary death of civilians) was due to the S-2 officer's *strong dependence and expectation* upon several computational and automated systems working as they should. The interoperability breakdown in the form of the email being unreadable between agencies, the TOP SECRET computer being revamped at an inopportune time, and the absence of redundant informational systems throughout the larger institutional framework all lent to the creation of a decision-making context where the S-2's volitional and epistemic resources were highly, highly limited. And given that the general's decision-making context, especially the epistemic piece, is highly, highly informed by reports coming in from Intelligence, we find that, despite his superior rank, the general is in a very similar predicament as the S-2 officer when it comes to knowledge and agency.

In consideration of the previously mentioned effects of technology upon the decision-making contexts of soldiers, we begin to see how the traditional liability model begins to break down in several key respects. As Young notes, for the standard liability model of responsibility to work, several conditions must be met. Some of these main conditions include; an *isolated* and fairly identifiable actor or small group of culpable actors (usually within close proximity to the harm), a relatively clear and linear causal connection between the actor's actions and the resultant harm,

knowledge possessed by the actors that their actions were contributing to the harm and/or a willed ignorance on their part regarding the link between their actions and the harm, the absence of mitigating circumstances or ‘background conditions’, and the absence of *corporate* or aggregated actions producing the harm.

As we can see from an analysis of our scenario, the influence of technology interposes itself upon soldiers within the present-day military body such that the traditional liability model no longer maps onto ways in which military decisions are actually made. This is so precisely because the forces of technology and automation facilitate and engender decision-making contexts radically different from those situations, described by Young, where a traditional liability account is supposed to apply. Indeed, it is because of the increased causal efficacy of technology and automation in warfare that the present-day soldier’s participation in the military is almost *by necessity*, highly corporate, highly specialized, highly reliant upon second-hand testimony for epistemic verification, and lacking to a large degree, a clear line of sight between one’s specialized actions and the first, second, and third order effects of those actions.³² Additionally, the growing influence of automated and computational factors within the military and on the battlefield carry with them the benefit of *accessing* more information than ever before, but also the corresponding burden of *controlling and managing* that information. What this means then, and what both the liability model as well as Young’s social connection model fail to address, is the sheer *speed* at which information must be processed and a decision arrived at for the present-day soldier, be she Private, Major, or General. All of these factors come

³² This increased division of labor and increased specialization within the military, I argue, leaves open the greater likelihood of scenarios where, ‘the right hand does not know what the left hand is doing.’

together to generate and perpetuate decision-making contexts within the military body resistant to a traditional liability account.

Institutional, Administrative, and Bureaucratic Structures

- B) In addition to technology, a second major factor contributing to the shaping of contemporary military decision-making contexts, for tactical, operational, and strategic players alike, is the role played by the institutional and bureaucratic structure of the armed forces itself. To begin to understand some of the elements contributing to the structuring of the decision-making context of the agents involved in our hypothetical scenario, we must first get a better handle on the unique role of *soldier* as embedded within the larger institutional framework of the military. As noted in Chapter 1, as a citizen of the United States, one becomes a soldier by swearing an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic, and to obey all legal and moral orders from his or her superiors. In swearing to uphold this two-part oath, there is a tacit assumption that by upholding the latter, one is, for the most part, causally contributing to the upholding of the former. This causal connection however, may or may not be the actual case, but for all but the most senior members of the armed forces privy to classified foreign policy and grand strategic information, most soldiers within the larger military body must operate under the default assumption that such a causal connection does in fact hold, directly or indirectly, between their specific actions on the ground (i.e. attacking target X) and the defense and preservation of U.S. Constitution to which they have sworn allegiance. In so doing, a fairly large degree of volitional and epistemic responsibility is off-loaded from the individual soldier and redistributed throughout

the rest of the institutional body. Consequently, a soldier, by virtue of his or her very role, is obligated to defer to the second-hand testimony of his or her superiors, but more so, to the testimony and judgment of the government and the military at large.

In *Killing in War*, Jeff McMahan notes that this default obedience and deference to the larger institutional authority of the government is, by and large, a good thing and a *prima facie* duty that soldiers ought to uphold. This makes sense for similar institutional roles and corresponding duties in civilian contexts. For we would indeed think it unethical for the individual jail-keeper to diverge from the duties of his given role and to begin letting free those prisoners who he himself determined worthy of freedom despite the legal institution's decision to have such persons locked up. Likewise, we would think it equally unethical for the policeman walking the beat to suddenly begin arresting citizens based upon a law code of his own personal prejudices and choosing.³³ In this same way, McMahan argues, persons within the given institutional role of soldier have, *in most cases*, a default duty to defer to the authority of the larger institutional body of the military (and thereby the government), both volitionally and epistemically. It is only within cases where a soldier receives an order that is unlawful or unethical that he or she is permitted (and indeed legally and morally *obligated*) to refuse to follow such an order, or, as McMahan argues, in cases where the grounds for the war itself are unjust. Aside from these two cases; a recognizably unlawful or unethical order and a recognizably unjust war, a soldier's default role is to defer to the epistemic and order-giving authority of the larger institutional body.

³³ McMahan, 30-32.

What's more, a soldier's embeddedness within such an administrative structure is, for all intents and purposes, *attached* to the larger lurching movements of the leviathan-like entity and thus largely at the mercy of where that entity chooses to place him or her. For the agent who has sworn to obey all legal and moral orders from his or her superiors, he or she only has the right to disobey an explicitly illegal or immoral order, but does not have the right to refuse to follow an order, a series of orders, a series of training protocols, or an assigned duty position that he or she believes *might possibly* place him or her, one day, in a potential situation where he or she is ethically in over his or her head. In such cases, the soldier is duty-bound to trust, by default, in the reasoning and good sense of the larger institutional body and to thereby obey. Thus, for the civilian at the local recruiting station who has signed on the dotted line to become a soldier, primarily in order to receive promised educational benefits, in so doing, he or she not only agrees to follow all legal orders but *also* in doing so, tacitly provides a *carte blanche* to the military institution to physically and psychologically mold him or her as it sees fit and to perhaps one day place him or her in some of the most morally ambiguous and epistemically murky environments imaginable.³⁴ Whereas a person in an otherwise civilian capacity could avoid the committing of a potential moral wrong simply by choosing to avoid or circumscribe altogether the placing of one's self in such morally sticky circumstances, a soldier under orders has no such recourse. Additionally, even in the case of something with far less moral gravity, like a clumsy and inefficient organizational template or a

³⁴ We may think it quite likely that individuals targeted by military recruiters might pause to deliberate further on their decision to sign on for the armed forces if the full moral weight of becoming a soldier was more readily presented to them. This of course is a topic to be saved for another paper.

completely nonsensical order coming down from higher ups, a soldier, unlike a civilian, does not have the power to simply quit and seek employment elsewhere, or to stir up large-scale dissent within his or her unit.³⁵ For a soldier, such a move would be a clear act of insubordination and likely result in strict punishment and correction long before his or her dissent ‘rocked the boat’ of the administration too drastically.

Indeed, in our hypothetical scenario, we see the power of these subtle institutional structures and processes at work and how they channel and constrain to a large degree, the epistemic and volitional options of the agents involved. For tactical level players like the lieutenant and his crew, we see how their arrival at the place where the harm occurred was not of their own direct choosing but rather a result of largely following orders to dutifully participate in their parent unit’s assigned mission. Furthermore, each of the crew members’ training, from basic training to their time in combat, was likewise a result of more or less following orders to undergo the training protocols dictated by the reasoning and good judgment of the larger institution. Lastly, their arrival in their parent unit as well as in their specialized roles was likewise dictated by a similar process of obedience, rule following, and general trust in top-down directives.

