

***A Jus Post Bellum* Analysis of Lethal  
Autonomous Weapons: Assessing the  
Importance of Human Interaction and Moral  
Repair to Peace**

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**July 2017**

## **Abstract**

The future development of lethal autonomous weapons (LAWs) presents a significant shift in the way that war is conducted. The present debates surrounding the ethicality of implementing LAWs focus on a broad spectrum of concerns, yet currently fails to address the impact these weapons have on securing peace. As such, this paper rests within a *jus post bellum* framework, seeking to address how the implementation of LAWs affects the procurement of peace. This paper looks at the relational mechanisms of achieving peace, insofar as it is a product of human interaction and relational processes, and settles on two themes; the factors *within* war related to human action and interaction – collective experience, recognition of humanity, and the exhibition of mercy – and the factors *after* war related to moral repair –forgiveness, reconciliation, and truth telling. Through historical examples of human interaction, and a normative enquiry into the demands of repair, this paper finds that LAWs have a detrimental effect on the current methods of securing peace insofar as they are incapable of replicating avenues which humans currently participate in. As such, this paper highlights the trade-off between measures to prevent suffering and the necessity of moral repair, and contributes to the literature on *jus post bellum* more broadly by demonstrating the importance of repair post-conflict which has thus far been omitted.

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## **Declaration**

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for an award at this, or any other, University. All sources are acknowledged as References.

## **Introduction**

The development of lethal autonomous weapons (LAWs) presents a significant challenge to the way war is currently waged, and threatens to create a new paradigm due to the advancement of artificial intelligence (AI). Discussions have begun taking shape throughout a number of disciplines on the ethical challenges and benefits of LAWs. To date, many of the present discussions taking place concern the immediate benefits or shortcomings of LAWs, that is to say, what they bring to war in and of themselves. However, this paper focuses on the consequences of implementing LAWs, looking at the utility of human combatant behaviour in bringing about peace, both in actions during war and after, and asks; Do humans possess capabilities that are conducive to peace which cannot be replicated by LAWs? And if so, does this question the ethical permissibility of LAWs given the benefits to preventative suffering that they have the potential to generate?

This paper looks specifically at relational aspects of peace, addressing the different ways and manifestations of how human interaction and recognition develops the conditions for sustainable peace. That is not to say that I view AI within LAWs to be fatally flawed, but rather I see the development of peace to be a product, in many cases, of human interaction and relational processes which cannot be replicated by LAWs given their non-anthropomorphic nature.

Much of the current advocacy for LAWs focuses on the advent of technology allowing for ethical outcomes at least as consistent as humans combatants currently are. For this paper, the ethicality of LAWs is accepted since this does not affect the judgment I place upon them in relation to peace. However, if LAWs are more ethical than humans, then could they not calculate (in the same way as proportionality calculations) the likelihood of actions conducive to peace? This is a legitimate concern that needs to be settled before I begin. This paper seeks to address this question by looking at two areas which are separated from ends determined by proportionality. By focusing mostly on the outcomes produced by *human* interaction, this replaces the need to calculate the probable and necessary outcomes which are conducive to peace, and is thus instead reliant on something external to LAWs that is achieved cooperatively as opposed to unilaterally.

I begin this paper by outlining the reasons for conceptualising autonomous weapons specifically as 'lethal autonomous weapons' in chapter 1, how I define machine autonomy in chapter 2, the various properties of LAWs which we can envisage them possessing in

chapter 3, reasons for the future implementation of LAWs in chapter 4, and in chapter 5 I outline the existing arguments relating to LAWs and show why those perspectives are unaware of the arguments I make here.

This paper is situated within a framework of *jus post bellum* and wider just war theory – that for a war to be just it must be fought for peace first and foremost – and therefore I dedicate chapter 6 to developing the current ideas and debates within *jus post bellum* theory, and respond to some of the criticisms of the view I take herein. I accept the dependence approach in arguing that all actions within an ethically permissible war must be directed towards the ends of peace. As such, I justify my *post bellum* assessment of a largely *in bello* process – the weapon itself – by requiring its actions to be conducive to peace as is the only ethically permissible use of weapons in warfare.

Using both case studies and a theoretical enquiry into the existing capabilities of human combatants compared with the perceived and hypothesised capabilities of LAWs, this paper settles on two distinct areas.

I focus on behaviour exhibited during war, looking at the role of human action and interaction within war, giving rise to the anthropomorphic properties of such avenues for peace.

Chapter 7 looks at the role of experience within and outside of combat, and highlights such manifestations through historical examples. I perceive such experience to act as a deterrent to the emergence of war enthusiasm and an important transgression to the obscuring ‘Myth of the War Experience’, and show that the experience of war has the potential to motivate us against unnecessary suffering. I also address the way that war can be reformed against these effects as a result of experience.

Chapter 8 looks at the way the recognition of humanity affects our perspective of the enemy, through fraternization, the recognition of humanity in the enemy as a limiter on unethical acts, and the detrimental effect that dehumanizing the enemy has on psychological health and unethical behaviour. The recognition of humanity is drawn from our own, and thus the ability to empathise from an equal position is a catalyst for such processes.

Chapter 9 addresses the role of martial virtues, and argues that the virtue of mercy is unique in its bilateral benefit through traversing the combatant divide of friend and foe, and has a role to play in the act of surrender too. Since mercy is motivated by the

importance placed in the offender's wellbeing, we can perceive that LAWs would have difficulty replacing such actions.

I am also concerned with actions post-war, and explore the necessity of moral repair and its utility to sustainable peace. Given wrongs committed during war, combatants have the obligation as perpetrators of wrong, to repair those damaged relationships. This part explores the reparative processes of; forgiveness as an interpersonal process of moral repair in chapter 11; reconciliation as a broader process of repair involving both parties but often facilitated through a third in chapter 12; and truth telling as a process possessing both intrinsic and instrumental value to the pursuit of peace in chapter 13.

Through a normative enquiry into their conditions and processes, these chapters collectively find that each are necessary in different contexts of moral repair to the securing of sustainable peace, and also to the sorts of instrumental level repair described frequently in the literature on *jus post bellum*. The requirements for accountability mechanisms arising from victims, the demands of justice, the recognition of wrongdoing, and the development of meaningful acknowledgement of the views in each of these processes, concludes that LAWs as wrongdoers are unable to bring about the needs of moral repair.

Although the determinations within this paper on the ethicality of LAWs do not attempt to be sufficient arguments against their use, its utility is instead found in questioning the sorts of actions expected of actors post-conflict, and highlighting that the changes we make to the agents who fight have ramifications upon the sorts of peace processes we can expect to bring about. It is my hope in this paper that I satisfy the claims mentioned above, and additionally show that since humanity and moral repair are fundamental aspects of conflict resolution, the inability of LAWs to act conductively to such ends places doubt on their ethicality.

In so doing, this is not a condemnation of LAWs, but rather serves to highlight their inadequacy at carrying out important roles post-conflict that are conducive to peace. It is thus up to the individual as to whether these shortcomings are sufficient enough, or rather we place enough value in such actions being carried out to make a judgment on the eventual use of LAWs *within* war.



## **Part 1: Lethal Autonomous Weapons: An Overview**

The speculative nature of LAWs requires as much explanation as possible in order for a coherent argument to be formed within this paper. As such, this part is dedicated to settling a number of uncertainties related to the future prospect of LAWs. I begin by outlining my chosen terminology and justifying it in relation to other potential and often used alternatives, before highlighting some of the properties I envisage LAWs to possess for technological reasons and military necessity. Additionally, I attempt to understand the reasons we might envisage for the subsequent implementation of LAWs from the perspective of the military, the political sphere, as well as technological pressures too. This part also outlines the existing debates and discussions surrounding the ethical challenges that LAWs bring, and therefore plays a role in showing the originality of the approach this paper takes. The following chapters aim to set the scene with regards to the arguments I make throughout, and satisfy some of the concerns and difficulties raised in focusing a normative enquiry on highly speculative and early-development technology.

## **1. Framing the Debate: Why 'LAWs'?**

For the purposes of this paper, I will be describing 'lethal autonomous weapons' (LAWs) as weapon systems that are capable of self-propulsion and independent assessments of external situations and environments, and importantly are able to target and use lethal force without human interaction. The exception to this is that the broad mission command would be directed by human decision. Although suggestions have been made to keep humans 'on-the-loop' in order to act as a final check on the actions of LAWs through mere supervision or veto power (Singer, 2010), this has the potential to limit the independent and beneficial characteristics of robotic weapons in the long run. As such, the linguistic characterisation of robotic weapons serves as a reminder of challenges faced when attempting to conceptualise new weapon technologies.

There is no accepted consensus on how such weapons should be framed, with a range of possible terms associated with the same sorts of weapons. For example, such new weapon technologies have been termed; unmanned aerial vehicles or UAVs (Strawser, 2010; Kreps and Kaag, 2012; Gregory, 2011), unmanned combat aerial vehicles (Beard, 2014), autonomous weapon systems (Sparrow, 2007; Hammond, 2015; Schulzke, 2013; Asaro, 2012; Klineciewicz, 2015; Thomas, 2015), autonomous weapons (Walsh, 2015; Johnson and Axinn, 2013; Guetelin, 2005; Hauptman, 2013), drones (Buchanan and Keohane, 2015; Dill, 2015; Whetham, 2015), lethal autonomous systems (Swiatek, 2012), autonomous robots (Sharkey, 2009), autonomous lethal robot systems (Tonkens, 2013), and fully autonomous robots (Simpson, 2011). This can lead to a subtle but important difference between theorists who have contributed arguments to the wider debate concerning the use of robotic weapons in war.

I have chosen to use the term 'lethal autonomous weapons' (LAWs), owed to a number of differences I have with other potential conceptions. For one important reason, it highlights the lethal capability of such weapons which UAVs or autonomous robots do not explicitly mention. There are different ethical concerns between the use of UAVs for surveillance and reconnaissance, and those with lethal capabilities. As such, it is important to direct our inquiry towards the morally problematic use of lethal force, and whether this is permissible.

By providing reference to 'autonomous weapons' in my conception, I differentiate between current deployed UAVs such as the Predator and Reaper drones, and thus intend

to distinguish the sorts of ethical concerns which abound through the introduction of *autonomous* features, rather than remotely controlled UAVs. Although there are a number of weapons being deployed with increasing levels of autonomy, it is important to stress the difference between the autonomous capacity to move, and the autonomous capacity to use lethal force, which is inherent in a conception of 'LAWs'.

I am also cautious to use the term *fully* autonomous weapons as the continuum of autonomy is broad and ambiguous. Restricting our conception of weapons capability through the terminology we use is not helpful to future debates concerning the permissible use of LAWs. Therefore, I choose to omit the term *fully* autonomous from my account of the broad spectrum of new weapon technologies, as they will invariably incorporate varying degrees of autonomy, with similar ramifications to the arguments I make within this paper.

