

NOTICE:

The copyright law of the United States (Title 17, United States Code) governs the making of reproductions of copyrighted material. One specified condition is that the reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses a reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

RESTRICTIONS:

This student work may be read, quoted from, cited, for purposes of research. It may not be published in full except by permission of the author.

THE IRRESISTIBLE POLEMIC

A TREATISE ON THE MORALITY OF WAR

John Marshall Yurchak

TABLE OF CONTENTS

Introduction	1
I: Aggression	10
II: War	47
III: War and Morality	65
Conclusion	90

INTRODUCTION

Nearly everyone has seen some sort of image labeled "war", but the very fact that war seems so well-known to us leads us to take the concept for granted. The notion of war usually conjures up images of armies on a battlefield in the presence of large amounts of death and destruction, although we have come to use "war" to describe many other things which seem to approximate that basic notion. We have price wars, and gang wars, and civil wars. We have wars against inflation, and wars on poverty. We make war against disease, against crime, and -- of course -- we make war against nations.

The concept of war is surrounded by an entanglement of analogous concepts and idyllic approximations. But, having become so used to them, when we try to sit down to answer questions like: What is war? ... and... Is it right to

engage in war? ... all the various factors become suddenly relevant and we find ourselves far afield of the real issues. It is the tendency of "war" to encompass practically everything which has prevented philosophers from producing a unified general theory explaining what it is. And unless we know what it is, exactly, that we are talking about when we use concepts like "war" and "aggression", it is fruitless to ask any important questions about them. Therefore, if the factors surrounding the analysis of war could somehow be limited, in principle the job of the philosopher would be made much easier.

For example, one of the things which people say about war is that it is always wrong, or that engaging in it is not justifiable except in certain very special circumstances, like one's own nation's defense. In fact, we are seldom interested in any but the moral questions concerning war and simply assume we know what it is about which we are asking questions so that we can get on with answering them. But let us say that our view happens to be the common view, that war is generally wrong, but that in certain important circumstances it is justified. Now assuming we know what these circumstances are, how do we apply this judgment about war... and to what? Let us say that the special circumstances under which we are justified in engaging in a war are only those when one's own nation has actually been attacked by

the armed forces of another nation. What constitutes an attack? For that matter, what constitutes a nation?

Suppose one's nation is attacked, how do we know that the series of battles which ensues is really a war at all? Do we apply the same principles to war that we apply to murder? Suppose no one is killed in the war. Suppose there is no property damage. One should like to say that such a war could never happen in real life. But to this I would point out that common definitions of war do allow this as a rational possibility. And one might say to this that if such a situation existed it would not be called a war. My answer to that is: Why not? If the end result is the same, why is it implausible to consider a bloodless armed conflict between two political groups as war? The point is, the very fact that such a question can plausibly be brought up means either the concept of war as it is commonly defined is inadequate, or that our understanding of that concept is unclear -- or both.

Since, to a great extent, the problems encountered in a study of war are due to the sloppy way in which we look at war, finding out what war really is is not a matter of simply pointing to something and saying, "That is war". If we were to travel to some active battlefield and I were to point to what I thought was war, what would I be pointing at? Would it be the armies, or the bodies, or perhaps the

whole vast scene? How are these similar to a trade war, or a gang war, or a civil war? One cannot answer these questions by making gestures.

The general assumption by scholars is that war is strongly analogous to other forms of human conflict. To the extent that war is analogous, it is primarily, if not wholly, an individual human action or a series of actions. Therefore, the principles of morality which should apply to war are basically, if not exactly, the same as those which apply to similar individual acts. The key word here is "similar" and leads to this question: Is it possible to describe everything which transpires in a war by simply referring to various individual actions?

For example: Suppose an alien being from another planet who has never seen a war decides to visit earth and, by chance, lands his spaceship in the middle of an active battlefield. Bewildered, he spots a solitary soldier cuddled in a shell crater, and shouts: "What is going on here?" What would the soldier have to tell him in reply which would correctly describe the situation? It would not be enough for him to mention the purpose behind the killing. No! There is much more to war than a simple series of individual actions.

If war is, in fact, different from other forms of action, then how is it different? How shall such a thing

be defined? Definitions have been attempted in the past, but (to my knowledge) none has been completely successful, each having failed in one way or another to account for certain plausible but troublesome exceptions. Possibly, the best study of war in the last fifty years has been made by Quincy Wright.¹ Early on he sets forth a definition of war which runs as follows:

War is "the legal condition which equally permits two or more hostile groups to carry on a conflict by armed force."²

This definition shares two concepts in common with almost every popular definition of war. First, war is a process which occurs between groups of individuals which meet certain important criteria which distinguish these groups from others. Second, war is a violent conflict involving armed force. Now, given this concept of war, the most readily apparent image which comes to mind is the type of war we see in movies and on the television news, where the groups involved are armies and the force applied is by means of large numbers of weapons. This we tend to regard as war at its most horrible, most dangerous, and most destructive. Therefore, we think, this must be the paradigm case of war.

1. Quincy Wright, A Study of War, 2 v; Chicago, University of Chicago Press, 1942.
2. Wright, V 1, pp 8-11

However, several problems immediately present themselves which prevent the above definition from yielding a unified solution to our dilemma. The first problem lies in the difficulty of determining what it takes to be a member of the set of entities which can engage in war. After all, shall we say that any armed conflict between political groups is a war? Wright was perceptive enough to allow for this difficulty by calling war a legal condition. This, to a certain extent, limits the possibility of war occurring between groups neither of which has sovereignty. But it does not go far enough in explicitly defining when and how such a legal condition could exist. However, another important and beneficial effect of viewing war in this way as a legal matter is that it allows us to see war as a contrivance of man, in as much as the entities involved are contrivances of man and war can only occur between those entities.

The second problem lies in determining when the forces involved in the conflict have risen to the point where it can be called war. Now, there certainly are many types of force. The question is this: Is the amount of force applied a reasonable criterion for classifying certain acts as wars and not others? Surely, the answer to this depends upon what we are trying to do with our classification once we have it. I am assuming that, as philosophers, our

human suffering, nor just political turmoil. Anyone can produce such events, but not everyone can have a war.

Something allows us to plausibly construe the situation we call war to be different in certain important ways from outwardly similar situations which occur all around us. It is that something behind which lies my purpose in conducting this study.

We tend to underestimate the "real" effects of war, particularly the violent kind -- the ones with which we are most familiar. And because we underestimate or simply do not see their most dangerous effects, we allow other events to pass which should really be considered wars after all. Therefore, let us examine war as concerned philosophers determined to discover its true nature and the full moral and metaphysical implications of our discoveries.

In this treatise, I shall advance a theory which sets conceptual limits upon what war is, upon the kinds of entities which can engage in wars, and upon the nature of those entities themselves. Generally, I hope to show that war is simply a series of aggressions in some limited sense, that only sovereign states can aggress in this sense, and that aggression constitutes some sort of force by one state against another. However, I have found that in order to understand what war is, one must understand what aggression

most important task is to classify war in such a way as to make the analysis of the concept so classified easier in respect to the application of moral principles to it. Certainly, if what we are trying to do is apply a different set of principles to war -- say, aesthetics -- then we might look at the concept of war differently and attempt to classify these acts which are war in terms which would enable us to more easily determine its beauty. However, we are not attempting to introduce principles of aesthetics, but principles of morality. I contend simply, that what something really is is often determined, in part, by the manner in which it is going to be described.

Suppose, whatever type of force is used and in whatever amount, the result of applying this force is basically the same, i e., the result differs only in degree. What I am pointing out here is that there may be many things which a group might do, all of which acts produce basically the same results. Certainly, armed violence produces different results than a trade dispute; but there are certain important things which those two events have in common when carried on by special groups. War is not just killing; for if it was, we should have very little problem in deciding what to do about it. We already have good ideas about what killing is and about how we should deal with it. Neither is war simply material destruction, nor is it just

is; and in order to understand what types of entities can engage in it.

Therefore, in Chapter I we shall examine aggression from the standpoint of those entities which engage in it, and having thus examined the nature of those entities form a definition of aggression itself. In Chapter II, we shall take this concept of aggression and apply it to a very simple definition of war. Finally, in Chapter III we shall discuss the moral implication of adopting those concepts from the point of view of the entities involved.

We begin with a single assumption, which we shall later prove in Chapter II, that the fundament of war is aggression.

CHAPTER I

AGGRESSION

Put to the average person, the question -- "What is aggression?"¹ -- would yield several different responses. Generally, when one's own country is involved in a war, the enemy is regarded as the aggressor; cases of retaliation are not seen as aggression, unless the retaliation is against one's own country; and should two nations be "at peace", any move by one against the other is viewed by the other as aggression. We have come to use "aggression" to describe any unprovoked use of force against us, as well as any other use of force that does not seem to be in our interest. It is my contention, however, that acts by similar agents with similar intents should be called by the same name. In this chapter, we shall define aggression; later, we shall discover that if acts of war² have anything in common, it is that all constitute aggression.

One side-effect resulting from certain preconceptions of aggression is the tendency to place it among those things commonly believed to be categorically wrong. This is

1. This is not "aggression" in the psychological sense. Although it may share properties with the latter, our concept of aggression shall be limited to relations between states or nations.

2. By "act of war" I mean, simply, one of those acts which, in connection with other acts, constitutes a war.

unfortunate, as it has led to much confusion. Further, aggression, even in the "limited" case of international relations, may presumably be perpetrated by anyone. These common beliefs about aggression have undoubtedly made life more difficult for philosophers, who must spend a great deal of time allowing for all sorts of special cases in the interests of generality.

One way out of this problem is simply to limit the number of situations which can be described by the word "aggression". Certainly aggression, as it relates to war, is most commonly found in the inter-actions of states. Without going into why I think so, let us say that aggression is an action which takes place exclusively between states, while other apparently similar actions between other types of entities will simply be called something else. In fact, let us take this one step further and say, that whatever aggression turns out to be, aggression involves some sort of act by a state, such that, if an act does not involve the action of a state, that act cannot be an act of aggression.

Now, the state is an institution. Like other institutions, the state is designed -- among other things -- to limit human freedom in certain ways. But unlike clubs, churches, or corporations, the state exhibits certain properties which, though none taken by itself is peculiar to the state alone, set it apart from any other institutions.

For example, membership in a state is not usually gained or lost by choice; and the state exercises certain authority over everyone within the boundaries of a certain territory defining the limits of its legitimate sovereignty where this authority is sovereign over the authority of any other institution. The state demands conformity by everyone within its jurisdiction to certain rules over which it alone is sovereign, whether or not those individuals are members of the state. And unlike membership in a club or holding shares in a corporation, membership in a state demands a certain amount of participation; and in cases where active participation is exercised by very few individuals, the state still demands certain allegiance of those within its territory.

In principle, the state's range of interests is unlimited, and this has led to great problems when attempts are made to limit its authority and bring its actions within the realm of morality. Because of disagreement about the proper method of analyzing certain propositions concerning the state, a comprehensive and consistent moral code for its behavior has eluded philosophers. For example, what do we mean when we say the state has acted in such-and-such a way? Can the state make a decision? To say the state has acted is not to say every member has acted, but neither is it necessarily to say that only certain members who

govern have acted. If it makes sense to say the state has acted, what enables it to do so is the existence of certain individuals within it who are capable of acting. But those individuals must not only be capable of acting in the broad sense, they must be in a position to act in certain ways which meet specifications qualifying those actions as acts in some official sense.