For operational level players like the S-2 Intelligence officer, we see a similar theme repeat itself. Much like the lieutenant and his crew, the Intelligence officer is under obligation to obey all legal and moral orders dictated from above and is thereby obligated to inhabit, as best she can, the pre-established institutional context dictated

³⁵ This goes for virtually all features of the institutional context that the soldier inherits, from issues related to troop strength, funding, unit rotation times, equipment and logistical resources, policies, unit training rhythms, etc. These features of the soldier’s world can be woefully inefficient, outmoded, or nonsensical but so as long as they are not explicitly immoral or illegal, the soldier by and large must simply accept and obey.

by her assigned job description. Thus, when she freshly steps into a new institutional context where there are such features as: a chaotic work environment with staff members moving at a breakneck speed, over-specialization amongst agencies and sub-agencies, little opportunity for ‘cross talk’ between agencies and thus little chance for the ‘right hand to know what the left hand is doing’, the absence of a unified and integrated informatics scheme across units, an over reliance upon automated devices, an under-strength organizational template, a seeming undervaluing of concern for risk management, and an entire pre-existing system and way of doing things already in place; in all likelihood, unless there is a gross and readily apparent error or moral wrong to which she can point, our intelligence officer is, by default, duty-bound to trust that such an institutional context is in place for good reason and working as it should. Thus, because of her unique situatedness within the larger institutional body and her default duty towards trusting in the wisdom of that greater institutional body, there is a basic incentive for the intelligence officer to simply keep her head down, to stick to doing her specialized task as best as possible, and to not concern herself with ‘big picture’ problems beyond her stated job assignment.

Now that we have looked at the tactical and operational level, let us move on to look at the unique role that institutional forces play upon shaping the decision-making contexts of players at the strategic level. Just as the helicopter crew and the intelligence officer, the general finds himself in a very similar situation when it comes to being strongly influenced by institutional and bureaucratic forces. For instance, we notice that despite the rank afforded to him by his institutional role, the general’s

unique position within the larger military body nonetheless comes with many epistemic and volitional restrictions. Epistemically, as noted previously, his apprehension of what is occurring on the battlefield or within the military institution arrives to him almost totally by means of second hand testimony from various sub-agencies, and usually in highly truncated form. Volitionally, we find that despite the power afforded by his rank, he is nonetheless duty-bound to obey top-down directives from higher level officers as well as from the Pentagon and furthermore, to do so within preset logistical, budgetary, informatic, and doctrinal parameters. Thus, despite his desire to make several sweeping, large-scale reforms throughout the entirety of his unit, the sheer size of his unit, its complexity, and its interconnectedness to the rest of the military establishment, hinders to a large degree, the general's capacity to enact such reforms and to do so in a timely manner. Much like the helicopter crew and the intelligence officer, we find the general working as best he can, *within* and *in spite of* many of these pre-existing institutional pressures.

The challenges that a soldier's institutional embeddedness creates for the standard liability model of responsibility are several. For one, being a duty-bound soldier under orders restricts a person's agency to an extremely high degree as he or she will be acting less so as a fully autonomous agent but more so as *an extension* of the larger institution's intentions. This instance of a person acting in the capacity of soldier complicates the liability model in several respects. For one, a person who is acting in the capacity of soldier is duty-bound to hand over much of his or her epistemic and volitional resources to that of the military institution to which he or she has sworn. This causes immediate problems for the liability model which assumes, amongst

other things, agents who are acting in relative isolation, largely of their own free will, and with the capacity to fully know the harmful consequences of the institutional processes in which they participate.

Our previous analysis of the causal power of institutional forces upon the decision-making contexts of soldiers demonstrates an actuality that is quite the opposite. Indeed, a soldier is often always acting and participating, in some way, shape, or form, as part of a collective or aggregated enterprise and almost never acting as a lone, isolated agent. Additionally, as part of such an aggregated enterprise, an individual soldier almost invariably will take part in highly *specialized* tasks which contribute to outcomes produced by the larger whole but without fully knowing *how* those specialized tasks contribute to those outcomes. As we see from our scenario, due to this specialization and division of labor within the military institution, soldiers are often epistemically blocked from knowing the full implication of the processes that they are under order to participate in. The liability model breaks down under such scenarios because it fails to properly capture the corporate nature of military decision-making, the over-specialization of tasks amongst groups of soldiers, and the resultant epistemic narrowing that arises from such specialization. In consideration of these points, we must conclude that any fair evaluation of a soldier's decisions (combat or otherwise) must be viewed in light of the restrictions upon agency and epistemic access that his or her institutional embeddedness engenders and perpetuates. The traditional liability model of responsibility fails to do this.

The Psychological Conditioning of Soldiers

C.) A final consideration that makes our battlefield scenario highly problematic to an individual liability account is the significant causal role played by *the psychological conditioning of soldiers*. Whereas some may downplay or dismiss the importance of a soldier's psychological training/conditioning in the moral assessment of a given battlefield harm, it is my assertion that a fair and judicious assessment of the ethical choices made by soldiers in certain military contexts cannot be properly made without being well informed by such psychological considerations. In his book, *On Killing*, psychologist and former Army officer David Grossman puts forth the argument that since WWII, the United States armed forces, as well as many other 'western' militaries, have systematically overhauled their physical and psychological training regiments in order to create soldiers who were less squeamish and/or averse (read 'more proficient') at killing. Grossman cites statistical data taken from WWII, the Civil War, etc. that point to the notion that humans are in fact not 'natural' killers but are instead, actually quite averse to such an activity.³⁶

Following WWII, in an attempt to 'remedy' this problem of soldiers being overly squeamish or reluctant to fire upon other human combatants, the U.S. Army began implementing a series of training protocols aimed at habituating and desensitizing soldiers to the act of killing other human beings. These new training processes, according to Grossman, were far more systematic than anything previously tried by the U.S. military and were highly informed by elements of both Pavlovian classical conditioning as well as Skinnerian operant conditioning.

³⁶David Grossman. *On Killing: The Psychological Cost of Learning to Kill in War and Society*, (Boston: Little, Brown, 1995.p. 153-154).

Specifically, these conditioning methods took the form of such things as marksmanship training involving new ‘human-shaped’ targets instead of the traditional ‘bulls-eye’ target, the singing of repetitive cadences, marches, and songs with violent subject matter, the use of euphemistic language to ameliorate the actual act of killing and/or actions in support of killing (i.e. successfully ‘engaging’ the ‘target’ instead of ‘killing’ a ‘person’), ‘reflexive’ fire drills to make the firing of weapons more of a second-nature/instinctual response (i.e. making shooting more of an automatic *reaction* than a deliberate *action*), the rewarding of soldiers who were more quick on the draw and the punishment of soldiers who were more hesitant to fire their weapons, as well as other various methods to make soldiers more combat ready.³⁷

In addition to receiving psychological conditioning designed to desensitize them to the act of killing, present-day soldiers within the military institution also find themselves deeply enmeshed within a subculture that reinforces the psychological attributes of both conformity and obedience. Let me be clear, to make such a claim is not to say that all soldiers are somehow brainwashed automatons, incapable of free choice, and therefore lacking any moral responsibility for their actions. Rather, what I am alluding to is the very real fact that within such an institutional body, *like an army*, certain values and behaviours must be stressed, to the detriment of other behaviors and values in order to hold the institutional body together *at all* so that it can properly perform the tasks that it was designed to perform. Thus, in the case of a military institution, whose chief aim and purpose is towards national defense (as

³⁷ Ibid.p. 254-255.

opposed to, let's say, an academic university whose chief goal is the teaching of students and the fostering of free thinking) the values of conformity and obedience amongst its members is usually beneficial.