## 2. Defining Machine Autonomy

It is vitally important to recognise what we mean by the term autonomy. Autonomy is a philosophical concept which has been a contested subject and the topic of significant disagreements. Although not entirely different, autonomy in machines is often characterised as a lesser autonomy than that possessed by humans, and provides a foundational view of how we conceive of possible actions deriving from LAWS. Those who see autonomy as an anthropomorphic concept argue that machines are required to directly replicate human cognitive capacities (Corn, 2014); that autonomy requires the possession of “certain forms of normative competence or self-reflexive normative attitudes” (Piper, 2012, p.317); and that “increasingly autonomous robots requires little further explanation beyond referring to the corresponding human capacities” (Noorman and Johnson, 2014, p.52). However these conceptions ignore the grey area between direct human control - whereby such machines could be termed ‘semi-autonomous’ depending on their limited capacity to carry out tasks - and autonomy that actually replicates human capacities.

Alternatively some definitions conceptualise autonomy as a fluid property rather than an absolute one, such that various machines are situated on a continuum (Asaro, 2008), a spectrum (Sparrow, 2016), stages of ‘scripted’, ‘supervised’, or ‘intelligent’ areas (Sharkey, 2008), or degrees of ‘autonomous power’ (Hellström, 2013), highlighting the way we can conceptualise autonomy within different machines.

However, there are minimalist perspectives which see autonomy as; consisting of independent decision-making free from external human influences (Thomas, 2015); the separation from direct human control in both decision-making and use of lethal force (Asaro, 2012); the ability to simply act independently (Department of Defense, 2012; Riza, 2014); or that machines merely need to be able to pursue their *own* agenda (Franklin and Graesser, 1997). It is these sorts of conceptions that I see as providing the most pragmatic utility for the discussions to come. I will proceed with a conception of autonomy that demands the very basic levels of independent decision-making. Although I concede that autonomy exists on a spectrum, only a limited conception of autonomy is necessary for the success of the arguments laid out in this paper. Lin et al. (2008) summarise this best, in that machine autonomy means “[t]he capacity to operate in the real-world environment without any form of external control, once the machine is activated and at least in some areas of operation, for extended period of time” (p.4). For my arguments here on in, one

must merely concede that LAWs are capable of acting on their own – insofar as they internalise decision-making processes – in targeting and use of lethal force.

Although my arguments only require the basic level of autonomy consisting of independent decision making, one may stretch the concept of autonomy in machines to necessitate the advent of moral autonomy. I see the necessity of moral autonomy in military robots to be in conflict with military necessity, given that the threat posed by moral autonomy to efficiency and mission success is questionable due to the contingent moral awareness of ones actions. As such, my settlement on a limited conception of autonomy is grounded in military necessity for the aforementioned reasons of problematic moral awareness.

### 3. The Properties of LAWs

It is important to outline some of the properties I envisage LAWs to possess based upon the current state of military technologies, and those proposed in available military documents. The nature of talking about LAWs that are yet to be implemented is highly speculative, and since this paper concerns an ethical enquiry on the effects of such properties, it is necessary to outline some of these in order to establish continuity herein.

First, a likely property found within LAWs is the separation of intentional states between commander and machine as future weapons have the capacity to be too fast paced for effective human controlling. Singer (2010) argues that the role of humans-on-the-loop will consist of merely veto power given the degree of intelligence and rapid decision making within autonomous weapons. Furthermore, “research is finding that humans have a hard time controlling multiple units at once” (p.126), thus increasing the likelihood that functions will be outsourced and machines themselves will be trusted to make decisions within those areas. Former Army Colonel Thomas Adams argues that new weapons “will be too fast, too small, too numerous, and will create an environment too complex for humans to direct” (Adams in Singer, 2010, p.128). For this reason, my conception of LAWs provides for the morally significant separation of intentional states between the mission commander and machine, given the unpredictability of the actions of LAWs.

Swiatek (2012) introduces the concept of biometric systems for target identification, which could be a possible technological innovation used within LAWs. However, he highlights that because of the contingent tolerance of error within future biometric systems (due to the necessity of both deterministic and probabilistic matches) there is a transgression of *intentional* killing. Given the advent of plausible target identification systems within LAWs, there exists a separation between who the commander intends to be targeted, and who is *actually* targeted. The difficulty in showing where and when the decisions were made, and when the mistakes were committed, leaves us open to the view that the machine is more responsible than the commander. This is because the mission commander possessed little to no control over the outcome and predictability of the machine itself. Importantly, “the decision to use lethal force will be based on probabilistic calculations and absolute certainty will not be possible” (Lin et al., 2008, p.22). Within these arguments, we can see that the future demands of technology separate the intentional states of the commander with the machines actions. This is important when we come to look at the obligations incumbent upon wrongdoers within situations of moral

repair, since blame must necessarily be situated with the machine, for the commander had no direct control over the harm caused.

There is a second logical assessment we can make with regards to the sorts of capacities we expect LAWs to possess. I propose that LAWs will be programmed, out of military necessity, to be incapable of questioning orders they are given so long as they are in line with the Rules of Engagement (ROE) and Law of Armed Conflict (LOAC). This viewpoint can be broken down into two areas.

First, this corresponds to the second of Asimov's Laws of Robotics (1985), modified by Clarke (1994) to state; "[a] robot must obey the orders given it by human beings, except where such orders would conflict with a high-order law" (p.61). Although these laws have been discussed intensively since their introduction, this is a response to difficulties with the unpredictable nature of robots' actions, and serves as an attempt to focus the direction of such actions towards human ends, rather than those of the robot itself, such that broad goals are set by humans and not left to the machine.

Second, this prohibition on the questioning of orders is in line with current military practices. "Following legitimate orders is clearly an essential tenet for military organizations to function, but if we permit robots to refuse an order, this may expand the circumstances in which human soldiers may refuse orders as well" (Lin et al. 2008, p.74). Thus, so long as the orders are in coherence with the machines programming (and in line with both ROE and LOAC), then the presumed ethical order cannot be refused, for purposes of both safety in retaining human control, and also to preserve functioning military organisations. The inability to refuse or question orders given to machines could be programmable, and as such has consequences for moral awareness insofar as machines would be incapable of assessing the morality of the orders they are given, and the subsequent morality of their actions.

One final and important aspect of these hypothetical properties of LAWs is their ability to learn. Lin et al. (2008) argue, "it has become clear that robots cannot be programmed for all eventualities. This is partially true in military scenarios. Hence, the robot must learn the proper responses to given stimuli, and its performance should improve with practice" (p.20). This is also conducive to the more plausible strategy of ethical programming which takes the form of a bottom-up approach, rather than a top-down imposed set of ethical restrictions. The ability to act independently within the parameters of the ROE and LOAC is a military necessity in order to fully utilise the improved capacity of LAWs over human

combatants within warfare. As such, the internal processing will be done without humans in order to make use of the advanced speed within the machines decision making capacities, but equally require learning capabilities to apply these effects to broader situations than conceived of during initial programming.

However, how do we reconcile the ability to learn with the aforementioned restrictions on refusing orders? First of all, these two properties are not evidently conflicting within human combatants, and so are not *prima facie* contradictory within machines. Second, the restriction on disobeying orders sets boundaries for LAWs to act within – the parameters of individual missions if you like. The specificity of orders will be altered, since the computing capacity to make (plausibly) better decisions based on information than humans can necessitates that LAWs are given freedom to achieve their full potential. However, the freedom to act within these parameters, which in this case can be equated with learning, is actually to the benefit of military necessity insofar as it remains under the control of humans. The actions of LAWs and ability to learn is thus only externally constrained by the boundaries of the mission itself, and therefore place to provide the best outcome possible. These properties of military robots help to clarify what LAWs might conceivably look like, and highlight the sorts of capabilities and advantages that LAWs allow within military organisations and their subsequent use in conflict.



#### 4. The Advantages of LAWs

Although this paper need not concern itself with 'soldierless' warfare *per se*, the following discussions rely on the premise that LAWs are likely to replace human combatants within varying contexts. Since the extent to which LAWs will be implemented is not immediately obvious, I will dedicate some space here to showing the sorts of technological pressures on both political and military decision-makers, and why the immediate short term benefits of LAWs are persuasive in justifying their eventual implementation on the battlefield.

The technological advantages of LAWs place significant pressures within the military sphere; they would improve military efficiency, effectiveness, and be more environmentally friendly (Krishnan, 2009); be able to act, sense and decide quicker than humans (Barrett, 2010); be faster, smarter and cheaper than human equivalents (Arkin, 2010; Guetelin, 2005); provide greater freedom to act (Mayer, 2015); lower personnel costs and possess superior speed and strength on the battlefield (Hammond, 2015). The perceived advantages for a more efficient way of fighting conflicts are a persuasive endeavour and *prima facie* highlights little disadvantageous military costs to their use.

Additionally, there are pressures from within the current state of military affairs which encourage the use of LAWs. For example, the speed and tempo of modern warfare affects the supply and demand of technologies and their subsequent use (Anderson and Waxman, 2015), and the speed of modern weapons technologies and the necessity of gathering large amounts of data (Beard, 2014) are tasks only technology is capable of carrying out efficiently. The strategical pressures on the changing nature of conduct in warfare present further challenges to the development of new technologies. For example, the Revolution in Military Affairs that has accompanied the development of networked warfare has at its heart the robotics revolution (Singer, 2009), and networked warfare requires the assistance of more efficient technologies in order to function cogently (Niva, 2013). Both arguments present a picture of how robots are expected to affect the way in which war is conducted. Although these are events that are yet to take place, it is clear that the direction of military technologies and robotics in general are becoming more sophisticated.

Within the political sphere, the pressures upon decision-makers in resorting to war also increase the likelihood of implementing LAWs. There is an obligation incumbent upon those in power to protect their citizens and military from unnecessary risk, and also use the

most ethical means available in warfare. Furthermore, war is a costly venture, and the loss of life and consequent use of public resources for the ends of warfare are politically disadvantageous; not to mention that the reduced risk of LAWs aligns with an “increasingly casualty shy” western population (Sparrow, 2013, p.87) which places political pressures on their use (Davis, 2007). If other means are available to politicians and military leaders alike that would not only be more ethical but also more cost effective, then we can envisage such means being deployed over more precarious strategies that include human combatants. Similarly, the tentative shift towards ‘proxy warfare’ (Mumford, 2013) can include an incentive for using LAWs as the ‘proxy’, since political demands are met without incurring the human costs that are currently contingent to warfare.

However, there are criticisms that emphasise a more limited or bilateral approach to the implementation of LAWS. A chief proponent of ethical autonomous weapons (insofar as they protect civilians better in war) is Ronald Arkin, who argues that they should be implemented “alongside soldiers not as a replacement. A human presence in the battlefield should be maintained” (2015, p.47). Although this may indeed be a preferable situation ethically, it ignores the short term appeal of LAWs in swaying decision-makers. Given that we are presuming that LAWs are capable of ethical behaviour as a condition for their implementation, it is both militarily advantageous and politically salient to deploy LAWs (where appropriate) in place of human combatants.