Another interesting property of the state which it shares with certain other institutions is its sustained identity. No one who lived in the time of this nation's founding is alive now, yet we are still "The United States". The laws have changed, the leadership has changed, the political consciousness has changed, yet the identity of the state has not. The tempting analogy of the state to a living organism is often used. Although cells die and are replaced, the "whole" organism survives. Although to act, an organism needs only the co-ordinated actions of its constituent parts, the action of the organism is not identical with any one of its constituents, nor is it so with all of them together. To say that Doe acted in a certain way, cannot be re-said by explaining the actions of each of his parts.

But there is a sense in which the state is more fluid in its nature and identity than is a biological organism. The existence of the state is tied very closely to the existence of certain fundamental principles which transcend

the lives of its members only because within those principles is a mechanism which provides for certain longevity and guards against change. These principles form the "constitution" of a state. In The Constitution of the United States, there are set forth provisions which allow certain changes to be made under certain circumstances, even the complete abolition of the active institution then interpreting The Constitution. But there is a sense in which, regardless of the changes made, The Constitution remains The Constitution, not identical, yet still "itself".

This is where the biological analogy breaks down to a certain extent. A human being is itself composed of many different parts which die and are replaced, but that which constitutes the mind is not replaced. If the identity of the state is taken to be its "consciousness" which lies not only in the principles of its constitution but also in the individuals who must interpret it, then the identity of the state is fluid, in a constant state of metamorphosis, too gradual for the individuals within it to notice, because they themselves change. If, on the other hand, the identity of the state is taken to be the principles upon which it is established, the rules governing its operation, the entity which results from the existence of such principles, then the state remains the same so long as those fundamental principles do not change.

However, a human being does not have fundamental principles, such as legal rules, which form part of his existence. A state relies on such principles and the recognition of them for much of its identity; and when, in a moment, we apply this to sovereignty we will see that the sovereign is even more tied to such principles for its existence. The criteria for identity will depend upon how the state is defined; and one of the unfortunate elements of political philosophy is that, although there are good ways and bad ways to define a state with regard to certain criteria, the search for the right way, if it exists at all, is fraught with difficulty. As a result, conceptual issues become blurred because we can find no paradigm cases upon which to lay our bearings before actually examining the problem.

Let us simply say that a state can act; and, although we are not quite sure what that means, we can be certain it does not simply mean that the individuals in a state can act, but that those individuals acting on behalf of others in the agency of the state can act. Certainly, if the state acts, it follows there must be some entity which is acting, and since we are interested in the relation of one state to others we shall call the entity which acts "the sovereign," where the sovereign represents the state in action.

Now the obvious question: What is a sovereign? It is a question philosophers have been asking for a long time

and will continue to ask for a long time to come. Trying to point to something which is sovereign runs into the same difficulties³ as does trying to point at something which is war; but people are not so much interested in what a sovereign is, in this sense, as they are in what it does and what it can do. S. I. Benn, in an article written for the Encyclopedia of Philosophy,⁴ points out that the concept of sovereignty and the arguments related to it cover nearly all the important questions in political philosophy. He finds several related concepts to which the word "sovereignty" can apply. I list five of the more common and useful concepts below:

- (1) When an individual or institution exercises de jure authority over every other individual or institution in a legal system, he or it is said to be **sovereign**, there being no competent over-riding authority.
- (2) A constitution or set of basic norms from which is derived all other rules of a legal system is said to be sovereign.
- (3) Sovereignty is ascribed to a person or group of persons exercising de facto authority in a state.
- (4) Sovereignty is ascribed to the state to assert that in a conflict between state and individual, or state and institution, the state shall prevail.
- (5) The state is seen as sovereign when it is recognized as autonomous vis-a-vis other states.

3. See Introduction.

4. Encyclopedia of Philosophy, v 7; S.I.Benn, "Sovereignty".

We shall concern ourselves with the last concept, that of a state autonomous in its relations with other states, at least for the time being. I shall assume that a sovereign is an entity which exercises a certain influence over a certain part of the world, and that this influence has certain limits within which the establishment is recognized as sovereign. This recognition can take two forms -- legal and actual -- and these form the basis for the arguments regarding de jure and de facto sovereignty.

The concept of de jure authority and de jure sovereignty arises from the notion that the sovereign might not only have certain authority, but that it might have certain legitimate authority. In so far as the sovereign actually exercises control over a certain area, we say the sovereign has de facto authority over that area; and in so far as it has a right to exercise that authority, we say the sovereign has de jure authority over that area. De jure authority or de jure sovereignty does not depend upon the exercise of that authority to which the sovereign is entitled. For a sovereign to have de jure authority, is simply to say that, should the sovereign be in a position to do so, it may legitimately exercise its will in a certain area; at least this is the common view of de jure sovereignty. For now, let us examine the concept of sovereignty itself. How is sovereignty created? How is it lost? How does one determine the area over which a sovereign exercises authority?

Let us deal with the last question first.

When we say such-and-such a state is sovereign over such-and-such an area, we think of political borders and lines on the ground. This may be well for a legal system, where the limits of sovereignty are expressed in such terms as to make the system work efficiently. Were the limits expressed in terms of ethnic background or culture, or perhaps in terms of economic (or some other sort of) influence, the picture would become so confused that within a very **short** time the limits would be practically indeterminate and the system unworkable. We adopt the geographic model of sovereignty in the interests of practicality, and even then problems arise. How far into the ground does one's authority go? How far into the sky? Or how far out to sea? Does legitimate authority extend to the sovereign's agents overseas, such as its fleet and embassies?

As Philosophers, we tend to see the geographic model as a conceptual compromise, thinking that the "real" concepts are much more complex. But this is nonsense. The concept of sovereignty is not comprised by the geographic model, and our ideas about what sovereignty is and how it works should not require us to modify the geographic model in the interest of conceptual purity. To say that I own a certain plot of land is to say that I may legitimately exercise certain authority, certain autonomy within its geographic boundaries.

Geographically limiting authority does not place a special restriction upon our idea of sovereignty, but upon the application of our interests. If I own a plot of land which is surrounded by plots of land owned by other individuals, I must confine certain legitimate interests to the area within the dimensions of my own property. But in a crowded theater, the bounds of my authority are limited quite differently, and I must confine certain legitimate interests, such as my right to free speech, to myself. Should I shout "Fire!" I have effectively stepped out of my area of de jure authority and into someone else's. It is the application of our interests which we must learn to fit within the boundaries of a plot of land, or the four walls of a room. And it is our interests which are curbed to a certain extent in the interests of legal practicality. Throughout the rest of this study, we shall speak of sovereignty "within an area" where that area may be delineated by any conceivable boundary system.

We have already come across several such boundary systems, eg., lines on a map, the walls of a room, the area of one's own thoughts. But we might choose to limit authority according to economic standing, or strength, or sex. In the case of organized crime, the structure of authority is usually well defined within the organization itself, yet it may sprawl over several borders, or even

oceans, and this delineation can be propagated in great secrecy. In this study we shall be primarily concerned with common political and geographic boundaries, although it should be understood that there is no theoretical limit which should cause one boundary system to be more legitimate than another.

The next questions which concern us are these: Given the existence of the de facto sovereign, how does it come to have de jure authority? Can there be conflicts of sovereignty, and if so, how? There is a tendency to attach the "right to rule", as de jure sovereignty is sometimes called, to right action. In other words, it is often thought that a government cannot have the right to rule unless that government fulfills certain criteria; these criteria supposedly follow from the belief that there is a right way to govern, that there is an "ideal" state. Unfortunately, the existence of an ideal state does not allow us to ipso facto conclude that those states which do not meet its standards, or which fall farther short than others, are illegitimate. We ascribe rights to criminals as well as to saints because we think the just criterion upon which such ascriptions should be made comes from some property which all persons share equally. One might even suppose that it would not be unreasonable to assume that all those entities which fit the definition of a sovereign should be

21

ascribed the right to rule. We can, if we so desire, place just such considerations into the definition of "sovereignty". This, however, would be similar to saying that this person is not entitled to a certain right because he is not a "nice" person and only nice persons have that right. There are no "nice" states that I know of. Does that mean there is no de jure sovereignty? No. All it means is, we are mistaken if we assume that de jure sovereignty is tied to morality; it is not.

What criteria, then, shall be used to determine when a sovereign can legitimately exercise authority? It is not unreasonable to assume that a sovereign can have a right to rule in one area while it has no right to rule in another -- even though it does so. However, the sovereign is a legal authority and certainly some part of its legitimacy must stem from law, even if these laws are unjust. We cringe at the thought that a dictator could possibly have de jure authority. But perhaps competence⁵ is the sole criterion with which we should determine what is and is not legitimate sovereignty, where competence is defined in terms of conformity to certain established law.

For example, let us assume that one of the Banana Republics has a certain constitution which provides for its own alteration; and let us assume that, at this moment, the sovereign is a representative government, and that this

5. By definition, a fully competent authority in this sense is one which remains totally within constitutional or statutory limits.

sovereign exercises de jure authority. After a time, using the laws provided in the constitution, the representative government is succeeded by a dictatorship which alters the constitution to a certain extent but in accordance with the principles established for such changes. We would be hard pressed to argue that this government did not also have de jure authority, whatever else we might say about it.

Does this mean that it is possible for a rotten government to have the right to rule? Yes, because de jure authority comes into existence as a result of certain principles. Exactly what those principles are is another question. But it should be understood that if any institution should be thought of in its ideal state as being (among other things) representative of the wishes of those over whom it has authority, the sovereign seems a poor candidate for it. Better that the constitution under which the sovereign rules and to which the sovereign owes its existence should be representative of the people.

Fortunately, we do not have to concern ourselves with the constitution of a state except to say that certainly any entity which fits the definition of a "state" will have a constitution. In this sense the constitution of a state is simply the system of established rules which govern the operation of the sovereign. This system need not be written but might simply be understood; although the constitution,

in order to be valid, must maintain a certain integrity, a certain constancy which allows it to be identified and preserved. The constitution is that set of principles which the sovereign follows which is supported by the consensus of individuals living under the sovereign. This is not to say that the constitution is whatever the consensus chooses it to be at any moment. The constitution is a set of extended rules which only gains its status as a constitution over a period of time.

Therefore, let us assume that if a sovereign is to be considered *de jure*, there must exist a constitution of some sort in some form which specifies in some way how and what the sovereign may and may not do. To the extent that a constitution is complete in its coverage of the areas in which the sovereign may or may not act, so is the sovereign considered *de jure*.

Therefore, a sovereign shall have *de jure* authority to the extent specified in the constitution under which it rules. Such a constitution would, I presume, be considered just to the extent to which it represented the interests of those individuals who lie within its scope. This scope could be considerable and leads us to one of the most difficult problems in political philosophy. The Constitution of the United States, for example, is presumably limited only by the bounds of the universe in its scope; and should the sovereign expand its area of *de facto* authority, The

Constitution expands with it. When the United States took over Hawaii, there was no ceremony or protocol necessary to bring The Islands under the scope of The Constitution; the presence of United States Sovereignty accomplished that. So a constitution is limited in the area over which it is effective to that area in which the sovereign retains de facto authority. The constitution defines the limits of authority in the abstract sense, and the sovereign exercises its authority to that extent, but within geographic limits it specifies.

The situation, then, is this: There are certain entities in the world which we call "states". These states owe their existence to the existence of certain institutional principles which define them and limit the power of the sovereign; that is to say, the extent to which the sovereign can limit human freedom. The sovereign acts for the state and the legitimacy of its action is limited by the defining principles of the state. Therefore, legitimacy is not established by the sovereign.