Indeed, a military body would cease to function entirely if it were run like a democracy and if no actions were allowed to occur without each person having an equal say in the matter and then a vote taken. Furthermore, if we consider the extreme challenges of controlling and maneuvering a unit while in the midst of a real-world combat environment, one can immediately see the advantages that the attributes of conformity and obedience in soldiers would play. Under such duress situations, the values of obedience and conformity are usually the sort of things that keep people alive.

There is of course a serious downside to the large-scale fostering of these psychological attributes amongst soldiers. For one, these attributes stand the strong possibility of engendering within soldiers a tendency towards thinking less so of one's self as an autonomous individual and more so in terms of *the group*. The danger of fostering such an attitude amongst soldiers is that they may begin to cease to regard themselves as fully individual agents with corresponding responsibilities for their actions and instead mentally offload such responsibilities onto the larger group or onto some higher institutional authority figure. Classic psychological experiments like the 'Stanford Prison Experiment' or the infamous 'Milgram Experiments' speak to the reality and likelihood of just such a psychological phenomenon. Furthermore, one can easily see how an isolated social ecosystem, like that of a unit operating in

Iraq for a year-long combat tour, could easily exacerbate these psychological states amongst soldiers even more so.

Indeed, we see just how much these psychological factors impact the decision-making processes of the agents in our battlefield scenario. For instance, in the case of the lieutenant and his crew, we see that the ways in which they process and interpret the physical battle-space are largely a result of a conceptual framework generated and reinforced by their psychological and physical training. Since the overwhelming majority of the crew's physical and psychological training has been designed for combat and 'the attack', sense data on the battlefield that the crew regards as 'meaningful' will invariably be structured in accordance with just such a psychological filter. Put another way, because of the crew's psychological conditioning, sense data on the battlefield will most likely appear to them more hostile than it might actually be, since their nervous systems have 'learned' to anticipate, expect, and react (violently) to just such a default scenario.

Likewise, in the case of the mid-level Intelligence officer, we see the pressure of the institutional and psychological climate affect her such that she believes it her duty (and even perhaps somewhat of a noble act) to refuse to ask for help and to instead take on the massive job of informational management with a short-handed staff. Since the rest of the soldiers around her seem to be accomplishing their respective jobs without additional support and without 'whining', fearing potential ostracism and/or social ridicule, the intelligence officer chooses to go along with the group, to say nothing, and to work short-handed despite potential risk.

We also see a similar theme repeat itself in the case of the general. Here we see how the general's desire to initiate large-scale reforms within his unit are nonetheless countermanded and overridden by his competing desires for career preservation, avoidance of social ostracism, and a default deference to the authority of superiors at the Pentagon. Despite the general's desire to resist top-down pressures from higher-ups, he nonetheless bites his tongue, quietly obeys orders, and chooses to voice his dissent at a later, more appropriate time.

The psychological conditioning of soldiers towards the act of killing as well as the military's fostering of the attributes of obedience and conformity amongst its members, provides trouble for the liability model in several respects. As Young notes, a key feature of the liability model is that it fails to properly account for the importance and causal weight of *background conditions* in the evaluation of moral wrongs. As stated previously, the traditional liability model judges the actions of agents while presuming otherwise 'normal' and equal background conditions for all agents involved. Thus, given a presumed normal/equal background for all agents, unethical or unjust actions can be easily seen as *deviations* from rational human behavior.

This scheme is well and good for autonomous agents operating as civilians in an otherwise democratic social space. However, given that soldiers are *not* operating in such a social world, but are indeed under orders and *duty-bound* to undergo much of the psychological and physical training required of them as soldiers, as well as to be immersed in the military sub-culture, an evaluation of their actions must be adjusted to take such factors into account. While soldiers have the right to refuse explicitly

unethical or unlawful orders, they do *not* have the right to refuse training that they believe *might one day* make them overly desensitized and/or overly re-active in terms of killing and violence. Furthermore, soldiers do not have the right to refuse to be part of the social environment of the military on the grounds that such immersion *might one day* place them in situations where they're default psychology is overly conformist and/or overly obedient to authority. Such a refusal to train and/or be part of the social world of the military, in most cases, would quickly be seen as an act of insubordination and/or malingering and would thus incur official punishment in some manner.³⁸

Lastly, in most cases, a soldier cannot legally refuse to deploy to combat on the grounds that he or she feels that the legal and ethical training provided by his or her unit is inadequate and/or unbalanced with respect to their training for combat. Rather, when the order comes down from higher to deploy, the soldier most often sees it as his or her chief duty to simply grab his or her rucksack, to get on a plane, and go. It is in these ways that the psychological conditioning of soldiers *radically* affects the background conditions of our scenario such that a traditional liability account cannot be effectively used.

In this chapter, we have looked at several key features of the traditional liability model of responsibility as well as Young's alternative social connection model. We have likewise investigated some of the main structural features influencing our battlefield scenario; namely the forces of technology, the forces of institutional and

³⁸ Indeed there are cases where a soldier can make specific requests to be part of the chaplaincy or to become an unarmed medic. Such cases however are rare.

bureaucratic structures, and the psychological conditioning of soldiers, and have seen how these factors strongly shape the decision-making contexts of agents involved at the tactical, operational, and strategic levels of combat. Lastly, because of the strong influence of these structural factors, we have noted just how the liability model breaks down and why a social connection model proves to be more adequate in apportioning responsibility for our given hypothetical scenario. Given these considerations, let us now move on to consider potential worries regarding my claims and see whether or not if an application of Young's social connection model to our given hypothetical scenario stands up to such concerns.

Chapter 3: Worries and Concerns

3.1 Summary

Now that we have taken a look at the battlefield phenomenon in question and have brought to light, in more explicit terms, some of the major structures contributing to both the harm's creation as well as its predictable production, I want to direct the reader's attention to several key worries and concerns pertaining to what I have been proposing thus far. These worries and concerns can be grouped into several major categories and reoccurring themes: worries about my characterization of the role of technology, worries about my portrayal of the military, concerns about individual responsibility, and worries about whether or not the described event is fundamentally *structural* at all.

3.2 Concern #1: The Role and Significance of Technology

A quick reading of the scenario that I have described in this thesis might elicit certain worries regarding my portrayal of technology. One major worry might be that I am making *too much* of an issue of the role of technology in combat and that I am thereby arguing that this phenomenon is a fundamentally new occurrence, one unique to 21st century warfare. The other major concern regarding my characterization of technology is that I have cast technology in a fundamentally negative light and have significantly *downplayed* many of the positive, harm-preventing aspects afforded by technological advancements on the battlefield.

In response to this first major worry, and in hopes of not sounding intentionally noncommittal, I am compelled to answer in several different ways. There is the strong intuition that the scenario I have described is simply nothing new. Indeed, there are features of the described combat scenario that have likely existed and endured over time. The prosecution of warfare is a process often fraught with elements of clumsiness, human error, imperfect information, and an ample amount of ‘fog’, both literally and figuratively, resulting in the unintended consequence of civilian casualties. Historical examples, both past and more recent, abound.

Nonetheless, there is still something that must be said about the uniqueness of this present-day scenario. For there are features of the described scenario that are, *by necessity*, unique to and emerging from the presently developing ‘informational age’ battle-space: features that simply could not have existed in more primitive technological time periods. If we return to our scenario in Chapter 1, we witness several of these new features at work. For instance, in the scenario, the crew engages

the target from an enhanced *physical* distance afforded by the helicopter's weapons systems and projectile munitions as well as by their enhanced optical systems. Additionally, the crew flies and operates in conjunction with and as part of a large-scale administrative and organizational structure made possible precisely because of newly developed communications technologies, non-existent in earlier historical epochs.