I propose we envisage the deployment of LAWs over human combatants in a variety of areas as a presumption going forward, at least for the purposes of this paper. Besides, this hypothetical is not based upon distant science fiction, and is thus not out of the realm of future possibilities. Coker (2002) argues that;

“[M]achines are threatening to make soldiers redundant, emeritus, and retired before their time. It has been happening for years. As computers have continued to provide faster, more comprehensive array of data, human operations have become more subordinate to machines than ever; as technology evolves, so have human actions” (p.172).

Such a perspective affords us the opportunity to envisage changes to the way war is conducted and concluded, as well as to understand the indirect effects LAWs have beyond their immediate and persuasive short-term benefits. For this reason, I am neither

predicting nor advocating for a future soldierless paradigm of warfare. Rather, I am endeavouring to explore the anthropomorphic features of warfare, not merely the functions performed or outcomes achieved.

## **5. A Background on LAWs: The Current Debates**

In order to understand where the arguments of this paper contribute to the existing debates surrounding autonomous weapons, it is helpful to briefly outline the current state of the literature, as well as to offer my views on why, in some cases, the present arguments are insufficient. Within the existing body of literature surrounding weaponised robotics there are a number of themes explored including; responsibility, transmission of respect, and the relationship between LAWs and just war theory.

### **5.1 Responsibility**

A significant area of the current discussion on the use of autonomous weapons consists of arguments pertaining to the “responsibility gap” (Matthias, 2004, p.175), such that the machines, programmers/manufactures, or military commanders are unable to be held accountable for the actions of LAWs (Sparrow, 2007). From a legal standpoint, the fulfilment of necessary intent and foreknowledge to actions taken (Rome Statute, 1998, Art.30) leads to neither programmer, manufacturers, or commander, from being held *criminally* responsible thus questioning the ability to hold such actors to account (Beard, 2014; Egeland, 2016). A fundamental aspect regarding both ethical and legal accountability is whether the machine is capable of learning or not (Hellström, 2013); this will affect both its internal decision-making power and its subsequent unpredictability. From a technological perspective, Cummings (2004; 2006) emphasises the difficulty of moral buffers within interface design that could lead to a displacement of responsibility.

However, arguments to the contrary stress existing actors or processes that are able to accommodate for the actions of autonomous weapons (Schulzke, 2013; Noorman and Johnson, 2014); that the implementation of “fully autonomous weapons would not make it easier for leaders or designers to evade responsibility” (Walsh, 2015, p.5); that the state – as the decision-maker of implementing LAWs– could be held responsible (Hammond, 2015); or rather that this is not an important concern since a “devotion to individual criminal liability as the presumptive mechanism of accountability risks blocking development of machines that would, if successful, reduce actual harms to civilians on or near the battlefield”(Anderson and Waxman, 2012, p.12).

The aforementioned advantages to LAWs make it difficult to envisage a human-on-the-loop implementation method, which would have otherwise reduced the responsibility gap as a level of human control is satisfactory to attribute responsibility to human actors (Schulzke,

2013; Noorman and Johnson, 2014; Arkin, 2008). Since the technological advantages of LAWs create a tolerance of error and measure of unpredictability, the responsibility gap indeed appears to be a worrisome product of deploying LAWs.

For the arguments I make within this paper, it is my definition of autonomy which determines this issue. Importantly, the nature of LAW's independent decision making threatens the attribution of responsibility, since stretching the application of ethical and legal responsibility to some agent other than the machine has the potential to create a precedent whereby, although LAW's decisions are unpredictable, another agent is held responsible out of apparent convenience. The difficulty of responsibility attribution, as well as its complex nature and contextual necessity, is an issue I raise later on in my arguments on moral repair and the necessity of holding actions accountable. If one cannot be accountable to those they have wronged or committed harm towards, then to what extent does this threaten the imperative for responsibility within moral repair?

## **5.2 Respect and Lethal Application of Force**

The outsourcing of lethal capabilities to AI is a contested subject too. By removing humans from the act of killing, it detracts from the transmission of respect between two human combatants, and transgresses moral beliefs concerning what constitutes the permissible use of force by failing to recognise the inherent dignity and respect owed to humans.

This perspective can be drawn from the second formulation of Kant's Categorical Imperative (The Formula of Humanity), which dictates that humans are to be treated as ends in themselves and not simply a means to an end (Kant, 1959). This view is summarized by Norman (1995), who argues;

“[W]hereas things, objects, have value because of their importance for persons, their place in people's lives and projects, persons themselves, as the source of this value, possess not value but dignity and, as such, the appropriate response to them is one of respect” (p.10).

Such value is inherent to humans by virtue of “their ability to act autonomously; their rational, morally autonomous humanity is thus what marks them as persons” (Rolf, 2012, p.596).

The arguments against lethal AI emphasise; the necessity of human decision-making (Johnson and Axinn, 2013; Bolton et al., 2012); the role of intention within the technologically contingent ‘tolerance of error’ (Swiatek, 2012); the effect of distance on the transmission of respect (Sparrow, 2016); the necessity of human reasoning (Sharkey, 2009); the instrumental role played by humans in the delivery of justice (Asaro, 2012); and that we have a normative obligation to be pacifists (Tonkens, 2013).

In addition, Klincewicz (2015) argues that the ‘frame problem’ – figuring out “what is *relevant* to possible lethal consequences in the situation at hand” (p.165, italics in original) – and the ‘representation problem’ – that LAWs have to “represent features of the world ... [to] make it possible to engage in such searches” (p.166) of relevant possibilities – are barriers to outsourcing lethal application to LAWs as solutions leave open the possibility of external hacking. Purves et al. (2015) see the inability to confer moral judgement to machines as a prohibiting factor. Since “moral deliberation is neither strictly rule like nor arbitrary, ‘programmed behaviour’ could never adequately replicate it” (p.858).

Such arguments provide criticisms on the use of LAWs; however Jenkins and Purves (2016) reject such claims since LAWs are no less unique with regards to transmitting respect than weapon systems already in use, such as long-range missiles.

For this paper, it is important to understand that respect would seemingly play an important role post-conflict, given that the more respectful one is in their use of lethal force the more an amicable post-conflict arena is likely to arise. However, it is my view that the lack of consistency on this matter throughout the literature highlights the current lack of emphasis we place on the transmission of respect in applying lethal force. As such, the following arguments I make throughout this paper, although grounded in an advocacy for respect and mutual recognition of humanity, is not dependent on ones perspective on this particular debate. Instead, I see the transmission of respect throughout the entirety of ones actions (to the extent that this can be accomplished within war) as a more fruitful endeavour, rather than focusing on the transmission of respect within the use of lethal force uniquely. The failure to account for respect as a necessary feature within warfare, beyond simply the use of force, is an area I address in the following arguments.

### 5.3 LAWs and Just War Theory

In addition, the literature focuses on understanding whether LAWs are able to adhere to the ethical demands of discrimination and proportionality. Discrimination refers to the delineation between legitimate objectives and targets within warfare, and those which are not permissible; and although increasingly difficult in contemporary warfare to distinguish between combatant and non-combatant, this is the bedrock of ethical conduct in war. Proportionality is generally understood in that the harm caused to life or property must not outweigh the anticipated military advantage gained from the attack (Yoder, 1996, p.156; Sussman, 2013, p.429), and is also legally enshrined within Additional Protocol I to the Geneva Conventions of 1949 (1977, Art.51(5)(b)).

The debates surrounding whether LAWs can adhere to discrimination and proportionality come under two broad lines of argument; those who appeal to technological difficulties in achieving sufficient ethical programming (Asaro, 2008,2012; Sparrow, 2009; Melzer, 2009; Sharkey, 2009,2011; Kreps and Kaag, 2012; Wagner, 2011), and critics of these objections to LAWs which stress the need to see human combatants as the bench mark of ethical behaviour in warfare rather than retaining a strict observance to International Humanitarian Law (IHL) or *jus in bello* (Arkin, 2010,2015; Bailey, 2015; Schulzke, 2011).

Much of the literature stresses the potential benefits that LAWs bring to the adherence of ethical norms in warfare; that new conflicts are *only* appropriate with the use of UAVs because of their ability to spend a longer time observing targets (Gregory, 2011); that, providing the munitions are ethical, the weapon itself has no bearing on the adherence to ethical standards in warfare (Thomas, 2015); that LAWs allow for the development of 'information superiority', 'precision engagement', and efficient information sharing which leads to better 'command and control' (Guetlein, 2005); and reducing collateral damage given "the ability to merge information and account for a multitude of factors without time delays" (Hauptman, 2013, p.183). These arguments show that LAWs would be more able to adhere to both IHL, and consequently *jus in bello* requirements in the short term, whilst simultaneously contradicting trepidations that LAWs are fundamentally misplaced to adhere to these ethical precepts.

It is important to be cognisant of how LAWs are implemented and not simply focus on whether technological advances are plausible or not (Tonkens, 2012). Schulzke (2011) cogently dictates that given the difficulties that LAWs may face in certain contexts, it is

important to implement them in limited situations, if only at first. In the past there have been a range of actors such as humanitarian workers and journalists who have been in positions to hold indiscriminate actions accountable. However, the nature of LAWs is such that, by virtue of their implementation, these avenues of enforcing legal and ethical norms of permissible conduct in warfare are not available, despite attempts made to construct non-binding frameworks for international cooperation (Buchanan and Keohane, 2015, p.23).

Proportionality and discrimination concerns are therefore intimately related to implementation. This is a difficult position to maintain, and therefore those who feel intuitively that LAWs should not be implemented have a duty to uncover arguments which satisfy concerns in every circumstance. By focusing on what LAWs explicitly bring about in the immediate sense, such arguments are met by consequentialist reasoning to the effect that; LAWs bring about better short term advantages on the battlefield than other available means. This is a difficult argument to overcome even with the myriad of concerns previously outlined.

However, although the literature is replete with arguments surrounding the compatibility of LAWs to *jus in bello*, there is an absence of concern surrounding the adherence to just war theory more broadly. As such, this paper differentiates its focus from those previously mentioned concerning just war theory by addressing LAWs compatibility with *jus post bellum* and post-conflict demands. Despite the legitimacy of debates about whether LAWs might have discriminate or proportional outcomes, such concerns are part of a broader picture dependent on whether LAWs can direct their ends towards peace. It is this gap in the literature on autonomous weapons that this paper seeks to contribute to, and as such is clearly differentiated with the previous accounts. By focusing explicitly on the procurement of peace via post-conflict mechanisms and human interaction (and the degree to which certain means of warfare encourage or prohibit the procurement of peace), arguments which focus on the short term advantages of LAWs will have to be reconciled with long-term changes in the conduct of military affairs. This account of LAWs and their compatibility to *jus post bellum* concerns offers to contribute to the existing literature on just war theory and offer a more complete account of LAWs when assessed against such ethical parameters.



## 6. *Jus Post Bellum* and LAWs: The Ethical Context

Since this paper focuses on the area of applied ethics in war and the subject of securing peace, it falls into the area of just war theory called *jus post bellum*, or ‘justice after war’. This chapter will be dedicated to laying out where this research fits into the current debates within *jus post bellum*, whilst also laying the theoretical groundwork for assessing the arguments made later on.