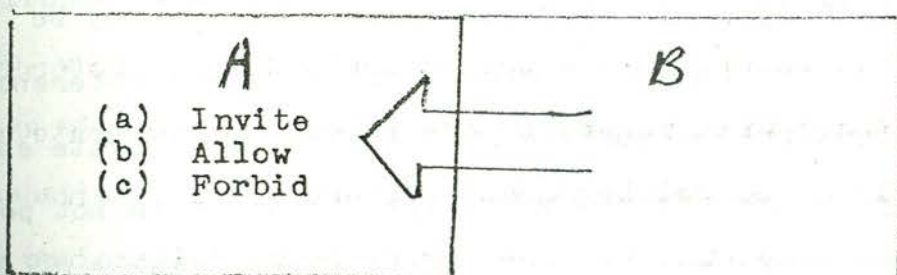
Let us now consider how a sovereign might lose its authority in a given area:

(a) It might give up its authority, relinquish it, abandon it, in part or in whole, prior to any move by another to take it. If by outright invitation or treaty, one state permits the troops of another state to cross its borders in search of terrorists, it gives up a certain amount of its de facto authority to the other state, whose de facto authority now becomes de jure in the area specified by the invitation or agreement.

(b) It might allow its authority to be taken. Should a state simply step back, when faced with certain amounts of force, and allow certain amounts of its territory or influence to be removed, it has also given up a certain amount of its de facto authority, although this amount may be indeterminable. Such a loss of authority may be welcome, but it is a loss nevertheless.

(c) It may simply have its authority removed, in spite of its own resistance. In the case of an armed invasion, where one nation is simply taken over by another, there is obviously a loss of de facto authority.

Now the third case is clearly an example of aggression as we know it, and the first case clearly is not; but (b) is not clearly anything. For another representation of the situation, examine the diagram below, where A and B are adjacent countries, and B has troops which will cross the border into A, whatever A does.



A has open to it three alternatives. It may invite the "troops"⁶ of B to cross its border, it may simply allow them to cross, or it may forbid them to cross. The problem is that allowance is sometimes tantamount to invitation, and sometimes simply a toleration. This can be cleared up however, by examining the distinction between performative and descriptive statements.

If Roe "allows" Doe to enter his office, there is an ambiguity in exactly what Roe is doing. He could be giving his permission for Doe to enter the room, or he could simply be tolerating his presence. Allowance in the sense of permission carries with it an implicit convention of some sort such that no description of what transpires when I permit someone to do something is complete without reference to that convention. On a Naval vessel, when a junior officer and the Captain meet before a door through which they both must pass, the junior officer steps aside for the Captain. It is impossible to describe exactly what the junior officer did without making some reference to service etiquette. However, in a room filled with flies and no fly-swatter, my remaining calm and going about my business may be adequately described as "toleration", without reference to any protocol with regard to the flies. To tolerate something is simply to do nothing about it, whereas it is not possible to permit something (in the strict sense) without doing

6. We shall use "troops" in these examples, but we will find that any force directed by one state against another may produce aggression.

something intentionally, even if that thing is an intentional omission.

Therefore, allowance in the sense of permit is not so strong as an invitation, but it does legitimize that which was allowed, at least to the extent that the person or institution allowing had the authority to do so. "Allow" in the sense of "tolerate", on the other hand, at very least is simply the omission of overt attempts at preventing that which was allowed. Permission is something which is given, tacitly or otherwise; tolerance is something which one has which says something about one's attitude towards that which was allowed.

This sort of distinction between performative and descriptive can be applied to (a) and (c) as well. The word "invite" is, I should think, strictly performative. But thinking of invitation in terms of welcoming will allow us to see the distinction. To welcome someone is different from their being welcome. Likewise, for A to oppose B in violating its border could mean overt acts of prevention, or it could mean simply being opposed to foreign troops within its borders.

Now, while the three cases above describe how a sovereign might lose its de facto authority, there is still no explanation for how de jure authority is lost. It is usually obvious when there has been a loss of de facto

authority, but legitimate authority is a tenuous concept.

The three cases we have considered so far have assumed that de jure authority was, in fact, lost along with de facto authority. But what of the case where B invades A, and A resists? Surely this is the most common case of aggression we will be dealing with. If we cannot come up with a satisfactory analysis of this case, this entire study will have been in vain.

We have asserted that, should any question of justice be levelled at a state, the constitution should be the object of scrutiny, as the sovereign is merely an entity which derives its legitimacy from the constitution. The sovereign as an entity in itself has the legitimacy to perform unjust acts if those are specified by the constitution. Therefore, should B invade A, and A resist,⁷ under what conditions might A lose de jure authority in that area which it lost de facto authority to B? We have shown that A can lose its de jure authority by giving up its legitimacy in that area, but what if it refuses? Presumably, since the legitimacy of a sovereign is derived from principles in the constitution under which it rules, should the constitution of B be somehow accepted in the area which it invaded and occupied, then B would exercise de jure authority in that area.

Let us posit the following:⁸ A sovereign may lose its

7. This resistance could conceivably, take any form

8. In the light of our discussion, a modified form of the three examples given earlier.

de jure authority in two ways. It may give it up willingly, provided it has authority to do so; or it may have it removed against its will where its legitimacy is lost because the principles from which it derives its legitimacy are lost. Therefore, a nation may continue to resist an occupation, but to the extent that the principles under which the occupying sovereign rules are accepted or tolerated, so is the authority of that sovereign de jure.

Keeping in mind all we have discussed so far, let us now introduce a formal definition of aggression.

Any act of a sovereign state which violates the sphere of legitimate influence of another sovereign state, where that sphere of influence is taken to be the area over which it exercises de jure sovereignty, shall be called aggression.

Given this definition, several important questions immediately present themselves. Why must aggression be limited to encounters between sovereign states? What does it mean to "violate" a sphere of influence? Why does the definition make no account of provocation or the type of force used? Why is there no mention of intent in the definition? Can there be accidental aggression?

Before answering these and other questions in detail, let us get clear about the fundament of aggression. There are, for instance, different ways to look at what goes on between two agents, if what we are trying to do is to categorize various acts. It is possible to look at a

situation from a moral perspective or a conceptual perspective; and, depending upon one's preconceptions, applying certain criteria will lead to categorizations which carry within them the tone of the criteria used in the categorization. We can categorize acts by their intent, by their results, by their scope, by their effects, by their moral value, by their duration, by color, by taste -- by anything conceivable, including combinations of these. Some combinations of criteria are more useful than others; some are not useful at all, and some are detrimental to the distinction being made (or attempted). If we wish to categorize acts and place them under the title "killing", we will surely have, after we finish, all kinds of killing. If, however, we wish to categorize certain acts and place them under the title "murder", we will find within that category all kinds of wrongful killing. But in order to make such a categorization, it is first necessary to make moral judgments on "acts of killing" in order to determine which shall fall under "murder" and which will not.

It seems clear that we must first get straight about all the cases we are concerned with, at least to the extent where we are then able to decide what is aggression and what is not. And it may be that some of the factors which make an act "an act of aggression" will also bear on the application of moral principles to such acts. Our definition specifies, simply, that any act by a particular type of agent which,

occurring under certain circumstances, lies within the de jure authority of another similar agent shall be called by a particular name. We may find in Chapter III that all acts of aggression are, in fact, wrong. But let us not make the moral judgments now. I am trying to categorize acts according to certain definite criteria; and if the use of those criteria leads us to what we think are unusual conclusions about the nature of certain acts, let us not discount the possibility that we could be wrong in our preconceptions.⁹

Now, why must we limit aggression to sovereign states? There are several reasons. First, because including any other entities in a definition of aggression from which we would ultimately define war would lead us to include any confrontation in the pot labelled war. I should think that we would want to characterize acts between animals differently from those between humans or between humans and animals. In the

9. There is a large body of philosophers who believe that such characterizations are fruitless, that any definition which goes contrary to common belief is simply absurd. These are also the philosophers who would argue that there can be no such thing as absolute right, that there cannot possibly be a thing which could always be right under any circumstances. Were we to have started from this assumption, we would by this time have come to very different conclusions about what is "aggression" and, later, about what is "war". And if, in the course of our discussion we deduced that some things were wars in our theory which people would not consider wars, and that some things which people would readily consider to be wars would not fit in our theory, then we would be forced to admit that we were in error, and we would start from some other assumption. The end result of such reasoning is that nothing can be, nothing can exist unless it is commonly believed to exist. I let this speak for itself.

same way, states are different in certain important ways which we have already discussed from persons or clubs or other institutions which reside under the jurisdiction of sovereigns. Therefore, why not set those acts of states apart from acts performed by other entities so that they may be scrutinized in a way particular to themselves. As I say, it may turn out in our analysis that there are no relevant differences.

What does it mean to violate a sphere of influence? Here I use "violate" in the scientific sense. A violation is a crossing of boundaries, whether they be conceptual or otherwise. There is no moral connotation attached to this sense of violation. If I walk out of my office and into the hall, I have violated the boundary separating the hall and the office. To violate a sphere of influence, a sovereign has merely to perform an act within an area normally under the authority of another sovereign. A violation of a sphere of legitimate interest is simply an act within an area under de jure authority of some other agent.

Why is there no mention of provocation or the type of force? Well, normally we use aggression to describe an unprovoked attack; but in the case of international relations, just how does one go about determining a provocation even if there is one? Every few months or so, do we stop the world and say: "OK, from this point on, the next thing anyone does is a provocation"? History is a continuous thing, and while

3

it may be possible to determine when the acts of states begin and end, their beginnings -- and particularly their endings and effects -- are protracted over time ... usually long periods of time. For example, depending upon your assumptions, it is entirely plausible to argue that the attack on Pearl Harbor started in the mind of some general or admiral, that the actual exercise of dropping bombs and torpedoes was simply the follow-through, so to speak. In any case, I should think provocation is a criteria of justification, not classification.

As to the type of force, I need only point out that there are many ways to do many things. I can kill with a gun or an axe, or my bare hands. Shall we call them all different things and analyze them separately? Or shall we call them all "killing" by maintaining that the really important criteria for determining what an act is to be called have to do with what actually is done, not how it is done?

Now, having answered some of the more obvious questions concerning our definition of aggression, let us explore the implications of our assertions. Let us posit two sovereign states, A and B, as they shall remain throughout the rest of this study. Clearly, the most common example implied by our definition would be for B to invade A with its armed forces. There is no question that such an act would be a violation of A's sphere of legitimate influence. However, what if A should resist? Does an act of a state in its own defense constitute an act of aggression? Let us return for a moment

to the concept of sovereignty. We normally think of sovereignty as authority over something. The government has sovereignty over me and my family, to a certain extent; and this sovereignty is legitimate. When I go overseas, or when I leave the country, I move out from under the authority of the United States. That is not to say that this authority is no longer present; the state loses no authority by the absence of its citizens, and when I return I shall once again be under the law of my home country. However, this absence of sovereignty does not seem to occur when officials of the government travel abroad. This is due to their position and, in reality, the state is not sovereign over officials acting in the agency of the same; it is sovereign only over the individuals in their non-official capacity. President Carter is not subject to traffic laws, but James Earl Carter, Jr. is subject to the same laws I am. An official acting in that capacity is the state within the authority specified by his position and his assignment. A military aircraft over foreign soil is not under the sovereignty of the state which sent it, neither is the pilot; they are the state in the exercise of its sovereignty. To interfere with an entity in its official capacity as an agent of a state is to directly interfere with the sovereignty of that state, regardless of where that sovereignty may be exercised. Whether or not the sovereignty is legitimate, for any given case, does not limit the way in which it is possible to interfere with it; it is

possible to disrupt both legitimate and illegitimate authority.