Additionally, the presence of automated and computational devices on the battlefield stands as yet another example of a *new and emergent* feature of twenty first century warfare, highly influential upon the decision-making and agency of the soldiers involved. For with the advent of such automated and algorithmic processes, the nature of military decision-making changes in certain key respects. Since pre-established algorithms are set in place to act as a surrogate for actual human judgment, the locus of ethical enquiry now shifts to the construction and initiation of the algorithm itself.³⁹ The combination of these newly emerging physical, administrative, and automated features generates a *new and unique* decision-making context for moral agents, unlike those contexts which one would find in say, a Napoleonic or WWII era battle-space. Any ethical analysis of the scenario in question would thus be incomplete without sensitivity to such technological considerations.

Thus, evaluation of our scenario must take into account *both* the more timeless and enduring elements of the phenomenon, as well as the unique features and problems generated by our present-day technological epoch. Even in conceding that important aspects of this combat phenomenon might have existed in past historical epochs, I am

³⁹ Concept developed in collaboration with Eike-Henner Kluge.

not sure how, if at all, such criticism fundamentally changes anything about the ethical gravity of its *present-day instantiation* or my subsequent critique of it. Conceding that this military phenomenon has been an enduring problem, one that is often ignored in ethical evaluations of past historical time periods, this does not change the fact that it is still very much a real problem, existing in the present day, and warranting greater attention by contemporary military ethicists. Whether or not this phenomenon (of civilian deaths arising as a byproduct of the prosecution of war by a large-scale institutional body) has existed before, does not fundamentally change the position that I have been advancing. Indeed, regardless of its historical brevity or longevity, *the present* existence of the phenomenon, in and of itself, is enough to warrant greater ethical reflection. For insofar as we regard the unnecessary death of civilians during a military conflict to be a harm that must be avoided to the greatest extent possible, and as long as we regard *just execution* to be a condition on the moral acceptability of warfare, then upon *these grounds alone* can my position find purchase.

The second major worry one might have regarding my scenario is my potential downplaying of the more positive and helpful aspects that recent technological advancement has brought to the battlefield. Indeed, it might be argued that collateral damage to the civilian populace during warfare has been significantly *lessened* in this day and age precisely by virtue of technological advancements. Specifically, these technological advancements have taken the form of such things as precision-guided munitions or ‘smart’ bombs, the introduction of non-lethal weaponry and ballistics as well as non-lethal methods of offense and defense on the battlefield, U.A.V.'s (unarmed aerial vehicles), and increasingly elaborate informatic and computational

aids. What's more, these technologies have come with whole sets of systems and protocols for and amongst soldiers such that they may be managed efficiently and employed safely and with minimal error. Thus, instead of being forced to send a human infantry squad to secure a hill or vital piece of terrain, military decision-makers have the option of employing a U.A.V., operated by joystick by a specialist thousands of miles away, thus sparing the infantry squad being placed in harm's way. Or, instead of employing an entire mechanized infantry battalion to physically attack and seize a known enemy stronghold, theatre level commanders can instead deliver precision-guided munitions from the air, thereby taking what could have been a bloody and prolonged engagement (with accompanying prolonging of impacts on civilians) and reducing it to mere seconds, all while minimizing risk to soldiers. These are some of the ways that new advancements in technology are making modern warfare more controllable.

Such new battlefield capabilities, afforded by advancements in warfare technology are all well and good and are not to be denied. However, the chief concern that my scenario seeks to shed light upon, is the phenomenon of battlefield harms arising from present-day technological *distancing*. I have argued that these harms warrant ethical consideration and this argument is independent of any 'goods' arising from such new technologies. That new technologies have beneficial aspects does not absolve us of responsibility for avoiding or mitigating their potential harms. The argument I have given here is not about the acceptability or unacceptability of the technologies themselves; it is an argument that *our model of moral responsibility* for

the conduct of warfare must change given the decision-making processing in and through which these technologies are deployed.

In fact, distancing (physically as well as administratively) is what I believe to be the newly emerging feature on today's battlefield that poses the greatest problem for assigning moral responsibility, especially for individual responsibility. The problem that this distancing poses is indicated by philosopher of technology, Albert Borgmann, in his famous 'device paradigm'.⁴⁰ A *device*, Borgmann argues, differs from what he calls a *thing* in that its true nature is fundamentally complex and hidden beneath surface interfaces and veneers. A *thing* on the other hand is a simple tool or artifact with a nature that is bare and simplistic, its true nature far more immediate to our apprehension.

A thing, Borgmann argues, would be something like a wood burning stove. The building and maintenance of a wood burning stove is complicated, but not so complicated that an adult or a small group of adults couldn't build and maintain it with proper instruction. The wood burning stove, however, requires skill, adult supervision, and constant vigilance. On the other hand, a device, Borgmann argues, would be something like a central air heating unit. For the common user, the maintenance and controlling of such an instrument is fairly simple. Even a child could be taught to push the 'up' or 'down' button controlling the temperature in the room. Additionally, one could leave the device unattended without drastic repercussions, unlike a fire. However, the *real* nature of the central air heating unit (the deep complexity of its own

⁴⁰ Albert Borgmann, *Technology and the Character of Contemporary Life*, (Chicago: The University of Chicago Press, 1984, p. 40-48)

internal design, the complexity of the relationship in which it stands to *other* complex devices, the reliance upon teams of specialists and sub-specialists to install it and repair it if it breaks down, etc.), all of this is masked and hidden by the simplistic appearance of the device's user interface.

Borgmann does not make any normative claims about this phenomenon. He only argues that as technology has increased, and the complexity of our artifacts has increased (especially in terms of automated artifacts) the world that we now inhabit has become more and more *device-like*. I have argued that, at least with respect to warfare, this phenomenon has at least one important normative implication: *that an individualistic model of responsibility will fail to capture normatively important features and so must be supplemented by a structural model*. Indeed, I argue that warfare has become more *device-like* and that therefore the model of responsibility that informs our ethical analysis must consequently change.

If we return for a moment to our scenario, we see this phenomenon of physical and administrative distancing made possible and exacerbated by technological devices. At the tactical level, we witness technology creating a *physical distance* between the crew and the presumed hostile target by means of the helicopter's firing abilities, the range of its weapons systems, and the range of its optics. We witness an *administrative distance* between the crew and the commanders by means of the unit's audio communications capabilities and its elaborate command structure (made possible by such communication devices). As such, many of the decision-makers actually controlling the stage-setting environment for the harm and giving the go-ahead to engage the target, are physically absent from the actual harm's location. A level up, at

the operational level, we see the distancing effect of technology repeat itself. Here, we see decision-makers handling information and making decisions based solely upon interfacing with computational and automated devices. While these complex devices make it possible to better manage information and thereby control troops and units, such complexity is not always good. As we see in our scenario, such complexity also, at times, can allow for certain data inputs to slip through the cracks and for seemingly benign automated/administrative mistakes to 'trickle down' and compound into *lethal* real-world consequences.