*Jus post bellum* is concerned with obligations incumbent upon a variety of actions post-conflict, with such actions conducted with the ends in mind of a lasting and sustainable peace. Although references have been made throughout the history of the just war tradition to the post-conflict phase, it is only recently that they have been discussed at length. There are a number of key debates within the *jus post bellum* literature which I wish to outline in order to lay the theoretical foundation for the following discussion, as well as to establish my own viewpoint on the subject of *jus post bellum* and, indirectly, just war theory too.

### 6.1 The ‘Dependence Approach’: Responding to Criticism

One of the core debates surrounding *jus post bellum* is whether the tenets of just war theory – *jus ad bellum* and *jus in bello* – should be judged independently to the peace achieved. The dependence approach, as it is often referred to, requires that *jus post bellum* adds a further set of moral considerations onto the traditional principles of just war theory, such that war is only just if it meets the principles of *jus post bellum* too, or in other words, the justness of the war is *dependent* on the actions taken throughout the war, in both *ad bellum* and *in bello*. My responses to the criticisms within this section serve as a defense for the views espoused throughout this paper; that we can legitimately judge the means of warfare by the ends they achieve.

Pattison (2013) outlines the two main claims of the dependence approach. The first is that *jus post bellum* constitutes “a further set of moral issues” and second, “aspects of *jus post bellum* may be related to the moral considerations of *jus ad bellum* and *jus in bello*” (p.643, italics in original). However, one need not ascribe to the first claim to agree with the second, insofar as the first rests more on context; there may be examples where peace can be achieved without evoking the additional tenets laid out in *jus post bellum*. Although this is logically the case, it is clear that many proponents of the dependence approach infer that

the post-conflict phase necessarily gives rise to a number of additional obligations, such that the immediate state of victory is not enough to satisfy the conflict's wider aims.

Proponents of what I will call 'non-dependency' (that traditional just war theory and *jus post bellum* should be separated) advocate this interpretation for a number of reasons. Bellamy (2008) sees the fusion of *jus post bellum* and just war theory as premature, since additional obligations incumbent on belligerents are "almost utterly alien" (p.621) to just war theory, and that *jus post bellum* remains limited in terms of how it relates to the obligations of earlier principles.

Although I see such obligations as naturally arising from prior just intentions and the pursuit of peace – something I will touch upon later – I think it is important to acknowledge that the specific details of how one achieves a 'just peace' is indeed alien to just war theory, and for this reason I too err on the side of caution in ascribing specific processes to post-conflict situations. This is not to say just war theory is not the right framework from which to discuss those actions. If one's intention is to institute some form of corrective justice whose purpose was ultimately peace (just cause), then post-conflict considerations on how to most effectively manifest those intentions bear significant relevance to the broader themes of just war theory. Just war theory is an evolving body of theoretical enquiry – as is testament to the emergence of *jus post bellum* itself – and therefore 'alien' concepts need not be entirely irrelevant.

Another claim in favour of non-dependency is with regards to access to justice. The argument is that, by extending the continuity of actions into the post-war stage, we exclude unjust actors from achieving a *just* peace, thus developing a situation whereby there would be no incentive to comply with other rules (Österdahl & van Zedel, 2009). Walzer (2012) also reiterates this point insofar as "[a]n unjust war can lead to a just outcome, and a just war can lead to an unjust outcome" (p.44). This argument against the dependence approach is flawed in its conception of justice as it relies on a concrete and evidential dichotomy between war and the post-conflict stage, when often this is not the case. However, even if clearly delineated, to what extent can we say that *unjust* actions in war lead to a *just* peace? A peace perhaps, but consequences for unjust actions must necessarily arise and often have negative effects on the procurement of sustainable peace. What incentive would there be to act justly in warfare if one could settle wrongs committed during war after conflict? The continuity of justice is therefore essential to the

emphasis we give to the concept of justice, and to accept that unjust actions can lead to just outcomes is to erode its fundamental importance.

A key objection to the dependence approach comes from Pattison (2013). As we have seen, he outlines the dependence approach; that *jus post bellum* constitutes a further set of moral obligations, and that *jus post bellum* adherence provides evidence that *ad bellum* and *in bello* considerations have been met (p.643).

On the first aspect, Pattison argues that this is too demanding and leads to a situation whereby “wars that seem to be intuitively just may be viewed as unjust” (p.643). This criticism however threatens to retain the ‘just’ label to legitimise warfare simply because of an intuition. If we are judging legitimation via just war theory, then we must satisfy all relevant criteria or not resort to war (and similarly not judge the war to be *just*). Holding onto the label does nothing but legitimise wars that are not just in the literal sense. That is not to say that wars cannot in some way be justified or legitimate at various stages, it merely requires the label of *justice* to be used sparingly. Furthermore, if peace is the aim of just warfare, then the success must ultimately be determined by the success of peace and the realisation of the initial ends and intentions. I see no such contradiction inherent within just war theory, as the clearly laid out principles of *jus ad bellum* and *jus in bello* delineate between when a war is just or not, and thus we need not appeal to ‘intuition’ *per se*.

On the second principle of the dependence approach, Pattison (2013) argues that “many accounts of the principles of *jus ad bellum* are *already* sensitive to such likely long-term consequences” (p.645, italics in original) thus this is nothing new. Furthermore, he argues that by judging the justness of previous acts by the actions taken after war, this “potentially loses the action guiding quality of *jus ad bellum*” (p.644). Since such actions are taken pre-war, we cannot then know if pre-war principles have been fulfilled until after the war, thus offering no guide for *ad bellum* decisions.

Pattison is mistaken here in assuming that the process for determining the justness of a conflict is found in a single judgement, rather than in the continued adherence to the guidelines within specific stages. We can determine pre-war that right intention/just cause are fulfilled by the standards of *jus ad bellum*, whilst also holding those permissible ends to account post-conflict through the imposition of *jus post bellum* demands. These two are not contradictory actions, and yet Pattison implies that pre-war determination of justice is confused when we add further duties at a later stage.

I see *jus post bellum* as the way in which we hold those just actions accountable; that right intention predominately serves an instrumental purpose in guiding the justness of future actions, but must therefore be held accountable through making sure those morally permissible actions are achieved. So long as external circumstances do not act as a coercive force upon the original and permissible *ad bellum* intentions, then one can be reasonably held accountable for the actions they take post-conflict through their satisfaction of *post bellum* principles. If circumstances change however, and the just state cannot realise the original just intention, then we do not judge the war solely by this. This seems to be intuitively sound, that we cannot judge the intentions of the war given that the intention was to realise some successful end state, in this case peace. In essence, if circumstances obfuscate the capabilities of realising those intentions, then this does not affect the justness of previous acts, it merely means that intentions cannot be realised as they were externally constrained.

## 6.2 The Continuity of Intentions

As such, I emphasise the role of intentions as the core mechanism of ensuring just and ethical outcomes. Intentions manifest themselves in actions, and therefore we can only judge an agents intention by what events they bring about; such that an agent can profess genuine intentions, yet by virtue of its internal nature, cannot be externally verified and held to account without reference to the outcomes those intentions produce. Finklestein (2008) sheds some light on the nature of intentions, arguing that “forming a prior intention is like setting up an external pre-commitment device to force oneself to act later, with the difference that the agent who forms an intention is *internally*, rather than *externally* constrained” (p.69, italics in original). This internal constraint is important for the view that ethical intentions lead to the production of ethical actions.

Furthermore, this perspective of just war theory can be supported through the rejection of ‘strategic intentions’. These are intentions which are made based on their short term benefit, however are complimented by the simultaneous intention of not carrying out the originally formulated intention since it is of personal disadvantage. This involves the existence of two competing intentions; what is in my actual personal interest, and what it is in my interest to demonstrate to others. The important element here is that “the *object* of the intention is tomorrow’s action.” If the actors has

“no reason to fulfil the intention tomorrow, he will know it today and, as a rational agent, he will then not be able to form it. Forming the intention to do X, and doing it, may be separate actions, but they have reference to each other: having intention at *t* to do A at *t+1*” (den Hartogh, 2008, p.186, italics in original).

With respect to the arguments I am making here, this means that by mandating that right intention be fulfilled, the constraints on ethical action are secured.

In judging the permissibility of *jus in bello*, we must be mindful of what our *ad bellum* intentions were, and strive to achieve such ends within warfare. Thus, this prohibits any means by which a lasting peace is less likely to be achieved.

This perspective on intentions only mandates knowledge of intention on the just side. The unjust party need not be understood from the perspective of their intentions *per se*, as “malicious or not, the external violation of right disturbs social order and justifies its vindication” (McKenna, 1979, p.385). Although intentions are useful in understanding future dispositions and behaviour, the principle here in right intention remains uniformly within the purview of the just state pursuing peace, and therefore has little relation to the intentions of the aggressor.

We cannot forget why just wars are fought in the first place. The true cogent end of a *just* war is peace. This often implied but rarely explicitly dictated aspect of just war theory is a feature of early thought on the subject of ethics in warfare. St. Augustine (1994) stated that; “[p]eace is not sought in order to provoke war, but war is waged in order to attain peace. Be a peacemaker, then, even by fighting that through your victory you might bring about those whom you defeat to the advantages of peace” (p.220). Furthermore, “Augustine sets right intention both as a precondition for any attempt to legitimize participation in warfare, and as the guiding principle for one’s action once engaged in combat” (Swiatek, 2012, p.242). Therefore, it is clear that the early Christian and traditional conceptions of just war theory prioritise the possession of right intention as a condition transposed throughout ones waging of war.

If we accept the nature of peace as the only just aim of warfare, then this has effects on *jus post bellum* and the varying obligations and duties for just belligerents after conflict has ceased. As McCreedy (2009) argues; “[i]f peace is the desired end of every war, is it not incumbent upon the political leadership to consider what the peace might look like, whether it is attainable, and what means of prosecuting the war is most conducive to

achieving it?” (p.72). Thus, although Pattison offers some concerns regarding the dependence approach, it cannot be ignored that the desired ends of warfare, a just peace, be satisfied and held accountable post-conflict and witnessed in efforts to achieve those just intentions.

Those who advocate for incorporating *jus post bellum* into the wider theoretical schema of just war theory are fairly unified in their reasons. Coady (2011) argues that “a war that is fought without a considered view of bringing about a legitimate peace has a morally defective rationale that taints its legitimate beginnings and its ongoing processes” (p.50), thus implying that pursuing peace must be aimed for throughout all aspects of warfare. Rawls (1999) similarly argues that we must understand how our actions in war affect life after the cessation of conflict. He says; “[t]he way war is fought and the deeds done in ending it live on in the historical memory of societies and may or may not set the stage for future war. It is always the duty of statesmanship to take the longer view” (p.96). In both assessments we see the importance of understanding the place of peace within decision-making, and it is here that the rationale for the dependence approach lies.

Bass (2004) argues that we must be vigilant of means and ends in the waging of just wars. *Jus in bello* is thus clearly not separate from *jus post bellum* considerations. Bass argues that;

“[S]tates’ actions in bringing war to a conclusion are clearly connected to their conduct during war’s aftermath, and ... will have implications for the actions of those victorious states in the months and years following the war’s conclusion” (2004, p.386-7).