Therefore, those entities acting in the agency of a state are the instruments with which that state exercises its authority, just as one's arms are instruments with which one exercises one's own authority. I can interfere with your striking me, whether or not you are justified in doing so. It follows that, if those entities acting in the agency of a state are part of its authority, then an act by another state which interferes with the action of those entities is an act of aggression.

Now, consider the problem: Suppose A, to preserve its security and authority, installs a system of very powerful lasers along its entire border. These lasers are always on and are capable of destroying anything which passes through their beams. A, being a benevolent state, has placed large neon signs in clear view to prevent anyone from walking through the beams accidentally, and there are places along the border where the beams can be shut off to allow traffic to pass in and out of the country. Now B has always hated A and throughout their history the two countries have engaged in numerous wars. This year B decides to attack A, disregards the signs, and sends its army across the border where it is promptly cut down by A's laser beams. Did A aggress upon B? Let us make the example a little different. Suppose A had instead installed machineguns with trip wires. When B's army crosses the border and sets off the guns, has A aggressed upon B?

Let us modify the example still further. Suppose A positions troops all along its border with orders to shoot anything which crosses the line. When B's army shows up, has A aggressed against B?

This is a very entertaining problem. It is tempting to say that the lasers do not constitute aggression since they do not really constitute an act of a sovereign at the moment of interference with B's sovereignty. This will not work, however. A decided to put up laser beams and they certainly were not emplaced to welcome visitors! But the reasons for A's action is irrelevant. How do the automatic lasers differ from well-trained, unquestioning, "automatic" soldiers? We, of course, have a natural aversion to looking at defensive acts within one's own country as aggression against invaders. But I have shown that such entities which act in the agency of states are instruments of sovereignty, and I have also shown that the state has not sovereignty in certain areas over these entities since they are, in reality, those things with which the state exercises its sovereignty. An army is like an arm or a hand. I do not ask whether or not I have authority over my hands. My hands are part of me, and if I were a different person my hands would act differently and have different capabilities. My hands enable me to exercise my will, and regardless of what I happen to be willing at the time, my hands can be interfered with.

In the same way, the nature of the instruments of the state changes with the nature of the state. In any event, whether or not the three examples given above are examples of aggression as we have defined it, the answer is the same for each; they either all constitute aggression, or they all do not.

Unfortunately, the situation becomes clouded at this point. I have said that an act of one state against an entity acting in the agency of another state is an act of aggression because it is an interference into the de jure sovereignty of another state. How is this? For we have seen that, from the standpoint of the state itself, an entity such as a soldier or a diplomat, who is performing actions in accordance with orders given him due to his official position, has no sovereignty over him in this official status, just as official institutions have no sovereignty over them within the scope of their official functions. And although individuals themselves must have non-official status, necessarily, an official is an instrument of the state, even the state itself, but not its authority, nor even the personification of its authority. Where, then, is the authority of a state, say, on a ship in its navy? If the vessel itself is the instrument of authority, where is the authority such that an act against it is an act against the authority of the state?

Perhaps if we modify our definition of aggression, or

at least examine the nature of authority a little deeper, we can resolve this. Let us ask this question: If I am a potter and I own some pots (not an unreasonable thing... for a potter), wherein lies my authority over my pots? They are, in fact, mine; but should I decide to break some of them, my hands are only the instruments through which I exercise my authority. Most people would say that if I own them, then my authority stems from a right to do what I will with those pots. How I get this right is not relevant ... yet.

Now it may seem that this discussion has simply no point, since it is obvious that someone preventing or interfering with something to which I have a right is interfering with my authority. But we cannot say that interference with authority is just interference with the exercise of authority, because then, it would seem, placing bear-traps all over my front yard would not be interference until I stepped in one. Therefore, whatever authority is, it can be interfered with without that authority having to be exercised. This is why we cannot change our definition of aggression to acts against the exercise of authority; we must maintain that aggression constitutes interference with authority in an area in which it could be exercised.

When B crosses the border into A, shall we say, -- because that portion of A into which B crossed was a desert, and since it serves no purpose at the moment for A, and since no one had set foot into that particular territory in ages --

that such an act is not an act of interference? Of course not. De facto sovereignty is authority over an area, however that area may be defined, which is actually in control at that moment; but de jure sovereignty is authority over an area which is statutory and legitimized by law. This law need not be recognized by anything but the constitution under which the sovereign rules. The authority exists in principle, and it is the interference with this authority which, when done so by a state, we call an act of aggression.

Another way to tackle this problem is to assume that where an instrument of the state's authority goes, so goes the authority of the state, and that this authority exists to the extent of its effect on the entity acting in the agency of the state, should its authority be subject to interference. In other words, the authority of the states exists where, say, its army exists (so long as the army is acting on behalf of the state), and also anywhere in which interference would interfere with actions which the army might perform. This assumption has the undesirable effect, however, of placing a state's authority practically everywhere.

It might be useful to point out that this problem is akin to the problem of ascertaining property rights. If I own this piece of land, just what authority do I have over it, for we as a society recognize that my right to a certain piece of land carries with it the right not to have someone build a garbage dump or a chemical plant beside it (or at

least this can be said to be true of certain pieces of land); and we do speak of mineral rights and airspace. After all, how far into space or into the ground does a nation's sovereignty go? Does my lot also contain a small portion of the moon, and China? It seems as though we should maintain that only statutory authority -- de jure authority -- is the type which, when interfered with, results in aggression. But does not United States sovereignty extend to the decks of her ships and to her military installations, and to her embassies? It is true that this sovereignty is contingent upon the desire of the foreign nation under whose sovereignty they also lie to have them remain: but our definition of aggression takes care of that by recognizing that very fact, i e., that the sovereignty of a nation extends to those areas within which its agents act. How do we resolve this?

Let us distinguish between being "sovereign over," and being "sovereign at". To be sovereign over something is to have authority in what it does and what it is, but not something which is itself the sovereign. A state is not sovereign over its army, to the extent in which the army acts in the agency of the state. But to be sovereign at is to maintain sovereignty in a particular area, however that area may be defined. Therefore, the United States has no authority over the Secretary of State in his official role, but United States sovereignty exists where he exists to the

extent to which he has certain legitimate authority. And when the Secretary goes overseas under official orders, the sovereignty of the United States exists where he exists to the extent of his legitimate authority as Secretary of State of the United States.

Therefore, it seems as though when A sets up its automatic lasers, it is performing a potentially aggressive act, which becomes aggression when the agents of some other nation cross the border. A provides now a provisional resistance to aggression, which only comes into play in the future.

Let us now consider natural resistance. Let us say that along part of A's border there exist large vertical cliffs, without considering at the moment how the border came to be along the cliffs, except to say that the cliffs are natural. If B sends a force to the border and finds itself prevented from crossing by the cliffs, has A aggressed upon B? At first we should say "no", but it depends upon how the border came to be where it was. Let us say that, instead of lasers, A simply pulls back its border to a line of towering cliffs which effectively prevent entry into the country. How is this different from A simply building a line of cliffs along its border where it lies?

So aggression is somehow a matter of will. This should not really surprise us. It does not seem absurd to say that a

rock can aggress. Notice we have not said that aggression has to be intended; on the contrary, intent is something with which we shall make moral judgments. Will is simply that which allows something to act. Aggression is tied to will because aggression is an act, by definition.

We have now explained away the problem of sovereignty and its existence outside the state, and with it have shown that acts of defense are just as much acts of aggression as are acts of offense. But can aggression be perpetrated with other than armed force? Our definition seems to allow that possibility. By making the defining criteria be "sovereign will" coupled with an act which interferes with a sovereign's legitimate authority, we allow for many things to be called aggression which, as it happens, should not really surprise us at all.

For example, to the extent that state A is dependent upon oil which must be imported from state B, and to the extent that A has an agreement with B stating that B shall not raise its prices over a certain amount in a given time period, should B break the agreement and double its prices, B has aggressed upon A. However, should there have been no agreement between the two nations, then the raising of B's prices must be taken by A as it would a natural disaster, or the sudden drying up of its own wells. The economic force applied by B, in the first case, was applied against the legitimate authority of A;

namely, the authority to dictate prices in a certain way. This authority was given to A when B signed the agreement.

Let us consider a different line; that having to do with the agent. Given states A and B, suppose a strong political group C resides within B's borders. B does not necessarily approve of C's political persuasions, but B is a free country and, in any case, C is not interested in B except as a base of operations. Now let us say for the moment that in no way does C break any laws while residing in B, yet it chooses to carry out terrorist activities in A. Does such terrorist activity by C constitute aggression against A? No, to the extent that C is not a sovereign state. One might ask, however, if such activity constitutes aggression on the part of B against A. One could argue that it does, on the grounds that its toleration of C's presence within its borders from which C launched its activities constitutes permission and, therefore, aggression. But that reasoning will not work. B might be condemned for doing nothing to stop C in what it knew to be aggression, and in that way might be considered responsible; but that responsibility, if it exists, is in C's activities. B did not order C to aggress, even if B permitted it.

However, if we change the example such that C's presence in B is illegal to the extent that C is a terrorist organization, can one argue that B, in tolerating C's attacks against A, is aggressing against A by doing nothing about it?

In order for B to aggress upon A by means of C, B would have to direct C's actions; B would have to exercise de jure authority over C in that respect.

The solution to this problem depends upon one's theories concerning action and responsibility. Can B's passive attitude towards C within its borders be construed as directing C's actions as some sort of tacit mandate? That is to say, does B's allowance constitute permission or toleration? The answer lies in the existence or non-existence of some sort of protocol between states, or at least between A and B. The difficulty lies in weeding out the moral considerations and dealing only with the legal ones, or those which derive their existence from statutory customs.

In the discussion so far, we have glossed over sovereign statehood and assumed for the purpose of example that entities either were or were not in fact sovereign states. But in an era of hot dispute concerning territorial sovereignty and self-determination, we might ask whether or not it would be possible -- given our conception of the state as a supported constitution -- to have two sovereign states occupy the same geography; but more than that, to have both exercise a degree of authority. Without question, it is definitely possible to have two states occupy the same space. Likewise it is possible for both to exercise authority. But it should be

noted that there can be no conflict of de jure authority. It is lost or gained, and to a certain extent shared. But de jure authority cannot be held by two sovereigns over the exact same area where both claim all of it. In fact, there is a serious question as to whether or not de facto authority can conflict at the same place at the same time. It can be shared, but allegiance cannot be given to two sovereigns equally/identically, even if both claim authority.

How does this bear on aggression? It is important because, if our conceptions of the state allow for such "states within states", then we can permit civil conflicts to be aggression in certain special cases. For instance, should part of a nation cease to support the constitution, and form its own (which provides for its own government), then any conflict between that political group and the nation from which it seceded could be aggression. For me, it is an open question as to how far it is possible to take this concept of state. In principle, it would seem that any number of individuals could form a state simply by rejecting the one they were currently living under, instituting a new one with a new sovereign, and declaring their independence.

Fortunately, this does not create so many problems as it would seem. My conceptions of state and aggression have been applied only where those things do, in fact, exist. The legitimacy of a state's existence is apart from the

legitimacy of its authority -- and that is only sensible. If I were to organize a group of revolutionaries and we were to declare ourselves an independent state, it is simply a fact that we as a state with a sovereign would have some sort of de jure authority. But where would we exercise it, without committing an act against the state within which we lived? Our very existence could be an act of aggression, and certain moral considerations might be brought in which might convince us that we had no right to independence, even though (while independent) our sovereign could exercise certain de jure authority. Perhaps this is just the distinction between clubs and organizations, and sovereign states.