The distancing effect that technology has created in modern warfare is ethically problematic in several key respects. For one, such distancing is particularly problematic for the issue of individual responsibility. This is so, because such technology allows for the erecting of complex administrative structures, thereby creating separation between volitional agents. Such separation, physical as well as epistemic, becomes problematic for individual responsibility because the administrative structure functions as a device-like buffer standing between persons, actions, information, decisions, and consequences. As the administrative structure grows, so too must the complexity of *the story* linking administrative decisions to real-world consequences. And as we see from our scenario, sometimes the thread gets lost. Since technologically-engendered administrative structures both facilitate collective action as well as obscure the actual causal contribution of the individual to the group, when a harm is produced by the collective, it is often unclear who or what is specifically to blame *or* if anyone is to blame at all.

The second main problem created by the distancing effects of technology is one that I have touched upon previously and one echoed by Grossman. This is the notion that as the moral agent is further and further removed from the actual battlefield by means of technology, and thereby removed from the visceral act of taking a human life, the act of killing, by necessity, must become more and more of an abstraction for the moral agent. Thus, as we move from sword range, to arrow range, to rifle range, to U.A.V. range, etc., we correspondingly apprehend the enemy as first, a human with a face and with emotions, then as a human-like shape at greater and greater distances, and then finally as a video-game icon on a computer screen.

A concern I share with Grossman is that such distancing between moral agents and their human enemy, possesses the strong potential for rendering the act of killing an increasingly banal and thereby amoral action for soldiers, and likewise rendering soldiers' perception of the enemy as no longer a *thou*, but merely as an *it*. This problem gives us a reason to shift to a structural responsibility model because whatever we may think about the character impacts of this kind of distancing, the reality is that it simply is not in the soldier's control how he or she engages in combat, nor is it entirely in his or her control how the means of combat impacts his or her affective disposition to the enemy. As we have noted previously, the soldier is under legal orders to participate in certain pre-established modes of training and to make use of certain pre-established technological devices, neither of which have anything *explicitly* unethical about them. Hence, the soldier has no outright legal or moral recourse to refuse training or to refuse engaging with certain technological devices that only *may potentially* become ethically problematic under certain circumstances. By default, the

soldier is lawfully obligated to comply and to thus engage with certain technologies, training protocols, and bureaucratic modes of doing things.

Thus, as long as we focus solely on individual responsibility, then, it becomes difficult to figure out what we are supposed to make of the impacts of distancing (by way of technology) upon an individual soldier's psychology. When we adopt a structural approach, however, we step back from whether individuals can be blamed or otherwise held responsible for their attitudes and we can ask: Are these attitudes something that could be minimized or mitigated if the structures were different or altered?, and How would actors have to behave or decide differently for us to have those different structures?, or Are there changes actors must, as a moral matter, accept so that the structures may be different? A structural approach allows us to begin to ask some of these questions whereas an individual liability model does not.⁴¹

These are some of the main worries pertaining to my portrayal of the role of technology in warfare and my responses. In responding, I have attempted to point out some of the more deleterious and/or morally problematic features that our current technological epoch brings with it without dismissing more perennial features of warfare or ignoring recognizable goods that technology has created. What should be understood by the reader is that in focusing upon some of the potentially ethically problematic features of technology in warfare, I am not arguing for any sort of condemnation of technology. Like Borgmann, I am only making an observation about particular phenomena arising from technology in warfare and am not making any particular normative claims about the technology itself.

⁴¹ Idea developed in collaboration with Cindy Holder.

3.3 Concern #2: The Portrayal of the Military

The second major worry one might have when reading my scenario deals with my portrayal of the military. A shallow reading of my scenario might lead one to believe that I am implying that the military itself is fundamentally an unjust structure or that I am attempting to caricature the military as a sort of monolithic, evil entity. For if the event that I have described is a 'structural' harm, then, by extension, am I not saying that the *military itself* is a harmful structure?

This line of reasoning simply does not follow and marks a clear case of throwing out the proverbial baby with the bathwater. Even though I have outlined some of the main structures presently existing in today's military (technological, institutional, doctrinal, etc.) and have made the case for how it is that a confluence of these structural forces comes together to result in the systematic byproduct of civilian harm, I am **not** arguing for an indictment of the military establishment *in its entirety*. Indeed, we owe a great deal to the contributions and sacrifices of the men and women of the armed forces, both past and present, and it would be foolish if not disrespectful to not recognize such contributions. It would be equally naive to not recognize the necessary and potentially beneficial role that a military plays for any modern-day nation-state. Rather, what I am saying is that *despite* any goods that might come from the institution of the military as a whole, there are nonetheless civilian harms, like the one I have described, that are, *systematic* in origin. By 'systematic' harms I mean harms that are similar in nature, frequently occur, occur under similar preconditions, and involve similarly situated actors such that it is implausible to describe the harm as merely random or accidental. Given the systematic nature of these harms, I have argued that a structural account is necessary

to properly analyze moral responsibilities with respect to their production and that an individualistic account on its own is inadequate.

An analogous form of reasoning holds true for Young's claims about sweatshops. In pointing out a systematic harm arising from certain unjust structures within the larger global economy, Young's thesis does not *in itself* commit one to indicting the global economy *as a whole*. Even though she is in fact against global capitalism in its entirety, her thesis need not commit one to such a position. Rather, all one needs to take from her project is that there are certain identifiable and systematic harms in the world that result from large-scale collective human activity and that the magnitude and complexity of these unique kinds of harms cannot be properly explained or captured by an individual liability account. The complexity and magnitude of the harm indeed motivates her towards a *structural* explanation, but in doing so, does **not** necessarily commit a supporter of this view to an unfettered condemnation of the economy in its entirety. Rather, it is quite the opposite.

By virtue of re-framing our notions of responsibility for such harms in structural terms, we can begin to identify, tease out, and untangle certain problematic and potentially unjust structures from more benign or neutral ones, structures that very well might have gone unnoticed if viewed exclusively through the near-sighted lens of individual liability. This is the very strength of Young's model and one that finds purchase precisely because of her reluctance to treat the global economy as a singular, monolithic entity. In this same way, I have attempted to characterize the combat scenario as arising from structures within the military so that the harms produced must be understood as fundamentally structural without portraying the entirety of the military as

being a monolithic, coherent, and intentionally committed entity. That one characterizes a harm as being produced by structures does not commit one to treating those structures as singular or monolithic nor does it commit one to treating those structures as intended or designed to produce such harms.

To appreciate how structures may systematically, in virtue of their operations, produce harms without being monolithic or ill-intentioned, one may look not only to Young's work but also the work of Claudia Card. In, "Against Marriage and Motherhood", Card provides several justifications for why the institution of marriage ought to be seen as an unjust social structure. Card argues that marriage is harmful because of several key features of the institution. Specifically, Card argues that the institution of marriage is economically coercive in that the state/society compels agents (traditionally women) to enter into the marriage agreement, that marriage (as recognized by the state) is exceptionally difficult to get out of and that because of such difficulties those who ought to divorce often do not, and that the institution of marriage grants exclusive access to sex, privacy, property, and cohabitation between spouses. The combination of these features (particularly the last one), Card submits, is what makes it exceptionally difficult for abused spouses. Card writes, "...[t]he legal rights of access that married partners have to each other's persons, property, and lives makes it all but impossible for a spouse to defend herself (himself) or to be protected against torture, rape, battery, stalking, mayhem, or murder by the other spouse."⁴² Card points to the exceptionally high numbers for spousal battery and murder each year as supporting evidence for her claim.

⁴² Claudia Card. "Against Marriage and Motherhood," in *Hypatia*. Vol 11. No 3. Summer 1996.p. 6,7.