We can see the effects of recognising that means and ends are not entirely separated in the practical application of *jus post bellum* to post-conflict situations in looking at counterinsurgency operations. Johnson (2008) aligns counterinsurgency practices of the U.S with *post bellum* principles of restoring stability and peacebuilding apparatuses. This is highlighted in the existence of ‘Logical Lines of Operation’ within counterinsurgency, as deciding upon the means has ramifications for the ends which must be taken into account.

Although it is clear that there exists significant theoretical differences between these two opposing viewpoints on the position of *jus post bellum* within just war theory, I have attempted to satisfy concerns raised by those who reject the dependence approach by appealing to intentions as the key delineator of continuity throughout the three areas of

just war theory. Envisioning *jus post bellum* as a theoretical check on previous conduct throughout conflict allows us to hold legitimate and just intentions to account, and further serves to conserve the attribution of justice on conflicts fought within the ethical remit of the just war tradition. An acceptance of the dependence approach in principle is fundamental to the arguments I lay out in this paper. Judging the means of warfare by the capability of achieving just ends only makes sense when one understands that justice is a cumulative process in just war theory, and that it is the ends of a just peace which *jus in bello* and thus LAWs should be directed towards.

However, it may be asserted that conversations about the ethicality of weapons are uniquely a *jus in bello* concern and not relevant in discussions of how war is concluded peacefully within *jus post bellum*. Thus one may reasonably ask; what business do we have in talking about what are conventionally *in bello* related subjects, such as the sorts of weapons used, in the remit of *jus post bellum*? Throughout the literature on just war theory there is little research that touches on the overlap between the means of warfare and the ends they seek to achieve, insofar as the means are judged by the ends they bring about.

It is clear that our actions within war have ramifications for the way peace can be secured (and the extent to which it can be secured too) after war. We can see how discussions about LAWs, and their ability to act towards peaceful ends, have relevance to discussions concerning the overall permissibility of LAWs within warfare. After all, if such weapons cannot contribute effectively and positively to peaceful ends, then how can we expect them to fulfil the ethical demands placed upon the waging of war?

The means of warfare play a significant role in the securing of peace, and thus their ability to effectively encourage the procurement of peace in the *post bellum* arena should be a central theme to the ethical judgement of those means. This is the enquiry which I set out to undertake within this paper with respect to LAWs; namely, whether they can be conducive to peaceful ends.

### **6.3 On Minimalist and Maximalist**

A second important debate within the realm of *jus post bellum* literature is between what Bellamy (2008) calls the 'minimalist' and 'maximalist' approaches to post-conflict duties and obligations. Proponents of the minimalist view "tend to view wars in terms of rights vindication and argue that combatants are entitled to wage war only to the point at which their rights are vindicated" (Bellamy, 2008, p.602), whereas the maximalist viewpoint

places additional burdens on belligerents (such as assisting within reconstruction) “from the position that because war always produces bad consequences, victors have a moral and legal obligation to do more than merely satisfy their own rights afterwards” (p.618). Irrespective of one's stance on the dependence approach, this debate focuses on the structure and role that *jus post bellum* should take.

It can be argued that much of the *post bellum* literature focuses on some variation of maximalist approach with respect to the incumbent obligations on belligerents post-conflict. The delineation between where minimalist ends and maximalist begins is difficult to ascertain, and in that respect the conceptualisation of this debate is somewhat limited. For example, does rights vindication in the minimalist approach solely concern itself with the cessation of aggression against oneself, or does it instead include further obligations such as retributive justice or reparations as necessary elements in vindicating the transgression of rights?

However, the dichotomy between minimalist and maximalist conceptions highlights the differences between theorists on the essential characteristics of *jus post bellum*. Although discussions on large scale obligations such as institutional repair are vitally important, there is little mention of the need for moral repair between former enemies or wrongdoers and victims. As such, this section serves to highlight the sort of theory that *jus post bellum* thus far embodies, and serves as a basis from which my criticism is best highlighted later on as I attempt to contribute to the way *jus post bellum* is characterised.

The maximalist conception tends to ascribe additional duties and obligations to belligerents because of the moral imperative of preventing future aggression to the greatest possible degree. These sorts of post-conflict obligations often take the form of quasi-policy ascriptions in the literature which I will address as methods of societal repair due to their target being society at large. Evans (2012) focuses on three areas; reconstruction of physical infrastructure; appropriate redistribution of material resources; and appropriate reestablishment of sociocultural institutions, practices, and relationships. Österdahl and van Zedel (2009) offer a similar set of necessary post-conflict actions such as the “restoration of order, restoration of sovereignty, economic reconstruction, seeking a durable peace, extracting post-conflict reparations, and punishment of rights violators” (p.181).



A recurring theme echoed by the previous theorists is the necessity of reconstruction and institutional stability to secure the foundations for peaceful relations in the future. Clifford (2012) argues for establishing a state capable of maintaining its sovereignty and becoming an established member of the international community; signalling a shift from its aggressor status pre-war and serving to be the most likely context of sustainable peace being procured. McCready (2009) further reiterates this 'duty' to re-establish political, economic, and social stability, as the intent is "to prevent domestic consequences of the war from becoming the seed of future conflict" (p.74). Coady (2011) sees this as a moral obligation to help the defeated state, and an obligation to the innocent too, so long as it is aimed at encouraging the birth of a peaceful state.

Although Orend (2002) also entertains the notion of a maximalist approach with ascriptions evidently beyond mere rights vindication, such as the punishment of both leaders and soldiers who have committed crimes as well as compensation and institutional rehabilitation, he stresses the importance of proportionality, such that institutional rehabilitation "must be proportional to the degree of depravity in the regime" (p.56). Williams and Caldwell (2006) argue that contingent obligations within *jus post bellum* are intrinsically linked to the continued protection of human rights (p.317). For example, they see economic reconstruction, the restoration of sovereignty, and self-determination as necessary elements (since these are focused on areas of human rights), as well as deterring future violations through punishing violators of human rights.

Although the prescriptions for post-conflict action are wide-ranging, the various obligations incumbent upon states post-conflict are summarised by Johnson (2008); that they include accountability for crimes of victor and aggressor, compensation such as reparations, and reintroduction into the international community via rehabilitation or reconstruction; and carried out through three broad phases of restoration, partnership, and the reestablishment of sovereignty. Although the literature differs on the details of principles such as punishment and reparations, reconstruction and rehabilitation, and the re-introduction into the international sphere, these themes are echoed throughout and largely constitute the core tenets of maximalist *post bellum* thinking.

The minimalist perspective gains little traction within *jus post bellum* literature for the reason that the post-conflict stage is underdeveloped in a minimalist perspective, thus obfuscating the need for extensive *post bellum* details. However, there are theorists who express caution over the maximalist view. The general theme within such arguments tends

to focus on the conflict's context as a determinant of obligations, rather than existing irrespective of the way the conflict was undertaken, the actors and culpability of those involved, and the capability of such actors in the achievement of peace.

Bass (2004) explores the origin and nature of these obligations within *jus post bellum*, and concludes that the reasons for resorting to war are a factor in determining the after-the-fact obligations. For example, if self-defence, then no outright obligation to restoring the defeated (unjust) state exists. Yet if entered into voluntarily, such as humanitarian intervention as a third party, then such obligations do exist. Bass shows that political reconstruction is a cautious subject, yet becomes an imperative in genocidal states since they have lost all legitimacy and international standing. McCready (2009) also errs on the side of caution in ascribing principles irrespective of context, arguing that we must recognise a vast array of different post war situations and avoid checklists on the principles and demands within *jus post bellum*. Context seems to be an important point, yet is not explicitly acknowledged in many 'maximalist' perspectives.

Lastly, Berman (2007) addresses the difficulty in understanding post-conflict obligations. Maximalist prescriptions may be preferable, yet the philosophical legitimacy and continuity of their origin is no less clear. Berman argues that "[t]he logic that impelled the intervention may therefore suck the intervener into purposes or means beyond those initially bargained for" (p.173). We must therefore be mindful of the events leading to the instantiation of various post-conflict obligations.

Although the post-conflict stage is multi-faceted with competing and complementary suggestions for successful peace procurement, the literature underestimates the role that conduct within war has on peace. To some extent this is acknowledged through the recognition that retributive punishment must be meted out to those culpable for war crimes and/or the instantiation of leading causes to the conflict itself. The actions taken within conflict must be acknowledged in choosing methods of peace negotiations. By focusing on the means of warfare with respect to LAWs, this research goes some way to showing that the peace process, or more specifically *jus post bellum*, is affected by their use.

Furthermore, the literature on *jus post bellum* begins with an assumption that micro-level barriers to peace are already secured, and thus focuses almost exclusively on the macro-level or societal repair, such as state policies or large scale restructuring. A key area omitted from the literature is the necessity of re-establishing relations between former

enemies insofar as a development of order between friend and foe is a necessary precursor to the success of societal repair. I aim to explore this glaring omission throughout this paper, and instead argue that there is significant utility to moral repair, in securing peace which is equally compatible with *jus post bellum*, as well as the need to encourage human interaction between adversaries as a way of developing ethical action and subsequent peace.

This chapter has sought to construct the framework for the following arguments insofar as they take place within the conclusion of warfare and peace more broadly. Importantly, if the necessary elements for securing peace are diminished by the way in which war is carried out, then this calls into question the ethical permissibility of such methods (within the dependence approach), since the objective of peace is significantly less likely to be achieved. In relation to LAWs, it is the dependence approach which can be applied to their conduct within war, and to their ability to replicate necessary functions conducive to peace. In the succeeding chapters I intend to detail my argument by utilising the rationale of the dependence approach. The following arguments pertain to the current methods and mechanisms of human combatants that are conducive to peace, and thereby I will assess whether LAWs are able to replicate those functions too. If they cannot, then as per the dependence approach the products of LAW's actions can be legitimately judged based upon this perspective.

## **Part 2: The Value of Human Action and Interaction**

This part focuses on the consequences of implementing LAWs by looking at the role of human combatants *within* war, and how this can be conducive to ethical behaviour and the demands of peace. Additionally, I am concerned with how elements of human behaviour, such as engrained aversions to killing and its effect on destructive output, can be constructive to peace given that we acknowledge that the less destructive war is, the more likely peace can be brought about. Much of these arguments take place through the use of historical examples as a comparative approach to highlighting the way that these various factors manifest themselves.

It is important to understand why looking at human experience of war is of value. War can be made “navigable, given substance, and endowed with meaningfulness through the experiences of those who live with war (and indeed those who die in war)” (Tidy, 2016, p.111). It is therefore clear that referencing experiences is a legitimate way of approaching our understanding of its value. I recognise that many of the arguments and actions I proceed with are not widely exhibited, but rather I intend to show how humans have the unique capacity to demonstrate such beneficial acts. Given that LAWs could replace human combatants in a number of areas, the advent of human-human interaction will be reduced, and instead be replaced by the vastly different interaction of human-machine.