Having defined aggression, we have seen some of the implications of such a definition; and we have also seen that, although slightly unusual, those implications do not force us to alter our concept of reality in a way which is counter-intuitive. The concepts of the state and aggression I have tried to evolve should allow us to solve a number of problems, not the least of which is the problem of simply fathoming the international relations situation in a way which allows us to draw reasonable philosophical conclusions about it.

CHAPTER II

WAR

War is a progression of events; and in the sense that war itself is an event, war is an event protracted over time. It is not possible to have war without action; and although many people argue that war will always be with us, that war is unavoidable, that men have no choice but to engage in war because war places men in situations where they must choose between it and some other among a list of unacceptable alternatives, nevertheless war is a matter of some choice, even in the presence of large amounts of coercion. If I am brought to the top of the Empire State Building and told I have a choice between being shot and jumping, there is no inconsistency here. I have two real alternatives, both of which hold a good possibility of death. The presence of coercion limits the number of viable choices; and we may find that war is truly unavoidable, because of the nature of international relations where choice is always limited. However, we shall almost certainly find that there are choices as to conduct; indeed, this has led many philosophers to give up trying to apply principles to the onset of wars,

and apply them instead to the conduct of wars, submitting that war is inevitable.

But I am young and have yet to discover this inevitability. Conflict may be with us forever, but war is a special type of conflict. Perhaps, war can be avoided in favor of some lesser form of conflict. In Chapter I, we discussed aggression and said we would seek to define war in terms of aggression. Let us do so now:

War exists when aggression is made in response to aggression.

Since we already know what aggression is and how it is defined, we can see that war is (among other things) an exchange of aggressions. Therefore, a situation where one state aggresses upon another, which itself does not resist, is not a war. Whether or not such a situation has existed -- or could ever exist -- is another question. Is there ever a case of isolated aggression? Some would say, no; indeed, some would argue that it is not possible to isolate anything in terms of distinct acts. As it is, the definition above seems to imply that a state of war is in existence at all times, constantly, as it may be that all aggression is in response to other aggression. This is not an inviting prospect, by any means. When we proposed our definition of aggression, we maintained that only sovereigns could engage

44

in it; and therefore, because we have defined war in terms of aggression, war is something which only can be engaged in by **sovereign** states. This is not to say other entities which are not sovereigns cannot be involved in a war. In fact, such altercations seem to involve everyone and everything in the state so involved. I maintain simply that for a war to be a war, there must be at least two opposing sovereigns, both of whom commit acts of aggression against each other in some specially related way. In so far as a political body is a state and has a sovereign, so can it engage in war. But war is a two-sided enterprise. A state cannot be at war with itself; neither can a state be at war with another state, unless that other state commits acts of aggression in response to those of the first. Raising the objection here that it is impossible to determine what is done in response to what causes some problems, but these can be solved by suitably determining what is meant by "response" or "reply".

Recalling our discussion of performative and descriptive statements concerning acts of aggression and the loss of authority, let us see that in order to reply to something, one must perform some sort of action. In the descriptive sense, a state can either be opposed to, or be in favor of, or be indifferent to acts of aggression perpetrated against it by another state. However, in the performative sense, a state can either consent to or forbid aggression against it;

where, under consent, permission is given before the fact, and toleration is done after. Now, there is something strange about performing an act of aggression in response to another act which one previously had tolerated. Toleration implies that one does nothing to inhibit that which is tolerated. Therefore, due to the nature of aggression as something which disrupts and limits the authority of that towards which it is directed, it is not possible to aggress in reply to aggression, unless that which aggresses does so in opposition to previous aggression.

Another interesting problem arising from this has to do with the time element involved. Suppose I take something from you now, but you offer no resistance or even displeasure. Ten years from now, would you be acting in reply to my taking that which you owned, if you were to take something from me? Perhaps a certain "consciousness" is necessary and must exist throughout the time between the initial act and the act done in reply. Perhaps continued awareness and resistance, whatever form that resistance may take, must be in evidence throughout. Fortunately, this is a problem facing anyone interested in determining what is and is not just. As going into this problem in depth would be the subject of another discussion, I shall confine my insight to positing that, should there be some way of determining what follows what -- and in what manner -- according to some principles of justice, we would discover that something done in reply to something

else, in the sense I mean for the word "reply", would satisfy the conditions above.

Therefore, if an act of aggression is to be taken as a reply to another aggression, it follows that the state initiating the reply did not tolerate the aggression against it. If it did, in fact, tolerate it, then it will be very difficult indeed to show that something once permitted and legitimized can suddenly be unlegitimized; but more than that, that it can also be expedited by the use of some kind of force. This is very important. If I allow you by agreement to cross my lawn every day on your way to work, I certainly reserve the prerogative to forbid you to do the same. However, should I do more than forbid it after you have agreed not to cross my lawn, and should I chase you off my property in the act of prohibition, then it seems I have over-stepped my authority.

Let us change the example. Suppose you simply cross my lawn without permission, and you do so for an entire year, during which time I do nothing -- although I am aware of your activities. Obviously, it is still my prerogative to ask you to stop crossing my lawn because it is still, presumably, my lawn; but should I one day forcibly evict you, I may be going beyond my legitimate authority; because during the time you were crossing my lawn the previous year, I had given tacit approval, and I had tolerated your presence on my lawn by doing nothing about it.

This fact does not change the rightness or wrongness of your walking on my lawn without permission, but it does limit the things which I may legitimately do to you. After all, there must be some integrity of action where approval or permission is involved. If there is a law which forbids parking on the west side of the street which is never enforced, there is legitimate claim for the assertion that the law does not exist as a viable principle which may be legitimately applied. Precedent for this view is provided by a legal system which notifies the public to ordinances which shall in the future be enforced more stringently.

Assuming that we know, now, how to determine what is done in reply to what, and that we understand the problem of determining the bounds of legitimate authority once a decision has been made to limit that authority, such as the example of toleration, let us now discover why we should limit war to something which can only occur between sovereign states. Shall we, for instance, say that an exchange of violence between the mob and the government is a war? How about violence between street gangs? Most people would be persuaded to admit that their intuition runs counter to referring to these and other similar occurrences between entities residing within states as wars. But why is this? Most people have an idea of what they think war is. They have seen movies or read books with titles which suggest

that the subject being addressed is, in fact, war: so may it be. But, as we said earlier, we normally associate war with the existence of large numbers of weapons and materiele, directed according to some grand strategy by those individuals employed for that purpose. Usually employers turn out to be sovereign countries which are recognized as such by the rest of the world. But what happens when the army of a terrorist organization numbers larger than that of many recognized nations? What do we do with a situation where such an organization can wield more influence than many countries? And what do we call an armed conflict between a large force of terrorists and an organized military establishment?

According to our definition of war, such a conflict as described above is not and cannot be a war, the reason being that it does not involve the mutual disruption of the de jure authority of two¹ sovereign states. However, this should not distress us. If we allow terrorist actions into the definition of aggression, then it seems we must also allow any other force capable of disrupting the sovereignty of a state; which would lead to the ultimate conclusion that any mutual conflict between two or more entities capable of acting with reason² shall be called a war. This, to me, is unacceptable. Consequently, we shall limit war to that process which occurs between sovereign states where the limiting criteria are sovereignty, and the disruption of

1. Or more.

2. With current technology, anyone could conceivably disrupt the authority of a state, and probably disrupt a lot more than that.

sovereignty. The burden of proof lies with those who disagree to show that this is an unreasonable way to look at reality.

Assuming that we have arrived at satisfactory explanations for determining when something is done "in reply" to something else, and assuming that we understand the reason for limiting war to that confrontation which occurs between sovereign states, there now is little else to do but give some hypothetical examples illustrating situations which might be described as wars.

Given two states, A and B, the most illustrative case would be for B to move its army across the border into A, at which point A puts up a defense with its own army. The situation described is a war in so far as B committed an act of aggression against A, and A committed an act of aggression in response. When the exchange of aggression ceases, so does the war. This means that, should A, after putting up a token fight, lay down its arms, any further aggression on the part of B is simply that. The war ended when A stopped aggressing. It is important to note that references in these examples to acts of states are references to acts of sovereigns. Should a large portion of A continue to resist simply as a body of individuals, that is not war either. Individuals cannot aggress unless they act in the agency of the state.

Changing the type of force used, let us suppose again that A is dependent upon B's oil, while A has a canal through

which pass B's ships. Both the sale of oil and the passage of ships through the canal are covered by respective treaties between A and B. Now suppose B raises the prices of its oil by a large amount, violating the oil treaty. If, in response, A closes its canal to B's ships, also a breach of a treaty, this mutual breaking of treaties is a war.

If anything, it is conclusions such as the one above that shall seem the most counter-intuitive. But they should not. There is little an actual armed conflict between A and B would do to those two states that would not also be done by the mere breaking of treaties. The tensions that develop may be stronger in a "total war", but they would develop nevertheless. And it is important to realize that, as far as the state is concerned, (that is to say, the actual institution of the state) one act of aggression is "as good as" any other. The effects differ only in degree. We find killing and destruction revolting, but everyone knows that killing and destruction has little effect upon the state. One cannot kill the governing principles of a state as one can kill an individual. Through a war a nation's consciousness may change, but its constitution does not; and although the existence of large amounts of destruction may cause those principles to be changed, such factors are just as likely to strengthen a people's belief in them. On the contrary, it would seem the more passive wars which our definition allows are the most destructive of the principles upon which a state

is founded. This will become more important in the next chapter.

Can the treaty example be carried even further? Can there be diplomatic wars? There can, so long as there is such a thing as diplomatic aggression. If, in some way, a state official could in his official role perform some sort of act against the official of another state which would interfere with the de jure sovereignty of that state, that would be aggression. Such an example, however, escapes me.

One implication of our theory of war and aggression is the possibility that large forces could be engaged in a combat situation, neither of which is acting in the agency of a state. The event would not be a war. Keeping in mind that individuals in their official capacity normally have some sort of mandate to use their own discretion in large numbers of situations which precludes the necessity of having the sovereign give all the orders, should they not be within their mandates, any amount of force directed by individuals in this manner would not be a war. A pilot, acting on his own, who takes off in a bomber and destroys some city in another country, has not caused his country to perform an act of aggression, although his country may share his responsibility. As a general rule, in so far as an entity is acting in the agency of a state, so can that entity engage in war, with the effect that the state under whose orders the entity acted, may also engage in war.

6

It might be well to point out at this time that our definitions do not preclude the possibility that war is unavoidable. One does not have to choose in order to will. So far we have merely affirmed that war is composed of acts -- a series of acts where each succeeding act which follows the initial aggression is done in response to a previous act.

Now, a formidable question: Must war begin by an act of aggression? Could a war occur without "the first shot", so to speak? If it can, then there is at least one case in which war is unavoidable. But the way we have defined aggression, and war in terms of aggression, makes it a matter of definition that it is not possible to have a war which did not start with aggression. This should not seem unreasonable. If something occurs which one state takes to be an act of aggression (even though it was not), and if then, in response, that state commits an act of aggression against another, that act of aggression is the first act which, if answered, shall constitute a war. Therefore, we force war to be a matter of will, submitting that the ultimate cause of war may not be an act at all; but maintaining that if war occurs, whatever the cause, war is a clearly defined occurrence. After all, even if a murderer is insane, he is not less a murderer. We do not lessen the wrongness of the act, we simply lessen the blame placed upon the murderer. The first act of any war is an act of aggression.