The main point to draw from Card's assessment of the institution of marriage is that we can characterize a social structure as morally objectionable (or at least morally problematic) in virtue of its being a systematic source of harms without having to ascribe *bad intentions* to individuals who participate in and maintain it. Rather, insofar as there are repeated and regularly occurring harms generated by (or strongly correlating with) a particular structure, we can, Card argues, characterize that structure as morally objectionable without *further* appeal to bad intentions or even negligence on the part of participating agents. Young's argument suggests that it is precisely in such situations, where bad intentions are absent amongst individual actors and yet a predictable harm nonetheless occurs, that the limitations of the individual liability account reveal themselves. This is the situation in Young's sweatshop scenario. Individually, there might be no particular agent or small group of agents actively *intending* to bring about the heinous and exploitative work conditions of sweatshops. Nonetheless, despite the lack of individual bad intentions, the sweatshops still emerge and produce heinous and exploitative work conditions. Such emergence, in the absence of individual intentions, is what pushes Young away from a strict individual liability account and towards one that is fundamentally structural.

In this same way, my criticism of some of the main structures and features of the U.S. military can be made without becoming a condemnation of the military as a whole. All that is necessary for my argument to carry weight is for there to be, as Card puts it, 'reasonably foreseeable' harms (i.e. civilian casualties) that occur as a result of the features of the military institution that I have identified (independent of good intentions and good participants). In teasing out these features and structures within the larger

military institution, and demonstrating the reasonably foreseeable harms that arise from them, we can ask what various actors' responsibilities are to modify their engagement with structures or the structures themselves in order to minimize, mitigate or avoid these harms. This does not in any way imply a denouncing of the armed forces in its entirety.

3.4 Concern #3: Implications for Individual Responsibility

The third major worry arising from my scenario deals with implications for individual responsibility. One major concern is that by couching the scenario in fundamentally structural terms and by claiming that the scenario is fundamentally systematic in nature, I am thereby shifting responsibility onto structures, so much so that *individual* responsibility goes away. This is our first major concern. The second major concern involving individual responsibility can be seen as somewhat of the flip-side to this first worry. Whereas the first worry is that I have advanced a position where individuals are responsible for *too little*, the second worry is that I have set the bar for epistemic certainty too high for agents embedded within structures and that I am thereby demanding that individuals be responsible for *too much*. Let us now look at each of these worries dealing with individual responsibility and see if we cannot assuage some of these concerns.

The fear expressed in our first major worry is that once we begin assigning too much causal weight to 'structures' in our formulation of responsibility or once we begin saying that certain harms are fundamentally 'systematic' in nature, then all prior notions of *individual* liability or accountability will somehow be tossed out the window. After all, are not all moral agents, to some degree, part of and influenced by *some* sort of social

‘system’ or ‘structure’? If so, then on this account, could we not pardon the serial killer, the gang leader, or just about any other culpable individual by appeal to a similar narrative involving ‘structural’ forces?

Once again, to frame causality, and likewise responsibility in ‘structural’ rather than in individual liability terms and to advance an ontological position that makes room for the strong efficacy of collective or aggregated action is not the same as simply absolving individuals of *all* blame. On the contrary, the concern raised by this particular worry is actually a strong motivation for us to derive a fleshed out theory of both structures and structural responsibility so that notions of individual responsibility may be reformulated in terms that do not force us to chose between them.

In *Complicity: Ethics and Law for a Collective Age*, Christopher Kutz touches upon this same concern in what he calls *The I-We Problem*. *The I-We Problem* Kutz defines as follows,

“I participate in a harm caused by something *we* do, but I am not personally accountable for that harm, because of the insignificance of my contribution... Since individuals are only accountable for local effects, responses aimed at individuals are inappropriate. But since there is also no legitimate moral subject corresponding to the *we*, responses to collective harms find no proper target.”⁴³

This seems to be the key problem when it comes to apportioning responsibility amongst a large collective of moral agents. How do we derive a notion of *individual* responsibility when the actions (and consequences) of the individual get swept up and lost in a network of collective human activity? Despite the problem’s seeming insolubility, Kutz nonetheless hints at a partial solution,

⁴³ Christopher Kutz. *Complicity: Ethics and Law for a Collective Age*, (Cambridge: Cambridge University Press, 2000.p.5-6.)

“[I]n a world of essentially *supra-individual processes and harms*, the moral philosopher’s task is to provide a theory with ‘a set of clear, action-guiding, and psychologically feasible principles which would enable individuals to *orient themselves in relation to larger processes*, and general conformity to which would serve to regulate those processes and their effects in a morally satisfactory way.’”⁴⁴

What Kutz is saying in this particular passage is that individual persons in this day and age, *despite their individuality*, are nonetheless highly enmeshed and embedded within a world of large-scale collective processes (and networks of processes) that they directly or indirectly, knowingly or unknowingly participate in. Given such a state of affairs, Kutz sees it as the moral philosopher’s job to develop a framework whereby individuals can navigate and participate in these structures in an ethically informed way.

This is precisely what Young’s structural responsibility model is attempting to do. By developing a theory of personal responsibility *in relation to* participation in structures, we can begin to arrive at some of the ‘orienting principles’ Kutz is looking for, ones specifically aimed at directing and informing individual actions in relation to larger ‘supra-individual processes’, or in other words, in relation to structures.

The derivation of such principles, Kutz argues, lies not in the abolishing of individual responsibility (or individual liability) in the traditional sense, but rather in *an expansion* of these presupposed domains. Kutz writes,

“The trick lies then not in modifying the fundamental bearer of accountability, but *in expanding the scope* of individual accountability by including an assessment of what an individual does *with others*.”⁴⁵

⁴⁴ Ibid. p.9.

⁴⁵ Ibid. p.10.

What Kutz is calling for is a notion of individual responsibility that expands its domain such that we begin to see the individual's actions as not simply occurring within a localized vacuum, but rather as occurring with and in relation to the larger collective. In this same way, Young's structural responsibility model allows us to account for the causal role of structures in our ontology while still preserving a notion of individual responsibility with respect to such structures. In other words, such a framework can allow us to begin to see where the domains of individual and structural responsibility begin to 'link up', so to speak. This of course is what Young is aiming at all along.

For we must remember that Young explicitly states that her structural responsibility model is intended to be *a complement to* rather than a substitute for an individual liability framework.⁴⁶ In this same way my framing of certain battlefield harms in primarily *structural* terms is not intended to serve as an all-out new theory so that all prior notions of individual liability may be jettisoned. Rather, it is precisely by developing a theory of structural causality and structural responsibility that we can freshly re-engage notions of individual responsibility, this time *in relation to* and *with respect to* newly identified structures within the larger military body. The fact that Young's structural model remains highly commensurable with more traditional notions of individual liability should alleviate any would be concerns about *total* absolution of individual blame on account of structures.

What then of our second concern regarding individual responsibility? If not *too little* responsibility for the individual, then what about a reading where I have ascribed *too much* responsibility to the individual? The particular worry here is that I am being too

⁴⁶ Young, 118.

epistemically and therefore ethically demanding. By highlighting the epistemic murkiness that often results from structures, the worry is that I am in effect saying that all soldiers ought to be held responsible for knowing *all* of the second and third order effects of the structures that they participate in. In essence, this concern comes down to the issue of *information processing* and what ought to count as a reasonable versus unreasonable expectation for what information is taken into account by individual decision-makers during the moment of decision.