What do we learn from hearing about experiences of war? The suffering and horrors, the moments of genuine sadness and despair, but also the hope born out of virtuous action, the bravery and sacrifice which fills one even now, decades later, with a sense of pride and respect for those who came before. Perhaps we learn more about humanity when it is stripped bare, hoping to inform us of what we should know but still do not. That humans in war are the agents of lessons which reverberate throughout history, and teach – but also remind us – that every effort should be made to acknowledge those that have come before and acted in such desperate circumstances, and to understand how we as humans can develop beyond the axiomatic inevitability of inter-human conflict.

The positive effects of human action and interaction within the following chapters are not the mainstay of human activity within war. These are often due to the pressures and negative experiences which give rise to a range of actions that are unethical and consequently fail to seek peace. Merciless actions based upon prejudice, hatred, revenge,

or a culmination of these within the 'Berserk State' (Shay, 1995), must be recognised as features of contemporary warfare that we similarly lose if LAWs replace human combatants. However, the complementary positive actions are not devoid of value as a result, but instead made all the more valuable when contrasted with the possibilities of alternative responses. I am not pessimistic about reducing the proclivity of negative acts, but I think removing human combatants as a solution to this is ill-conceived without a full discussion concerning the perhaps uniquely positive human actions that we similarly lose.

## **7. Experience of War**

This chapter proposes that experience of war motivate changes to attitudes and methods of war that are conducive to peace. I see LAWs as unable to experience warfare in the same way, and attach meaning to suffering or destruction that humans do. Furthermore, the horror of war arises predominately because humans recognise the suffering of others to be equally detrimental to them. The distance created via LAWs to the suffering of warfare may generate apathy towards such events, or lose the potential action guiding consequences of how war experience can be used positively towards peaceful ends.

This chapter is largely based upon historical accounts of warfare, and looks at; the effects of experience on attitudes to war; the aversion to killing and use of lethal force amongst human combatants that reduces the destruction of warfare; the role of experience in motivating attitudes against war; and how war is reformed in response to lessons learnt through experience.

### **7.1 Pre-War, Post-War, and the Myth of War Experience**

The role of experience in changing attitudes can be observed by its effect on prior beliefs. The myth of war experience is “designed to mask war and to legitimise the war experience; it was meant to displace the reality of war” (Mosse, 1990, p.7), and is the perspective created via the absence of experience. Often, those without experience view war much the same way as is portrayed in the media; a romanticised version of good and evil. However, this can encourage war-enthusiasm and a lust to achieve those ambitions in reality. The role of experience in highlighting the devastation of war is vital to the reluctance of waging war, especially if the contingent suffering and horror of experience is acknowledged. Therefore, experience helps to foster a more fruitful reluctance to go to war since experience invites scepticism, rather than an unfounded enthusiasm.

There are a number of accounts that detail the change in attitudes to war as a direct result of experience. Private R. Richards of the Royal Engineers during WWI describes witnessing an explosion in which many of his friends were killed; “[w]ell, all my romantic ideals of war completely vanished with that episode” (in Arthur, 2002, p.106). It is the way in which Richards responds to this event – the tearing down of his view of war – that highlights the invaluable role that experience plays. Is it better for peace that individuals become aware of the nature and horrors of war? Or is it better for individuals to have an idealised perception in order to encourage them to fight? Although this experience changed

Richards' view of war, it does not detract from the necessity or justness of particular wars, but rather highlights the value that experiencing suffering can bring on the rejection of romanticised ideals.

Shay (1995) highlights similar processes within the Vietnam War, such that "[c]ontrary to what the young men anticipated in training and in watching war films, once they encountered the reality of battle, they fervently wanted to avoid it" (p.11-12). The message portrayed pre-war was akin to the myth of war experience, such that the encouragement of idealised perspectives was immediately transgressed once the soldiers were confronted with combat.

The Vietnam War was embroiled in a myth-type pre-war culture, whereby the views of what combat and conditions would be like were distinctly different to what was eventually experienced. Josh Cruze, a veteran of the Vietnam War, articulates this perspective arguing that;

"[E]veryone went in with the attitude, 'Hey, we're going to wipe them out, nothing's going to happen to us'. Until they saw the realities and they couldn't deal with it. 'This isn't supposed to happen. It isn't in the script. What's going on? This guy's really bleeding all over me, and he's screaming his head off'" (in Willenson, 1987, p.61).

Although anecdotal, this perspective highlights that expectations were vastly different to what was experienced. In turn, we can see how experience plays a role in determining our attitudes, and enthusiasm, towards conflict.

From the First World War, the myth of war experience was evident, with a show of "national exhilaration during which all political parties rallied around the flag in the first week of the Great War" (Winter, 2006, p.105). We can learn much from the 'men of 1914' in terms of the role that experience plays, treating the attitudes before and after as a comparative approach to experience of war. Winter argues that post-experience "we see them as fully aware of the evils of war. Indeed, the language many of them use is that of solid pacifists, people who took up arms in defense of their country, but who – after what they had seen – would willingly take up arms against war itself" (p.110). There is no contradiction here in terms of viewing war as valuable. It merely highlights that if given the opportunity, these soldiers would willingly turn against war. Winter's summary is clear;

experience of war changes our attitudes towards it, and destroys the persuasiveness of the myth of war experience.

## 7.2 Ethical Limiters via Experience

Human involvement in war, although imperfect, can be a limiter to unethical actions. The face-to-face nature of this type of combat is conducive to acting more ethically in terms of the extent of one's actions, due mainly to emotional and psychological reasons. Put simply, being aware of one's actions reduces the amount of harm one is willing to carry out.

A key area of psychological enquiry is the seemingly innate aversion to killing within humans. As Thomas Burke, the former director of mental health policy for the US Department of Defense claimed during an interview with Frontline, “[p]eople have a natural aversion to killing other human beings” (2004, no page). Within the military, these barriers are designed to be overcome via different methods of training since the effects of human aversions to killing are known. Within the US military, there was a shift from using instinctive theories – drills aimed at overcoming aversions – to seeing the deciding variable as the character traits of the soldier, such that drills are now developed to encourage these (Bourke, 1999, p.97).

This aversion acts as an ethical limiter in two ways. *Before* the act is executed, the course of action is limited in its destructiveness by what we ourselves might be willing to do. This may in the present manifest itself in carrying out the act at a distance, or via technology, which might be viewed as a response to the aversion humans largely possess. Additionally, the ethical limiter occurs *during* the act. As humans, our rejection of inflicting harm or suffering is positive with respect to the long term effects of our actions. This has ramifications for peace, since we can reasonably assume that the less destruction caused, the more likely peace will be secured.

Furthermore, a 1986 Study by the British Defense Operational Analysis Establishment's field studies division compared the killing potential of historical battles to the actual combat performance. They found that the potential was significantly higher than the actual hit rates (in Grossman, 1995, p.16), concluding that the aversion to killing via non-firers explains this gap in capability and actuality.

Interestingly, there was a recovery of 27,574 muskets from the Battle of Gettysburg; ninety per cent were still loaded with twelve thousand having been loaded more than once. Grossman (1995) argues that “[t]he obvious conclusion is that most



soldiers were *not* trying to kill the enemy” (p.22). Additionally, “most of these discarded weapons on the battlefield of Gettysburg represent soldiers who had been unable or unwilling to fire their weapons in the midst of combat” (p.25), highlighting the effect of such engrained aversions.

However these conclusions made by Grossman, influenced heavily by General S.L.A. Marshall’s (1947) research into non-firing rates amongst military personal during WWII, are heavily disputed. Chambers (2003) argues that Marshall was “unscientific in his methodology” (p.119) and that his conclusions and assessment of a twenty-five per cent ‘ratio of fire’ seems to be “based at best on chance rather than scientific sampling, and at worst on sheer speculation” (p.120). Additionally, Smoler (1989) contests Marshall’s conclusion (and by proxy Grossman’s too) by finding that little evidence exists that firing rates were ever discussed within the post-action group interviews Marshall conducted. The alternative evidence points to the fact that actually “the men shot too much” (no page) rather than too little.

Alternative explanations have been proposed which contradict the view that engrained aversions to killing are to blame for non-firing rates, if indeed they exist and constitute a problem. Kelly (2002) argues that Marshall was right, but for the wrong reasons. Kelly claims that an increase in firing rates between WWII and Korea is attributable to the “substantial reorganisation of infantry squads and platoons that occurred during this period” (p.161). This contradicts Marshall’s conclusion that training methods designed to counteract the engrained aversions to killing were the sole cause for this increase in efficiency, which is subsequently repeated by Grossman (1995, p.181). Although Marshall may have been right about the figures, the conclusion of an engrained aversion can be removed without affecting the legitimacy of the figures themselves. Furthermore, Engen (2011) produces a list of alternative explanations (if Marshall and Grossman are correct about non-firers) which contradict the explanation offered by Marshall and Grossman. Perhaps they did not fire because they were afraid; were suffering from combat stress reactions; were passively resisting; did not want to provoke retaliation; had been ordered not to; or maybe the terrain or tactical situation did not call for small arms fire (Engen, 2011, p.42-43). Additionally, Engen proposes an alternative assessment of the statistical figures offered by proponents of this non-firers perspective by utilising accounts of Canadian combatants during WWII. Instead of a limited use of force, reports at the time stated that “recklessly large amounts of small arms fire was standard procedure in some infantry units” (p.45) with efforts to reduce this practice being inculcated into the

Canadian Military. As such, the accounts of US soldiers (from Marshall) and Canadian soldiers are widely contradictory, which at the very least points to an alternative explanation other than an anthropomorphic aversion to killing one another.

This is not to say that an engrained aversion is not present within many combatants, it rather presents the view that we should not be too hasty to draw conclusions from dubious statistical findings, and to be careful about extrapolating information to a broader view than perhaps is sensible. Arguing solely on the basis that an engrained aversion to killing exists in us all is unwise, yet I hope that this tentative argument would be assessed in light of the previous and following arguments which further attest to the positive utility of human action, interaction, and memory of war as instigators of aversions in their own right. As I am taking the potential dichotomy between humans and machines as the basis of my arguments, it still stands that if aversions exist within even a portion of combatants then this sort of process can still be beneficial to peace.

Stanley Milgram's study on obedience to authority (2005) can be interpreted to manifest elements of this aversion however. The experiment involved a victim (learner) – who was involved with the study – being 'shocked' by the subject (teacher) if a wrong answer was given through successively higher voltages. Although the shocks were not real, the subject was convinced that they were, and was prompted to continue with the shocks if the subject protested. Initially devised to test for obedience to authority, variations of this experiment are useful to this present discussion. Most importantly, Experiment 3 involved 'proximity' whereby "the victim was placed in the same room as the subject, a few feet from him" (Milgram, 2005, p.35), and Experiment 4 (touch-proximity) which involved the shock being administered to the victim by placing their hand on a metal plate, requiring physical interaction between the subject and victim. Milgram found that proximity and interaction greatly reduced the number of subjects who were willing to administer the maximum available voltage (450 volts). The number of respondents who obeyed up to 450 volts for the remote experiment (whereby the victim and subject were in separate rooms) was 65 per cent, reducing to 40 per cent for Experiment 3 (proximity) and 30 per cent in Experiment 4 (touch-proximity).