This still leaves open the possibility of accidental aggression. The definition stipulates that aggression is an act of a sovereign, and that aggression is interference with de jure authority. As we said earlier, intent has nothing to do with it ... yet. Therefore, it would appear that a state could place or find itself in a position where it had no choice but to aggress upon another state. An example of this might be the following: Two states, A and B, are hotly engaged in an arms race. In its haste to catch up with A in technology, B rushes a new design of missile into production without fully testing the weapon system. The missile is placed in silos and targeted against certain cities in A to provide leverage at the arms limitation talks, at which B hopes to gain concessions from A. But a flaw in the launch system, unknown to B, carries with it the possibility that a missile might be launched without command. Should one of these missiles malfunction and launch without signal, obliterating one of A's cities, could we consider this to be aggression on the part of B?

In as much as B designed the weapon and aimed it at A with the idea that, should the contingency arise, it would fire the missiles, it would seem that direct responsibility could be attached to B by arguing that its own negligence caused the missile to be launched, just as surely as if the order to fire had been given.³ This case is made more

3. Compare this case to that of the pilot acting on his own, and that of the automatic lasers.

difficult because B has no one with which to share the responsibility. Through its own choice, B had the missile produced and placed in fire position.

Let us change the example. Suppose, instead of a missile, that B increases the size of its army and places the extra units this produces along the border between A and B. What if an officer in the army should go berzerk and order an attack on A. Has B now aggressed upon A? It seems as though this and the above case must follow the same reasoning as that of the automatic lasers and automatic soldiers. Whatever the decision, it should be the same for both.

But perhaps there is an answer to this. If the lone pilot who acted on his own in bombing a city happened to be a civilian, it seems to change the whole thing. But the purpose of soldiers and lasers and missiles, and even government officials is to act in the agency of the sovereign. The point is, a soldier does not stop being a soldier until he is discharged. Therefore, it may be that anything which an agent of the state does while in that capacity, must be construed to be an act of the state. Just as the president might legitimately do things which are wrong, so might a soldier do things which are wrong. Therefore, it is plausible to assume that a state is responsible for the acts of its agents even when they are acting on their own, to the extent

that they represent the state in action.

It is interesting to note that what we have stipulated above is a contradiction. Supposedly, aggression is, by definition, an act of will. Therefore, a state cannot aggress against its will. How then can a state aggress accidentally? The answer is, it cannot; it only seems so. If the faulty missile example describes an act of aggression, it does so because it was not unintentional.

Therefore, there can be no unintentional aggression. Aggression is an act of will; and if a state places an unreliable entity in a position of an agency, it does so willingly. This is not to say that war is not unavoidable. War may still be inevitable, but that inevitability could take many different forms and has to do with cause and effect. Fortunately, the study of the causes of war is not a philosophical issue.

Let us take another example. Given states A and B, imagine a river whose headwaters are in A, which runs through A and into B, and from thence on to the sea. Both countries are heavily dependent upon the river for irrigation and power, and it is heavily dammed all along its length. Now suppose A opens the flood gates on some of its dams, whereupon the great influx of water into B causes considerable flooding and material damage. Has A aggressed upon B? Suppose instead that A manages, by building hydro-electric facilities and irrigation canals, to use the entire flow of the river

before it ever gets into B. In other words, the river never reaches the sea. Has A aggressed upon B?

Our first reaction to this question is, yes, of course. It even fits the definition of aggression ... or does it? Does the de jure authority of B extend to the water in the river? Yes. But only while the river actually is in B. Consider again the case where one nation is heavily dependent upon the oil of another. Our decision seemed to be that, so long as there was no actual agreement, there was no legal entitlement to the oil. And we must remember, aggression is an act which takes its defining characteristics from legal principles. I should certainly think that deliberate flooding of another country is wrong, but can we argue that B is in some way entitled to have the river flow in some steady fashion? Perhaps we are forgetting all the careful work we did in the previous chapter.

By allowing the river to flow steadily into B for a number of years, A has tolerated the situation in the same way I tolerated someone crossing my lawn on his way to work. For me to evict the person with force is to break the integrity of the tacit agreement I had with the fellow crossing my lawn. In the same way, should A do something which obviously affects B (even if we are not clear who has sovereignty over the river), we can presume that A has committed an act of aggression against B, in so far as A had recognized B's authority over the river within its

boundaries -- whether or not B in fact had any authority at all. Perhaps it is the case with such things as rivers and other resources, that they never fall under the complete sovereignty of any one state. In as much as any alteration of the river in its flow has some effect upon everything along it, particularly downstream, it may be that the river, although it may be utilized, may not be claimed.

Therefore, on this view, A would aggress on B any time it altered the river within its own borders in a way which would also alter it within any other border. This does not seem to work, however, in the case of oil. Here, it seems, the resource is clearly within definable bounds; and if the sovereign over the oil had not bothered to pump it out, no one could have used it at all. Perhaps the resource problem is really centered around the problem of territorial sovereignty. It simply is not possible to define an effective border in a fluid, particularly when that fluid twists and turns over miles of varying terrain. I should think that, if we have no trouble with international waters in the ocean, then we should have no trouble with rivers which pass through more than one country.

As a final example, we might consider a trade conflict. Certainly economic influence is very powerful, and conflicts which result from diverging economic interests have profound effects upon a state, to which we all can attest. Consider states A and B. Both are powerful industrial nations, but

62

A has a huge surplus of food, while B has significantly larger amounts of cheap labour coupled with a more up-to-date production system. Both countries operate on the free market system, and neither government has resorted to controls upon imports or exports. Since they can be made cheaper, there is a great demand for B's manufactured goods in A, to such an extent that there is an increasing problem with unemployment, while industrial profits are falling. In as much as this situation is counter to the wishes of A, is B aggressing upon A?

If such economic forces can be considered aggression, then we will have pushed the definition to its absolute limit. For here is a situation where the sovereign is not in control, yet is -- to a certain extent -- responsible. But perhaps there is a way out of this problem as well. It is conceivable that B, not only selling its products to consumers in A, could also be pressuring certain consumers to buy them, either to deliberately disrupt A's economy, or simply to make money. It would seem that, to the extent that the sovereigns end up meddling in the free-market system, so can certain of those acts be construed as aggression, if they interfere with a state's de jure authority. So long as the economic pressures and forces are applied by individual institutions, so is the market system free from aggression.

We have sought, in this chapter, to apply the definition of aggression to a very simple concept of war. After answer-

ing certain objections to such a concept, we have looked at more examples of situations which might describe implications of the theory. Assuming the discussion was adequate and the explanations satisfactory, let us bring in morality.

CHAPTER III

WAR AND MORALITY

Most discussions of the morality of war **start out** with the assumption that war is a bad thing which should be avoided. The reason for this is due to our common conceptions about what war is and what it does. Now no one really knows what war does, but we have made a good attempt at trying to decide what it is. The question remains, simply, to determine what it is that war does which is of moral significance.

Drawing on our memories, thoughts of war usually bring back scenes of carnage and destruction. Because this is personally revolting to us, and because under conditions of law such a scene would be clearly immoral, our attitude is that something which could cause this should also be immoral; so we want to prevent such scenes from recurring in our minds. But I suspect that the effects of war are much deeper than simply the scene on a battlefield, much more harmful to society than the memories of atrocities and ruined economies. War provides man with a supposedly legitimate excuse to do

things which would otherwise be immoral, or at least unlawful. I say "legitimate" because there are several arguments which state that war is not only probable, war is inevitable. In the face of such arguments it is not possible to bring morality into play; for if war is a necessity, then war is not a matter of choice, and if war is not a matter of choice, then war is not within the realm of morality.

The apologetic for war can be reduced to three major arguments: One based on the combative nature of man; one on the dynamic nature of the state, and one on the beneficent nature of war itself.¹

The first argues that persons have certain fixed characteristics -- one of which is an aggressive nature -- or that a person's choice tends toward an aggressive nature. Thus war is inevitable, either because man simply must act that way, or because man will always consider war to be a viable choice. The end result of holding to the strong version of this argument -- that war is a necessity -- is a refutation of all morality, as it is inconsistent to hold, both that persons are moral agents and that they have no control over their actions. On the weaker version of this argument, that man always chooses war in the end, such a view does not threaten morality at all. To say that war is inevitable because the nature of humanity is such that it always will choose to engage in war is no different from saying that murder is inevitable in a society with dissatisfied

1. Albert Cornelius Knudson, The Philosophy of War and Peace, New York, 1947.

citizens and a weak police force. Yet we have no trouble finding murder to be wrong.

The second argument of the inevitability of war asserts that the very nature of the state as an entity implies force -- force to impose its will upon its constituents, force to protect their interest, force to protect itself. But depending upon one's conception of what a state is and what it does, such a view may be interesting but irrelevant. Arguments such as this tend to overlook the fact that the state is a created entity, a very powerful entity, but an entity created by man. A state is often represented by its power, such that the state could not exist without power. This may be true of an effective state. But as we said before, a state is primarily a constitution, around which is placed agencies which are capable of carrying out the will of the sovereign, which itself is charged with the protection of the constitution. If there is any choice at all involved in the actions of these agencies, then the actions of the state are within the realm of morality, whether or not the state can be relied upon to always act in certain ways; it may be that the state is always wrong, and this is not such an unreasonable conclusion. In this sense, the inevitability of war serves only to convince us of the poor situation man has fallen into. But there is a vast difference in saying that something is always wrong as a matter of choice, and saying that something is inevitable and there is nothing we can do about it.

The third argument contends not only that war cannot be prevented, but that it ought not to be prevented, because it serves several beneficial functions -- by encouraging invention, by rallying national spirit, by allowing persons to exhibit the full virtues of humanity (such as courage and heroism) and by preserving civilizations. It is undeniable that war has certain beneficial aspects, even as a kidnapping might have beneficial effects upon a fat hostage by causing him to lose weight. But certainly the record of benefits we usually associate with war is outweighed considerably by the bad effects, not the least of which is the production of large numbers of very brave, very courageous, and very dead heroes.

This third argument, that war ought not to be prevented, has fallen into disrepute; but with the definition of war which we have produced in this study, it appears that such reasoning may be revived. Certainly the possibility of including trade conflicts in the concept of war favors the consideration of beneficial aspects of such conflict. But what is overlooked in many accounts and studies of war is the effect such a conflict between states has on the character of those involved. To promote war is to promote deception and other attributes which are corrosive to a moral system. Such corrosion is not apparent in the relations of states, but makes itself known within the nations themselves.

There would be no point to this discussion except that our definition of aggression allows for much milder forms of wars. The simple breaking of a treaty is an act of aggression; and breaking a treaty in answer to that produces a war. How has human suffering been increased here? How have individual rights been violated? Given that a treaty is signed with mutual consent which legitimatizes the acts of one or more sovereigns in areas where they might not otherwise have legitimate authority to do so, the violation of such a treaty is, of course, contingent upon its applicability to reality. A may have a treaty with B which forbids A to drive its herds of brontosaurus across B's border except on Wednesdays. It would be difficult for A, now, to violate such a treaty. So a treaty or agreement cannot be violated unless it actually has some application. But given that, a treaty or agreement could be about anything conceivable within the legitimate authorities of the states involved. And it is at least plausible to assume that there could be a treaty which, in its violation, would not increase human suffering -- at least, not suffering in the sense of pain and anguish.