As with Young, part of my motivation in this thesis is to get us away from thinking and speaking in terms of strict individual responsibility. Rather, the chief aim of my thesis is to point out a real-world phenomenon that is fundamentally collective in nature and thus flies in the face of analyzing the issue solely in terms of individual liability formulations. Indeed, on my argument, the ethical focal point is not fundamentally at the level of individual decision-making but at how and where individual decision-making *ties into* the collective, structural context. The potential problem we must deal with then is not that the individual decision-maker (be it tactical level ‘grunt’ or strategic level general) will be held to too high an epistemic standard, but rather, as with our previous counterargument, that individuals will be completely absolved from responsibility on account of the structure. This is a concern because individuals' responsibility for problematic decisions is not personal, localized, and direct (in this case) but instead *shared* (i.e. it is theirs as a participant in the group, the information about whose structures they require is dispersed across individuals and locations).

This is exactly the *I-We Problem* to which Kutz alludes. For individuals in such cases, personal responsibility takes the form of *their participation in the group's*

decisions and their failures to (insofar as they can) improve or change the group's structures. However, what that participation specifically will look like or how it takes shape, can only be fully discerned *after* we have identified the ethical implications of the structures to which they contribute and it is too much to ask of any individual that he or she be able to identify all of the relevant structures and the implications of engagement with them. *However this is the very reason for a structural analysis of the problem in the first place:* precisely so that individual actions and decisions may be structurally and contextually situated in a way that makes it possible for individuals to access information that is difficult otherwise to discern. Part of the point of doing a structural analysis is to reduce the epistemic demands on individuals attempting to do the right thing. It is exceptionally difficult to know exactly what individuals can and can't know about how structures *position* them in relation to outcomes, especially when those individuals are embedded within a large-scale institutional body. Thus, not until we have performed a structural analysis can we determine what then counts as an appropriate level of epistemic (and therefore ethical) demandingness.

Before we move on to address our final area of concern, I would like to take a moment to point out a particular feature permeating these worries over individual responsibility that we have just examined. Specifically, implied in these worries, is the presupposition of a strict either/or divide between individual and structure. In other words, the tacit claim is to the effect of, *either* the structure is responsible *or* the individual is responsible. In the first permutation of our worry, the concern was that responsibility fall the way of *the structure*. In the second permutation of the worry, the concern was that responsibility fall the way of *the individual*. In both cases, the worry is

strongly framed by a presupposed either/or dichotomy between individual agent and structure.

This presupposition, I believe, cuts to the heart of the matter of my project as I see it as my part precisely *to get us away* from thinking and speaking in such binary terms. Indeed, I see the main goal of my thesis as geared towards the developing of a framework such that individual responsibility and structural responsibility may begin to fit together in a commensurable, integrated, and overlapping way and that such strict, binary modes of thinking and speaking may be avoided and eventually outstripped. Such a framework, however, cannot begin to be built until such strict dichotomies are questioned and challenged.

3.5 Concern #4: The Scenario Is Not *Structural* At All

Let us now move on to our final worry. Put simply, this worry involves a mis-categorization of the event itself. As the sub-heading suggests, the concern here is that there is nothing fundamentally *structural* about the described event at all. This concern, if correct, is highly problematic for my position. My thesis argues that individual liability assumptions structure current just war approaches. Since individual liability accounts demonstrate themselves to be inadequate (as evidenced by my scenario), I argue that we therefore need to revise just war theory in some manner. *However*, if it turns out that there is nothing fundamentally *structural* about the event at all, then there is no compelling reason for us to revise our current way of doing things when it comes to just war.

If there is nothing structural about the described event, then we are faced with two other possible classifications of the phenomenon, either it is inevitable or it is random. Let us look at this first explanation. One common response to the event that I have described is to say that the scenario, and ones like it, are a simple and brute *inevitability* of warfare and human conflict. Collateral damage simply happens. Such is the price of conducting a war some might say. A similar line of reasoning can be found in certain attitudes regarding the issue of economic structures in relation to poverty. 'The poor will always be with us', is the sentiment, independent of whatever economic system we choose to adopt. Analogously, there is the notion that 'collateral damage will always be with us', independent of who goes to war or how we go to war. Thus, if my described scenario is illustrative of the inevitability of collateral damage during warfare, then given such inevitability, persons cannot be expected to take responsibility for its occurrence beyond their own, highly limited, personal spheres of influence. This is our first explanation.

If structures *do* in fact impact the extent of collateral damage as well as its specific instantiation, then there is something within personal spheres of influence to be addressed: the shape, construction, and operation of the structures themselves. If so then we must ask an empirical question: Do structures impact the extent of collateral damage as well as the specific form it takes? To truly answer such a question would involve nothing short of an earth-sized laboratory whereby different structures could be tested against a control group. The next best option and one actually feasible would be to perform a structural analysis of different military establishments and wars across

different historical epochs. While this would be a valuable academic contribution, it unfortunately falls outside of the scope of this paper.

What I have done however, by way of my hypothetical scenario, is made the case that structures in fact *do* impact the shape and severity of civilian harms. While the critic may object to this claim and contend that the numbers and type of collateral damage would remain the same regardless of whatever structures were in place, however the empirical data pertaining to civilian casualties in wars would seem to speak against such contentions. If the critic accepts that structures do play a causal role in the form and expression of civilian casualties then we must shift our focus to the question of whether or not individuals can influence structures or be held accountable for failing to influence them. If the answer is ‘no’, then this insight at least informs our understood limits upon individual responsibility.⁴⁷

With that in mind, let us now take a look at the second classification of the event. If there is nothing fundamentally structural going on in my scenario, then another plausible explanation is that I have been describing a case of simple bad luck and have thus been erroneously ascribing moral weight to a domain for which considerations of moral responsibility do not fundamentally apply. This is so because in cases of accidents (assuming no instances of culpable negligence), there is no agent who has chosen to do anything right or wrong. Rather, the negative state of affairs just happened to unfortunately occur, like in the case of a tornado, earthquake, or some other naturally occurring phenomenon. Since the proper domain of ethics (and responsibility) is that of human choice, and since there was fundamentally no choice in the matter (at least no

⁴⁷ Concept developed in collaboration with Cindy Holder.

deliberate choice or act of negligence), then there is therefore nothing fundamentally *ethical* about our scenario at all, tragic as it may be. If this is the case, then my subsequent argument pertaining to structural responsibility will have been built atop a house of cards. So the argument goes.

Let us, for a moment, take this concern seriously and treat it as if it has already found purchase. Let us assume that it is indeed the case that what we are dealing with is simply a one-off event, a random, albeit unfortunate product of fate, that has occurred in isolation, is not the product of deliberate human choice (or negligence), and is not expected to repeat or reproduce itself. If this were indeed the case, then we must ask ourselves, *under what conditions would this explanation be plausible?*

For starters, what one might point to in order to lend credence to this worry is the seeming dis-analogy between my particular argument and the one advanced by Iris Young. In the case of Young's argument, Young has literally *thousands* of identifiable cases of sweatshops around the world that she can point to as evidence of a *predictable and repeated* harm. From the predictable and repeated nature of this readily identifiable harm, she can then backtrack and begin exploring and identifying some of the large-scale structural relationships and processes producing (or at least strongly correlating with) these harms. Whereas Young has thousands of sweatshops to point to as evidence for her claim, my argument, it would appear, only deals with one, isolated instance. In other words, there is no set of evidence involving *thousands* of reoccurring civilian casualties via helicopter attack that I can likewise point to.

On the surface, this challenge might hold true were it the case that I were only talking about a *particular* instance of a civilian harm occurring on the battlefield. Were it

the case that I were talking just about a *particular* helicopter, running a *particular* mission, and causing a *particular* harm somewhere in Baghdad then the dis-analogy between my argument and Young's would indeed hold. However, the fact of the matter (and what should be readily apparent to the reader by now) is that I am most assuredly *not* simply talking about *one*, isolated incident. Rather, what I am using the specific scenario to illustrate is the *general* phenomenon of civilian casualties resulting from a large military body's prosecution of war. Taken in this regard, the set of evidence speaking to the predictability and reproduction of this more general phenomenon, and thus illustrating how it is indeed far from being a one-off event, is quite large.