One explanation for this decrease could be 'empathetic cues', such that "visual cues associated with the victims suffering trigger empathetic responses in the subject and give him a more complete grasp of the victims experience" (p.37-39). Ultimately, the experience of suffering caused, and the lack of separation between our actions and the

victims experience, are important areas which affect our proclivity and willingness to inflict suffering, and also highlight a tendency to exhibit these aversions too.

Furthermore, distance emphasises the potential ethical limiter that humans possess when it comes to using lethal force. Take for instance the bombing of Hamburg on July 28, 1943 when seventy thousand people were killed. The nature of the attack, and the distance between pilot and victim, obfuscates the psychological instincts against such destruction. In contrast, Grossman argues for an intuitive hypothetical which best demonstrates the advent of this barrier to killing;

“If bomber crew members had had to turn a flamethrower on each one of these seventy thousand women and children, or worse yet slit each of their throats, the awfulness and trauma inherent in the act would have been of such a magnitude that it simply would not have happened” (Grossman, 1995, p.101).

Distance forms a barrier to the full view of destruction, thereby contributing to this display of force. Such instances do not constitute the unwavering destructiveness of humans, but rather it is the context in which humans act within that contributes to unethical action. With respect to this ethical limiter, the least we can say is that we stand to lose this important component of ethical and less destructive warfare if LAWs are implemented over human combatants. Grossman (1995) states;

“We may never understand the nature of this force in man that causes him to strongly resist killing his fellow man, but we can give praise for whatever force we hold responsible for our existence ... as a race we can view it with pride” (p.39).

Although Grossman asserts this as unwavering fact, I am inclined to at least accept its potential exhibition during warfare. As such, we cannot underestimate the role this aversion plays within war and its subsequent conclusion. If we place value in such aspects of human behaviour, and look upon them with ‘pride’ rather than as objects of cowardice, then we need to reconcile these soon-to-be-obsolete aspects of how war is currently fought. The difficulty is thus the extent to which it is universally exhibited, given the criticism laden against both Grossman and Marshall respectively. The question we must confront ourselves with is; does the psychological barrier that limits the potential destruction or wantonness killing bare greater value than the immediate short term

benefits of LAWs? Given the contingent distance of LAWs to humans and their perceived unpredictability, how can we ensure that this barrier, as a result of human-human conflict, is preserved via other means?

Although war might have been more destructive without this anthropomorphic psychological tendency, LAWs might prevent more suffering and destructiveness in other ways. However this may ignore the other benefits which I outline later regarding human combatants in warfare. I merely wish to state here that human's possess cognitive abilities which can limit the destructiveness of warfare if only we recognised such processes rather than outsourcing them to machines. Even if the benefits of LAWs are demonstrated in the future, the role of human experience in war and the pursuit of peace through more amicable combat must be recognised as a plausible avenue too, and be given more thought before being replaced for the immediate benefits of technology.

### **7.3 Experience as a Deterrent to Future Conflict**

Experience of war assists peace by acting as a deterrent to future conflict. By witnessing the horrors and devastation of war, one is well placed to move against unnecessary wars in the future, but also motivated to seek the end of war. This utility of experience applies to both those on the front lines and home front. By experiencing the effects of war, it can act as a deterrent or rejection of war-enthusiasm. However, the experience of war does not transgress morally permissible justifications. Wishing to no longer experience unnecessary suffering can motivate individuals against unnecessary war, yet equally assist them in recognising the necessity of others.

Intuitively at least, the experience of suffering, death, and misery is often contingent to conflict, creating a distaste to relive those events. I posit that such experience contains a paradoxically utility insofar as negative experience turns us against similar events (or war in this case) in the future, yet need be experienced to some degree – whether explicitly (combatants) or implicitly (relatives, civilians) in order for such a rejection to take hold.

Although we can envisage this taking place, there is ample evidence of such sentiments arising due to prior experience of warfare. An important example whereby the experience of war created a rejection of another is during the interwar years between the First and Second World Wars, from 1918 to 1939. I will use this period to highlight how experience creates such attitudes, and that we can place value in this process as a quasi-deterrent of war-enthusiasm and recognition of caution in the future waging of war.

The events of WWI and its devastating impact upon millions of individuals “played a role in forming reactions to the Second World War” (Connelly, 2010, p.53) and created, amongst many, a reluctance to go to war again. Although a reluctance to go to war is largely engrained, the advent of experience and knowledge of war is a significant motivating factor to this aversion. Holmes (2003) argues that amongst other things, “the horror of war, the disillusionment, [and] the sense of waste” (p.109) played a role in generating an emotional opposition to the threat of WWII.

There was disillusionment towards conflict during the interwar years, having only recently been involved in one of the most devastating conflicts in history. In Britain, anti-war sentiment was signposted in a number of events during the interwar years, summed up by Sheffield (1997);

“After a period of mental numbness lasting about ten years, there was an explosion of anti-war sentiment expressed in books, plays and films. In 1933, the British élite expressed their opposition to war in the vote of the Oxford Union against fighting for King and country, and in the same year ordinary folk followed in the Fulham East by-election. Two years later there was an overwhelming yes vote in the Peace Ballot. Clearly the shadow of the Somme hungover the generation growing up in the 1930’s” (p.30).

This summary highlights anti-war sentiment amongst areas of the British public during this period. Due to the destructive scale of WWI, it is likely that almost the whole population were to some degree affected by these events, and therefore acts as a plausible mechanism in producing these views.

During this period in Britain, there was a growth in pacifist sentiment with the rise of the Peace Pledge Union, the No More War Committee, and the Peace Society. McDonough (1998) argues that “[t]he growth of pacifism reflected a widespread public mood which suggested war was useless, wasteful, costly, and should be opposed” (p.99-100). If it was not for the experience of war to highlight what war is actually like, the scale of anti-war sentiments would carry less weight. The timing here is significant and can be evidently related to WWI.

If humans are distanced from the realities of war via LAWs and therefore no longer able to experience its nature, there is little to say that we would reject war in the same way. I argue that the memory of war and the suffering experienced provides us with grounds to acknowledge the nature of war, and gives us objective reasons to reject its onset. As such experience passes from living memory, or LAWs make war experience obsolete for whole parties, we enter into the danger that our lack of acknowledgement of war's nature leads us to wage war more than we ought. Although not an argument *against* the benefits that LAWs may bring, such as greater harm prevention, we can at least recognise the sorts of cognitive anthropomorphic processes we stand to lose via their implementation.

It was not only Britain where such anti-war feeling took hold, but existed in France and Germany too. Bartov (1997) argues that the effect of "mass industrial killing in the western front" created different responses, with a "powerful anti-war sentiment among otherwise strongly opposed political and ideological factions in France, and a growing willingness within wide-ranging circles in Germany to go to war again" (p.355).

The anti-war sentiment was alive in France during this time, but contrary to Bartov's claim, Germany also possessed an anti-war movement amongst those who had experienced the war. In 1919, a mass meeting in Berlin took place under the slogan 'War Never Again', consisting of 100,000 to 200,000 people (Mosse, 1990, p.196), yet were unsuccessful given they were seen to be supporting the Treaty of Versailles by collaborating with French and British pacifists. It was not merely overt pacifist movements in Germany but literature too that signalled the rejection of war during this period. Mosse (1990) argues that Erich Maria Remarque's *All Quiet on the Western Front* published in 1929 was a symbol of pacifism, and given its portrayal of the realities of war "its impact was feared by pro-war forces" (p.198). The book was hugely successful throughout Germany and other European countries which highlights that this was a message that resonated with the populations of a post-WWI Europe.

Butler (1941), writing shortly after the start of WWII, claims that because of the indiscriminate slaughter witnessed during WWI, "the hatred and dread of war had never been so general or so genuine as they were in 1939" (p.164). Butler also recalls the feeling within Germany and their reaction to the declaration of war, in that "[w]hen Britain and France declared war; the bulk of the German people were dumbfounded" and the enthusiasm witnessed amongst the younger populations "was not shared by the great majority who remembered the horrors and privations of the Great War and its aftermath"

(Butler, 1941, p.165). Therefore, it is the case that pacifism existed less explicitly in Germany too. Interestingly, Butler recounts a conversation he had in 1937 with a porter in Germany concerning the onset of future war. The porter declared that;

“[A]s far as we are concerned, only those young fools want war, because they don't know what it means. All we older folk detest and dread another war.’ ... The memories of long sufferings and final defeat were too fresh in many minds” (Butler, 1941, p.165).

This conversation highlights the anti-war sentiment present in Germany during this time amongst those who experienced WWI, and thus had clear reasons not to support the onset of more suffering. This shows that pacifism existed amongst a range of individuals within Germany during this period, and most notably those old enough to have memory of WWI, and therefore supports in small part the theory I have presented regarding the way that war experience can act as a deterrent in future

Generational differences in reactions to war are a good indicator that experience is a factor in shaping attitudes to war, and as such are threatened when human combatants are no longer witnesses to wars destruction. Sheffield (1997) argues that “[t]he First World War exercised a terrible fascination for men who had not been old enough to serve in the war” (p.30), and thus given their ages were not privy to the realities of war. Instead of being deterred by the prospect of future conflict, they looked upon it more favourably due to their lack of direct memory.

Differences in attitudes between generations relate to war enthusiasm too. As Mosse (1990) argues; “the lingering memory of the First World War stirred that fear [of death] as well ... it prevented a resurgence of the enthusiasm of the generation of 1914 in 1939” (p.223). The key element here is the generational divide between those who were alive to experience war and be affected by it, and those who were not born or too young to understand the impact of war. Mosse argues that “[t]he rush to the colors [*sic*] of this generation has been ascribed to the fact that they no longer knew the reality of war; the Franco-Prussian War was fought long before and has been a short war in any case” (p.53). In this sense, we can infer that the reality of war, and undertaking it which most formally derives from experience and memory, affects ones attitudes to war. It is important to recognise that there are most likely other factors too – such as religious conviction – in shaping attitudes to war and motivating anti-war sentiment that have not been discussed

here. However, experience can play a role, even if only reducing the onset of war enthusiasm. If indeed the case, the deterring by-product of war experience is lost when we replace, in a variety of situations, humans with machines on the battlefield. We should recognise the value of this suffering and experience, and seek never to repeat it, rather than ignoring its important lessons.

Experience is equally conducive to peace, and is thus directly relevant to the arguments made throughout this paper. In this vein of thought, Douglas MacArthur claimed that “[t]he soldier above all other people, prays for peace, for they must suffer and bear the deepest wounds and scars of war” (in Grossman, 1995, p.xxxii). Humans thus have the capability to turn against war *because* of their experience, occurring predominately amongst soldiers.