If it is possible to have a binding agreement between two sovereign states which, when violated, would not increase the total amount of human suffering, then it appears that it also would be possible to have a war which did not increase human suffering. And if it is possible to have such a war,

then it is possible, on utilitarian grounds where the criteria for deciding whether or not a war is just is human suffering, to have a just war.

Now this argument moves much too quickly, but I advanced it at this time in order to show the possible line of reasoning which might be taken (given the definition of aggression which we now possess) behind which lies the fundamental assertion that there are many other things which should be classed as war than simply armed conflict, and this due to the similarity of certain acts with respect to their effects upon certain entities; namely sovereign states. The point is, wars protracted with armed forces may be wrong because of the suffering they cause, or because they violate fundamental human rights; but there are other types of wars, which leave no noticeable impression on the face of the nations involved, but which reach deep within their governing principles, which undermine their authority, which limit their acceptable choices through coercion to the point where a state can merely act, but it cannot choose. These are characteristics to which I shall devote the balance of this paper.

We cannot ignore the effects of "total war", the piles of bodies, the ravaged landscapes; but introducing principles which handle moral judgments about this type of war will not necessarily apply to the other types which fall into our

definition. And what do all the bodies mean if the state for which they supposedly gave their lives turns out to be not a state at all? If a state has any choice at all in what it does, if the concept of a state acting of its own accord makes any sense at all, then the existence of moral principles governing the behavior of individuals should bespeak the existence of principles which govern the behavior of states. And it is these principles which we shall seek to uncover. We may find that the behavior of states is governed by the very principles I wish to overlook for the moment; but let us attack the problem from the point of view of the state, not the individual. It is very easy to say "War is hell" after seeing a picture of the burnt bodies of children; it is not so easy when looked at the other way. Let us do so now.

States cannot have rights -- not in the legal sense -- because rights are defined in terms of a legal system and certain claims which can be made by the rights holder. There is no such system governing the actions of states, and if we grant states legal rights, then we grant entities the right to prescribe rights to themselves. States may someday have rights, but only in the presence of a potential coercive force governing the world. With regard to natural rights, the knowledge that human individuals have certain natural rights or human rights, if in fact they do, does not allow us to conclude ipso facto that states also have such rights

by virtue of their constituencies.

I will assume for the moment that states have no rights whatsoever. It is at this point that we must return to the concept of de jure authority. If you recall, we defined aggression in terms of de jure authority where interference with that authority by another state constituted aggression. The authority is not authority over another state, but is internal authority. In short, interference with the legitimate internal affairs of a state by another state is called aggression. Whatever else one might say about it, there certainly must be some value in a state having internal authority; first, because that is how a state is defined such that removal of legitimate authority negates the state; and second, because in a just state the consensus leans toward strengthening that authority.

There are many types of value. The authority of a state may be valuable to the state, it may be valuable to the constituency, it may be valuable to other states and their constituencies, or it may be valuable in and of itself. As to this last form of value, just as we place a value on human life and maintain that it has a certain definite value which is not changed in the face of need or desire, so might the state and its authority have such value. To support this view is also to support the view that the existence of a state is in some way right where, if one had to choose between a state existing and a state not existing, where there

were no other relevant factors, one would be morally bound to opt in favor of the existence of the state, just as one would be morally bound to opt in favor of a human life. However, the treatment of states as ends in themselves goes heavily against any argument for human rights, as it tends to place more importance on the strength of the state as a whole than on the well-being of any individual in particular. In short, such a view is utilitarian.

Therefore, if one assumes that human individuals have certain rights, then he cannot view the state as an end in itself, and any judgments about the morality of war are made in terms of individual claims. Also, any value which the legitimate authority of a state has is contingent upon the value of human rights. After all, under this view the state came into existence as an institution to protect human rights, where its total worth lies in the efficiency and justice with which it protects those rights. A state which does not protect the rights of its constituents may be just, but it cannot be said to have value.

For a utilitarian, on the other hand, the value of the state lies in the efficiency with which it can arrive at the best possible state of affairs, however that might be measured. Therefore, individuals may be forced to fall by the wayside in the interest of the total good. Under this view, any entity which has the ability to act in a rational manner, with ability to better the overall position of mankind,

can at least plausibly be construed as an end in itself in the sense we talked about earlier. A valueless state is that which no longer can fulfill its function as the guide to a better life. In both cases -- that of rights, and that of well-being -- the value of the state lies primarily with its constituents; but for the utilitarian, a state has the added value that is accrued upon any entity which increases the overall good. When it ceases to do that, it ceases to be valuable.

From these assertions a powerful argument can be constructed denouncing war, or -- more properly -- denouncing aggression. For aggression can be seen as something which undermines the existence of something to which we attach great value. It is interesting to note that such an argument is stronger for the utilitarian than for the supporters of human rights; that is, aggression almost always can be construed as an act which detracts from the efficiency with which the state moves toward the "end state", the best possible state of affairs. War can be seen as an interruption and, paradoxically, aggression becomes more likely. Since war is, in a sense, more wrong for the utilitarian, a state would more likely go to greater lengths to prevent it, or to stop it once it had started. Thus, under utilitarian principles, faced with aggression a state might retaliate in a manner which would totally extinguish the aggressor in the interests of its own "good".

One might bring up at this point a situation where, under utilitarian principles, a state might justifiably resort to aggression in order to prevent aggression. However, it should be noted that our definition of aggression and war prevents such a case from occurring, since if one state actually is justified in considering the position of another to be a threat, the other must have already committed some sort of aggression. Otherwise, the notion that there was a threat at all would be illusory.

Now, if we take the state to be at least prima facie valuable -- however that value is measured -- it would seem reasonable to assume that, all other things remaining the same, if the overall state of things would be harmed by the destruction of a state (or interference with state), then there is a presumption against destroying a state or doing something which seeks to lessen its value. As we said before, such value usually takes the form of some sort of efficiency, where a valuable state is one which is efficient in moving its constituents toward some ideal goal.

I shall now put forward the argument for the immorality of aggression. We shall not consider every way in which a state can be harmed or lose value, but only the most important. This most important property of a state is the freedom to act. Even though all the things a state may do are not right, so long as the sovereign acts within the bounds of its own constitution, everything it does is legitimate. Therefore,

without the freedom to act legitimately, the state is to a certain extent unable to perform its function as sovereign or protective agency -- or whatever. It follows from this that there is at least a presumption against the restriction of a state's freedom to act legitimately, and since aggression is defined as that which limits such freedom, all other things excluded, aggression is wrong. There may be other considerations to be taken into account, as there are in almost any realistic case, but all other considerations excluded, aggression is wrong. And since the defining characteristics of war are simply acts of aggression, there is a strong presumption against engaging in war.

Notice that we have taken out of consideration the aspects of war which are most salient to our common ideas about it. But armed conflict is only one type of war, as we have shown. And I have sought to show that, apart from those more commonly discerned aspects of war, there is at least one property which is shared by all wars, where that property is the limitation of freedom to exercise de jure authority.

What other considerations might enter into a conflict between sovereign states such that involvement in a war would not be wrong for one or more of the participants? For instance, our presumptive argument maintains that all aggression is ceteris paribus wrong; and since any act of one state against the de jure sovereignty of another is called

without the freedom to act legitimately, the state is to a certain extent unable to perform its function as sovereign or protective agency -- or whatever. It follows from this that there is at least a presumption against the restriction of a state's freedom to act legitimately, and since aggression is defined as that which limits such freedom, all other things excluded, aggression is wrong. There may be other considerations to be taken into account, as there are in almost any realistic case, but all other considerations excluded, aggression is wrong. And since the defining characteristics of war are simply acts of aggression, there is a strong presumption against engaging in war.

Notice that we have taken out of consideration the aspects of war which are most salient to our common ideas about it. But armed conflict is only one type of war, as we have shown. And I have sought to show that, apart from those more commonly discerned aspects of war, there is at least one property which is shared by all wars, where that property is the limitation of freedom to exercise de jure authority.

What other considerations might enter into a conflict between sovereign states such that involvement in a war would not be wrong for one or more of the participants? For instance, our presumptive argument maintains that all aggression is ceteris paribus wrong; and since any act of one state against the de jure sovereignty of another is called

aggression, even defending one's self is -- all other things excluded -- wrong. But this is not unreasonable. We do not consider killing to be any less wrong, even when done in self-defense, but consider the other things involved to outweigh the wrongness of the act, such as the imminent possibility of one's own death. However, we cannot simply say that a state is entitled to perform acts in its own defense, because it is not possible to "kill" a state as it is possible to kill a human individual. Even a nation almost wiped out by a nuclear attack would still exist provided the survivors would choose to maintain the constitution. There would still be a sovereign, and so long as there was a constitution and a consensus, there would be legitimate authority.

Just how much of a threat is necessary before a state is justified in protecting its own interests and those of its constituency? In the absence of fool-proof quantitative empirical method of determining what effect different contingencies have on a nation's existence, how are we to determine what constitutes a serious threat? In the case of individual conflict, it is only when destruction proves imminent that a person is justified in defending himself at all. But the law entitles us to use a certain minimum of force, where the limit is defined as whatever is necessary to just prevent the assailant's wishes from coming true. I am not entitled to shoot someone who comes at me with bare fists,

if I am entitled to defend myself. And it would seem that neither is a state justified in using any more force than that which is just necessary to prevent the aggressor from succeeding.

Even in principle, it is not easy to determine what it is the aggressor is trying to do. If I am attacked in a dark alley, I am not in a position to inquire of my assailant his intentions, thereby allowing me to determine the adequate amount of force necessary to just prevent him from carrying out his plan. Should I, after severely beating him,² find that he was not trying to kill me but merely had a fetish for tickling people, what am I to say? Aside from what the law actually permits, most people would undoubtedly feel he should not have placed himself in a position where it appeared as if he had harmful intentions.

However, it should not be forgotten that acts in self-defense are, to a certain extent, wrong; and in as much as a person applies too great a force in defense, so is his act more wrong. This is not unreasonable, because given a case where one could defend one's self with two amounts of force, both of which are adequate, we should think the lesser amount is preferable. So, given a choice, a lesser amount of force in defense is preferable to a greater force, and this because the use of force by either side against the other has similar effects, eg., the disruption of freedom to exercise de jure sovereignty.

2. Purely hypothetical, of course.

Should we adopt some criterion for determining when a state may use force to defend itself, it should be pointed out that the limiting factor set upon the amount of force which may be used has nothing to do with the security of the defending state. That is to say, it is not the case that a state shall be entitled to use whatever force is necessary in making itself secure from attacks by a particular aggressor, but is entitled to use whatever force is necessary just to prevent the aggressor from succeeding. For should the former be the case, and not the latter, a state will be entitled or justified in destroying every nation on the earth except itself, which will (obviously) make it secure from attack by any of those nations.

Can we determine some criteria for self-defense? I think so. If one accepts the presumptive argument for the value of the state and the conditional wrongness of aggression, then there would seem to be a presumption in favor of action which would prevent direct acts which seek to limit the authority of a state. And this should not go completely against the pacifist arguments, as there are, in our conception of them, non-violent wars. If we assume that the state is, in principle, a good thing, or that it at least is potentially good where anarchy has no potential to be good, then it seems we can also presume that -- all other things excluded -- it is better to defend a state than to allow it to be destroyed.