For instance, the CRS (Congressional Research Service - Library of Congress) collected and reported Iraq civilian death estimates from a variety of agencies spanning different time frames from March 2003 to August 2008. Low estimates of Iraqi civilian death numbers from March 2003 to August 2008 were reported around 86,661 to 94,558. Higher estimates, reported by the World Health Organization, spanning roughly the same time period, fell somewhere around 151,000. Over the time period of April 2005 to August 2008, the Associated Press reported 34, 832 Iraqi civilians dead and 40, 174 wounded. Lastly, *The Lancet*, in an article entitled, "Mortality After the 2003 Invasion of Iraq", reported an estimated Iraqi death toll to be somewhere between 426,369 and a staggering 793,663 for the time frame of March 19 2003 to July 31 2006 alone. (The reader should note that these are statistics covering *only* the Iraq conflict from 2003 to 2008 and do not capture Iraqi civilian deaths or casualties from 2008 onward).⁴⁸

Apart from the Iraq conflict, a similar trend can be seen in recorded civilian

⁴⁸CRS Report for Congress, "Iraqi Civilian Death Estimates" available at <http://www.fas.org/sgp/crs/mideast/RS22537.pdf>

casualty statistics for other wars. For instance, in Afghanistan, from 2007 to 2010, *The Guardian* reported an estimated 9759 civilian deaths.⁴⁹ For the war in Vietnam, civilian casualty estimates range somewhere in the neighborhood of 361,000 to 2 million. And civilian casualty numbers for World War I and World War II have been estimated at 6 million and 37 million respectively.⁵⁰

Were it the case that the estimated numbers for civilian casualties, in both the current war in Iraq as well as in prior wars, were significantly *low*, then the one-off event thesis would seem considerably plausible. However, given that the numbers for civilian casualties in both the Iraq war and in prior wars are indeed *not* low, explaining the scenario as a mere one-off event seems to be an explanation highly incoherent with this set of data. For if it were indeed the case that the described scenario really was just some aberration, one would still need to account for how it is that those numbers for civilian casualties were so high. Explaining *all* or even the majority of these casualty numbers as *random* one-off events, would thus seem to fly in the face of the evidence.

What's more, a factor we mustn't downplay in its contributing role in producing civilian casualties, is the unique nature of the 21st century battle-space. Whereas in past historical epochs the designated 'battlefield' was usually distinctly set apart from areas of civilian life and activity, the battle-space of 21st century combat has become intimately intertwined with the civilian populace. Instances in Iraq and Afghanistan as well as in Somalia stand as examples of this growing phenomenon. Additionally, the overwhelming

⁴⁹ *The Guardian*, "Afghanistan Civilian Casualties", available at <http://www.guardian.co.uk/news/datablog/2010/aug/10/afghanistan-civilian-casualties-statistics>

⁵⁰ R.J Rummel, *Democide*, available at <http://www.hawaii.edu/powerkills/SOD.CHAP6.HTM>

presence of civilian contracting companies as well as civilian reporters in these areas of combat operation adds yet another level of complexity to the already difficult task of discerning combatant from non-combatant. With such an environment, one would naturally expect numbers for civilian casualties to increase.

Given these considerations, the *repetitiveness* of this phenomenon (of civilian harm on the battlefield resulting from the interplay of structural forces) creates certain, key problems for a Just War model highly framed and informed by individual liability assumptions. This is so precisely because a major tenet of the Just War Tradition is not only that of *just cause* but also of *just execution*. What this means is that to prosecute a war ethically, a military must not only be fighting *for* an ethical motive, but also it must do so *in an ethically defensible way*. One major feature of just execution (amongst others) is the protection of the civilian populace while fighting. Given that the civilian casualty statistics in both the Iraq war and in prior wars are sufficiently high enough to strongly suggest a phenomenon that is both commonplace and reproducible (and hence *not* a one-off event,) and given that protection of civilians during war-fighting is a good worth preserving, then, what is warranted is a better and more accurate account of *how* such harms actually occur, precisely so that they may be better mitigated and avoided. The causal story that I have proposed thus far in this thesis marks one such attempt at a more accurate account.

Insofar as these harms repetitively and predictably occur, and insofar as we are concerned with mitigating civilian harm during the prosecution of war, then we must seek to develop a better narrative of *how* these harms repeatedly occur. And it is by means of this narrative that *ethical attribution* can then take place. Short of these harms being

dismissed as a one-off events, what I am offering is a rough sketch of how some of the military's more subtle causal structures (technological, institutional, doctrinal) come together to predictably and repeatedly bring about these harms on the battlefield. Now, if one were to take issue with *how* I have specifically connected the dots or with *what* specific features/structures within the military that I have deemed most responsible in terms of their contribution to civilian harm on the battlefield, then that is a different issue. What is clear though, is that we are dealing with a harm that is repeatable and predictable and has a structure and a logic to it that is far from random. The upshot then of this analysis is that for Just War Theory to be an adequate approach, it needs to incorporate structural responsibility considerations.

Conclusion

Given the increasing pace of technology and the new epistemic and volitional contexts engendered by such technology, war it would seem, is becoming an increasingly *corporate* enterprise. As such, military ethics in the future will require frameworks whereby such collective action can be accurately accounted for and whereby ethical responsibility can be fairly apportioned. As my thesis has shown, standard formulations strictly based upon individual liability are ultimately incomplete. What I have offered in this thesis are the rudiments of a framework whereby such collective battlefield harms may begin to be evaluated. Whether or not my particular framework is the most appropriate is of less concern. What is of greater concern is simply that contemporary dialogues in military ethics at least begin to expand their scope so to make room for unique battlefield cases such as those that I've described.

In this thesis I have given an account of how and why the individual liability model breaks down for certain types of harms in warfare. What's more, I have made the case that to account for such harms adequately requires a framework grounded fundamentally in *structural* terms. By taking Young's notion of structural responsibility as applied to the global economy and re-appropriating it such that it can be applied to contemporary military contexts, I have offered one such framework by which such structural harms may be evaluated. Specifically, I have argued that the areas of technology, administrative organization, and soldier training stand as the main, identifiable structures contributing to the harm's systematic production, and consequently, the areas that stand the greatest hope for analysis and revision.

In addition to identifying and investigating some of the main structures factoring into the harm's production, we have also taken into account certain worries and concerns arising from such inquiry. Specifically, I have looked at worries about my characterization of technology, worries about my characterization of the military, and implications for individual responsibility. In addressing these worries and concerns, I have relied largely upon Card's structural analysis of the institution of marriage as well as Kutz's commentary on collective action. In so doing, I have shown these concerns to either be amenable to my overall thesis and/or founded upon a general misunderstanding of my original claim.

In conclusion, the upshot of my thesis is that a complete and adequate moral analysis of war must take into account cases of structural harm and structural responsibility. While diverging from more traditional approaches, this insight does not erase individual responsibilities but rather offers a clearer and more complete basis for developing our understanding and analysis of those responsibilities. Having established the need for structural responsibility for the specific domain of war, the next step, as I see it, is to begin to focus upon questions of *how* and *where* domains of individual responsibility specifically plug into and connect up with structures and structural responsibility. For it is only by way of more clearly identifying the large-scale structures that we both participate in and are situated within can we begin to arrive at a more proper and thorough notion of responsibility for not only the group, but for the individual as well.

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