Now it must be realized that any act which seeks to limit the freedom of a state to act is potentially destructive. But whether or not, in the ideal sense, any particular state would benefit from its freedom being limited is simply unanswerable in the absence of some method of determining what effect certain factors have upon a state. Certainly there is some conception of the ideal state. The search for this has occupied a large portion of political philosophy. And certainly, in any given case it may be that aggression would be, over all, a beneficial thing. But in principle it is not. Murdering Hitler during his rise to power may have been beneficial, and it may have been justified, but to do so would also have been wrong in principle, in as much as it is wrong to kill people and Hitler was a person. It is the innumerable other considerations which enter into any real-life situation which are weighed to the extent possible to produce a judgment. Therefore, self-defense, although it may be permissible or justified, also may be wrong in as much as self-defense may involve doing something which would -- all other things excluded -- be wrong.

Now, if the force permitted in self-defense is limited to that which is just enough to prevent the aggressor from aggressing, might a state always be permitted to "defend" itself, or to justify certain acts on those grounds? We have maintained that the first act of any war is an act of aggression, and that it is not possible to defend one's self

from something which has not yet occurred, although it is possible to prepare one's self for such a contingency. Therefore a state may not simply act in "self defense" and expect justification for its actions, in as much as all such acts are acts of aggression. Since aggression is -- all other things excluded -- wrong, it would seem that a state is obliged to be very wise indeed, lest it find itself in the wrong. Certainly such an ideal is far from attainable at this time, to a large extent because determining the intent of a state is at least as difficult as determining the intent of an individual.

Another problem with the amount of force permitted in self-defense has to do with territorial sovereignty. If A aggresses upon B, there is the presumption that, not only is B justified in stopping A's aggression from expanding, but also B is justified in returning the situation to its former state. Should A push five miles across B's border, we should think that B may not only stop A, but also push A back across the border. Justification for this based on our definitions, and the theory drawn from them, comes from the fact that A's authority within the area it occupied after the invasion was not legitimate, but was in fact still under the de jure sovereignty of B, despite the fact that B could no longer exercise de facto authority in that area. We therefore presume that B is justified in taking back that which is, in fact, its own; but we also presume that it may not go

further than that and, say occupy part of A in retribution.

This problem raises the question that, even if a state is justified in defending itself, and even if the amount of force required to stop the aggression is well known, what is the manner with which that force can be applied? In short, with what "intensity" might a state defend itself? Since there are many types of wars, it is clear that there are many types of force, noting that all aggression constitutes the use of force of some kind. But does a state have some sort of obligation to withhold force to the bare minimum? If it does, it would seem that a state has an obligation to have on hand a wide variety of coercive agencies -- economic, military, diplomatic -- all of varying strengths and able to apply force very precisely. But surely this is not possible.

Consider the following example. Suppose A aggresses upon B by invading a small part of its territory. B has the capacity to force A out by a conventional land assault, but decides instead to bomb several cities in A in order to break the back of A's military efforts, and -- also very important -- to save the lives of its own soldiers who would, following the bombing, be fighting a considerably weakened foe. This very small and seemingly simple example in fact raises all the really important questions in the morality of war -- responsibility and the innocent, the involvement of non-combatants, the rules of conduct.

But perhaps we can circumvent all these problems to a certain extent. Perhaps in our previous arguments we have inadvertently stumbled across an answer to these enigmas. It has to do with the nature of the state and of sovereignty. We said in Chapter I that a state is primarily a constitution, and that if there is an ideal state, it is one in which that constitution is supported by concensus, such that, so long as the sovereign acts within the bounds of the constitution, everything it does is legitimate (within its own sphere of sovereignty). This seems to imply that, to the extent that the people of a nation support/ accept/ tolerate the constitution, so do they accept as legitimate the actions of the sovereign, and so do they share in the responsibility of its actions.

Therefore, should I, a citizen of the United States and sympathetic towards The Constitution, inadvertently be killed in a surprise attack while sitting in my living-room reading the Sunday comics, it may be unfortunate, and it may have been wrong that I was killed; but in as much as I am a member of this country, so also do I accept a certain responsibility and, therefore, give up a certain amount of innocence. I am convinced that it is this, and not the fact that I am innocent, which allows my country to exact some sort of retribution for my death. If terrorists who, acting in the agency of some revolutionary government, highjack an airliner with seventy persons aboard, take it to Libya and then blow it up killing

everyone on board, the United States will seek them out and try them not for murder, but for acts against the United States. If the citizens of a nation were innocent, then a state would have no justification for self-defense if only its citizens were harmed, except as by agreement in its constitution. But in as much as the citizens of a state are not innocent but responsible, a state has a moral legitimacy to defend them.

Therefore, a state which chooses aggression does so in the knowledge that the moral presumption is in favor of a consensus, where all people of that state are taken to be less than innocent of any acts which the state might commit. On this view, the bombing of Dresden may still be seen as a horrible injustice, not because thousands of innocent persons were needlessly killed, but simply because thousands of persons were needlessly killed. Do not try to make the "aggressor" seem so much worse than the defender; the defender is also an "aggressor". There may, of course, be innocents in war, but certainly not so many as is commonly thought. The belief that war is wrong because it involves the killing of innocent people serves only to make war seem less undesirable. With the knowledge that almost everyone is a legitimate target, I should think that war in its violent form becomes even more horrible.

In the ideal state, then, there are a minimum of innocents, where everyone is -- to a certain extent --

responsible for the actions of the sovereign, in as much as they support the constitution. War between two ideal states would offer little in the way of support for arguments denouncing war on the grounds that it is harmful to those who are not responsible or willing. In such an ideal state it would seem that one's duties to fight for the state would be strongly legal, as would most other duties concerning the state.

Unfortunately, there are no ideal states, and war undoubtedly harms innocent people. The existence of radical political groups and exiled governments, refugees and tribes, makes the international situation complicated beyond comprehension. But there are entities in the world which declare themselves to be sovereign states, which profess to be ideal to a certain extent. There is no reason why we cannot treat states in a manner befitting their own wishes. These entities engage in war, and each has its own justification for doing so. As is so often apparent, the causes of those wars elude us, and it does not seem unreasonable to assume that large numbers of conflicts occur due to a state's failure to discern the true intentions of its opponents. One might argue that a state should not put itself in a position where its intentions cannot be easily apparent; or even further, that a state has a duty to act in a manner which minimizes risk of war.

The notion that states could have duties toward one another should not seem unusual. One can very plausibly argue (from the presumptions made earlier) that there might be some sort of moral code between states. This code would simply be a group of obligations which would govern a state's action. These obligations or duties would have no need for a world government, even as there are certain moral obligations which we recognize as individuals which are binding anywhere. In as much as these duties would bind only in the relation of one state to another, they would have no relevance in a state's internal affairs. They would apply ideally, even as all duties apply ideally, and would form the basis for an ideal relationship between states.

One might argue that such a system of duties could not be enforced; but that is not a criticism of the system of duties, but of states. What might some of these duties be? I should think a state has a duty to be omniscient and omnipotent, and very very wise. Barring that, I should think a state should endeavor to know as much as possible about just about everything, as well as make known as much as possible its intentions in performing certain acts. And since a state's most valuable property is freedom to exercise authority, a state should seek to maximize its freedom to the extent possible. The implications of this are obvious.

For example, a state which is heavily dependent upon

the resources of another has limited its freedom to a certain extent. In that respect, it is in principle more likely for that state to become involved in unintentional aggression. We have so far overlooked this factor, and we have also failed to examine the possibility that some justification for aggression might lie outside of retaliation. For instance, some people would argue that a state dependent upon the resources of another state may go in and take those resources, should they be withheld without "good reason". The reasoning stems from some notion that there is an entitlement to those resources by states dependent upon them. Unfortunately, this argument has two unacceptable implications. First, if a state can become entitled to a resource by its need, then it would be a simple matter for a state to make itself entitled to the world's resources, even if only in limited quantities. Second, the justification for going in and taking the resources at a time of special need seems to justify taking them at any other time as well.

For an example of unintentional aggression, we might recall the river example -- where two states lie side by side with a river flowing from one country into the other. Due to certain economic factors which were brought into play by the upstream state, so much water has been channeled for use that none reaches the other country. It may not have been the first state's intentions to have the river dry up so that the other could not use it, but it may very well be aggression

nevertheless. In such a case as that above, we might say the upstream state had a duty to the other which was broken when the flow of the river was altered without its consent. If the downstream country is heavily dependent upon the river,³ it may be justified in aggressing upon the other in order to set things as they were.

In as much as a state is considered responsible for things it "should have known", so can a state be negligent. The effects of certain actions on the environment may constitute aggression on the part of one state against another, and such aggression might justify a demand by another state for retribution. Certainly in the case of broken treaties or a diplomatic conflict, an exchange of aggressions could be bloodless, and certain aggression might easily be justified.

An interesting example might be had here by considering satellites in orbit. Owned by various nations, these satellites perform a number of beneficial functions, as well as all manner of clandestine operations. Now suppose one state finds out that a satellite of another country is taking very good pictures of its missile installations, and decides to send up one of its own which manages to put the spy out of operation. Clearly, by our definition, this was an act of aggression. But who really has been hurt in any appreciable way? This might have occurred without

3. The river is not like an oil field, for reasons discussed in the previous chapter.

either side breathing a word to anyone. It is conceivable that a lively exchange could be going on in space by these satellites, whose numbers would rapidly dwindle. How much justification is necessary for this type of war?

One might point out, finally, that this is all well and good, but what has our discussion accomplished?⁴ It is hoped that the reader will have seen by this time that we have not had to introduce individual considerations into any of the arguments. The entire study has been advanced from the point of view of the state itself. Even from this limited point of view, we have found good reason to suspect that aggression is wrong, and in doing so we have prejudiced neither utilitarianism nor human rights. Although we have introduced some examples for which answers seem remote, none have forced us to use the definitions to derive any conclusions which are counter-intuitive.

But perhaps even more important, we have established what war is not. Revolutions are not wars, nor are police actions, or insurgent uprisings. Although countless entities are capable of becoming involved, only states may engage in them. The most important moral questions involve the state, although the most commonly thought-of form of war -- armed conflict -- brings with it every other moral question. In this chapter we have dealt with questions important not only to armed wars, but to all wars.

4. This question seems to be asked often with regard to my papers.

CONCLUSION

War is perhaps the most complex of all philosophical issues. The considerations introduced in a complete study would run the gamut of philosophy. This has not been a complete study, but rather a modest attempt at advancing a theory of aggression which tentatively points to ways of answering all the really important questions, in the hope that war might be seen as a clearly complex issue rather than an obscurely complex one.

The situation, as I see it, is this: Aggression, and therefore war, is something which is peculiar to those entities which can be called sovereign states. There is a strong presumption against aggression, because aggression limits the freedom of states to exercise their de jure authority, such that even aggression in defense -- all other things excluded -- is wrong. Because limiting a

state's freedom to act is at least prima facie wrong, it would seem states have a duty to maximize their freedom to the extent possible without aggressing, as this should, in principle, increase a state's chances of avoiding aggression.

I have tried to show, aside from any beneficial effect war might have, that war always involves depreciation in the value of a state. More than that, aggression erodes the principles upon which a state is founded. Having discovered this, we can now bring in principles of justice, and fairness, and all the other considerations. We can now weigh the already detrimental effects war has upon the state itself against any beneficial effect it might have upon the individuals in it, against the fact that this particular state might be unjust, against the fact that retaliation may be the only way to save the state from destruction, and against the fact that war is morally accompanied by large amounts of human suffering. War may be a complex issue; but if my arguments have been adequate, at least it is clearly so.