Furthermore, Father George Zabelka, who was the chaplain who blessed the atomic bomb dropped on Japan, recalls that after he returned home from war, he found that nobody wished to talk about it and was told to forget it, yet he could not. The Korean and Vietnam Wars reminded him of his experiences, and he eventually became an active peace campaigner as a result (in Terkel, 1984, p.531-6). In this case, Father Zabelka’s experience of war was a catalyst in pursuing peace. It may be that arguments from experience are more persuasive, such that intimate knowledge constitutes a more powerful argument.

Holmes (2003), in his work on soldiers experiences in war, says that “[a]s Robert E. Lee looked out across the union dead who so thickly carpeted Maye’s Heights at Fredericksburg, he reflected that it was as well that war was so terrible or we would become too fond of it” (p.274). In this sense, our acknowledgment of war’s terribleness through experience is tantamount to an approach towards peace, and is something which is threatened when experience is removed from one side of war. I do not wish to claim that experience is the only source of rejecting war nor do I wish to claim that LAWs in place of humans creates a situation whereby war would never be rejected. Rather, experience plays a role in motivating anti-war sentiments, and that we should pay more attention to the implementation of technologies that do not allow for this kind of personal and meaningful experience *in the same way*.

However, there is a criticism of this perspective which needs addressing. That is, if experience does act as a deterrent, and was present between 1918 and 1939, why did another war commence in direct contradiction to this process? Why do wars continue *in spite* of the experience and memory of prior conflicts?



In response I argue that the permissibility and perceived justness of war matters in determining support for it. Experience of war may make one apprehensive about supporting more suffering, yet it does not *prima facie* create a rejection of all war. For example, there are instances when a conflict is forced upon us, and we are obliged to respond. The justness and moral weight of the conflict is acutely relevant in the prior example of WWII. There was a “difference in moral authority” (Hynes, 1997, p.111) between the causes for the First and Second World Wars. The differences are laid out by Hynes in that “[t]he First War began in idealism but lost its moral certainty as the fighting ground on. The Second War began with a clearer sense of moral necessity and never lost it” (p.111). As such, reasons for going to war place a moral significance on the support for war. We may not wish to see more suffering as a result of experience, but experience and collective memory equally informs us in which circumstances war should be waged.

In the lead up to the 1990 Gulf War, Shaw (1997) conducted research gauging the divergent attitudes towards the conflict between warriors (veterans of WWII) and non-warriors. This research presents a criticism to the aforementioned argument since “[t]he most significant deterrence was that only 10 per cent of the former [warriors], but over 20 per cent of the latter [non-warriors] opposed the war” (p.201). Furthermore, veterans of WWII were *more* likely to approve of the war than people who had not been involved in war, and were *less* likely to agree that the “television coverage ‘glorified the war too much’ or was ‘too patriotic’” (p.194). In this sense, there appears to be little evidence of a deterrent arising from past experiences.

However, the justification for war was a superseding factor. Most telling are the responses by those of a “Second World War mindset” (p.195) to the question of; what do you think of Saddam Hussein?

“While most people agreed that he was ‘a dangerous man’, older people both male and female, were more likely than younger people to agree that he was ‘like Hitler’ and less likely to agree that he was ‘mad’ (which was very much a young person’s response). Older people were also much more likely than young people to endorse the anti-appeasement view that ‘we have to stand up to dictators’ as a reason for justifying the war” (p.195).

In addition, the comparison between Saddam and Hitler was actually volunteered by many of the older respondents. We may infer that experience in this case was a leading factor in wanting to *prevent* injustice. They had seen what Hitler had done, and would support a war against Hussein as a result.

My point on experience as a deterrent is not one of pacifism, or a rejection of all wars, but rather it is a deterrent against unnecessary wars, and can still allow for the justification of others. There is a desire to prevent perceived injustice, specifically when such injustice is witnessed directly or indirectly. Thus the view that experience acts as a deterrent towards war is compatible with supporting permissible wars, since both avenues are directed at omitting unnecessary suffering and injustice.

#### **7.4 Reforming War as a Response to Experience**

Insofar as war is experienced and the nature of war witnessed, there can be a reaction that is both positive and conducive to peace. One way this takes place is in reforming the strategies, laws, and customs of warfare so as to work against unnecessary suffering. As such, war experience can act as a unifier against unethical conduct, and seek to amend such practices after wrongs have been committed. Experience therefore motivates subsequent action and generates a discussion on how best to move forward. There are a number of examples which highlight the way that experience can motivate and construct national and international reform.

The end of WWI generated a theme of desiring peace internationally and not merely between individuals, giving rise to an institutional attempt for collective security in the form of the League of Nations, whose purpose was to preserve the peaceful order by making its members culpable for defending one another against aggression. Its aim was “as a useful means of ending diplomacy and finding a new framework in which to settle international disputes without resort to war” (McDonough, 1998, p.16). Despite its failings in effectively enforcing collective security – and the absent membership of the USA and USSR – it demonstrated how the visceral reactions to suffering, as was the case after WWI, can generate an appetite for reform. Additionally, although Neville Chamberlain’s appeasement policy towards Nazi Germany can be viewed as a reluctance to go to war, the critics of appeasement often favoured a different avenue for reform, whereby; “most critics, except those on the communist fringe and in the socialist league, forward support for the League of Nations, and the upholding of principles of collective security” (McDonough, 1998, p.111). As such, the route of reform offered by the League of Nations

was appealing and demonstrated the way in which humans are capable of learning from events, and desiring effective change as a result.

The Geneva Conventions on the LOAC created post-WWII are also an example of international reform in response to conflict. Attempts to codify the acceptable practices of armed conflict and to institute mechanisms which hold actions accountable serve to entrench ethical conduct. The development of the UN Security Council in 1945 also highlights the demands for greater efforts at pursuing peace as a response to conflict. We can recognise the benefits that experience of war has on developing large scale institutional reform, and acknowledge the way that humans can move towards a more ethically permissible waging of war in response to experience, and equally what is lost when these processes of reform are bypassed via technology.

The reform of war in response to experience can take place on the national level too. During the period of 1918-1939, British foreign policy was changed as a result of WWI. McDonough (1998) argues that there was disenchantment towards the use of military force, such that “finding peaceful solutions to international conflict” (p.33) and encouraging the “reconciliation of defeated powers and to promote international cooperation and disarmament” (p.16-17) became central themes of British foreign policy and therefore determined its ends to be more peaceful. Foreign policy reform is significant since it dictates the external output and attitude of nation-states. Experience as a motivator for reform has positive utility in turning more than merely individuals against needless conflict and suffering, and therefore is also conducive to peaceful ends.

Additionally, reforms can be on a smaller scale, yet still possess value. For example, WWI ignited a degree of distrust in leaders and thus was a catalyst for an alternative informal approach by some generals in WWII. Montgomery, Rees, and Horrocks are examples of Generals who took up this approach. Montgomery even said himself that he had suffered under faceless generals during WWI and vowed to do things differently given the opportunity (Sheffield, 1997, p.34). Furthermore, WWI affected how military strategy and planning was conducted in the future. Connelly (2010) argues that “[f]or the professionals in the military, the shadow of the Great War was equally significant ... Most British generals were anxious to avoid another trench stalemate” (p.54). Much like the aforementioned reforms by way of the Geneva Convention, the specific changes in military strategy are conducive to ethical warfare, and allow the experience of warfare to teach us about avenues for improved behaviour.

The importance of recognising the utility of learning lessons from experience in war comes from the words of Norman Chamberlain, the cousin of Prime Minister Neville Chamberlain, who sent a letter shortly before he was killed in France during WWI. His words had such an impact on Neville Chamberlain that he published them in private memoirs in 1923. Norman Chamberlain writes that “[n]othing but immeasurable improvements will ever justify all the waste and unfairness of this war – I only hope that those who are left will *never, never* forget at what sacrifice those improvements have been won” (Chamberlain, 1917, p.140, italics in original). This is the response to suffering and sacrifice that we should have when talking about experience of war; that such lives were lost and suffering endured to improve the lives of others. It is improvements Chamberlain speaks of and thus we must be cognisant of what is possible when talking about reform.

Without being readily mistaken for advocating for suffering, let me clarify that my stance is that we should *recognise* suffering and take heed of its lessons, rather than preferring to create machines which ignore the lessons of conflict. As Shay pleads in the introduction to *Achilles in Vietnam* (1995);

“Learn the psychological damage that war does, and work to prevent war. There is no contradiction between hating war and honouring the soldier. Learn *how* war damages the mind and spirit, and work to change those things in military institutions and culture that needlessly create or worsen these injuries” (p.xxiii, italics in original).

Thus, we must recognise the suffering that war causes, lament its contingent presence, and seek to move beyond it. Rather than advocating for suffering, this argument advocates for *acknowledging* suffering, and using its axiomatic inevitability within war as a motivator for moving beyond it.

It is of immeasurable value to understand the power that experience can have on the future. If we are willing to opt for the preventable measures which LAWs provide, yet which fail to eradicate suffering, then by what means can we envisage mechanisms for reform arising so pressingly, or meaning being derived from the actions of war? The preventable benefits of LAWs are welcome, yet without an understanding of what humans bring to war and its subsequent conclusion, we deny ourselves the information and opportunity to discuss the ramifications for the implementation of LAWs.

## **8. The Role of Human Interaction in War**

The introduction of LAWs creates a new paradigm in war whereby machine combatants are preferred over human combatants due to their superior capabilities. This chapter addresses the benefits of human-human contact within conflict in terms of the strictly anthropomorphic mechanisms for peaceful relations borne through such interaction. I pay attention to the events that arise purely because of the human connection that transgresses the traditional divide of friend and foe.

This chapter looks at; fraternization as a signpost of amicable relations arising from conflict; the recognition of humanity in opposing forces which can act as a barrier to unethical acts; and the effect of dehumanizing the enemy on psychological wellbeing and unethical actions. This chapter highlights the benefits of human interaction, made most salient by the juxtaposed chaos and despair of war, and shows that the recognition of humanity *can* and *does* encourage actions conducive to ethical conduct and peace. If a soldier can see in the enemy the possession of the same fears, hopes, desires, humanity, and suffering that they themselves possess, they are less likely to wilfully act unethically towards that individual. To do so would be to justify those actions against oneself.

### **8.1 Fraternization**

There is little said in the literature on the sort of fraternization relevant here. This sort of fraternization concerns the contact, on peaceful terms, with members of the 'enemy'. Its absence may be due to the negative connotation often associated with these events, conjuring up thoughts of individuals turning against their own side often portrayed in film or other media sources.

However, fraternization can be a great source of value as it emphasises; the willingness to treat opposing forces fairly, the ability to move beyond the confines and labels of conflict, and the recognition of humanity within the other person such that they are viewed as similar to oneself. Fraternization is to some degree an act of great personal risk should the transient trust placed in one's enemy fall foul. The very fact that we still admire such events and place value in them today shows that the act of fraternization is as much about the symbolism of human capacity in times of great hardship to come together, as it is about the specific act itself.

During the Napoleonic Wars between France and Britain, fraternization took place between foes despite the conflicts fierce nature. One such instance of fraternization was the sharing

of food and drink amongst opposing forces. Kincaid (1847) recalls that in July 1813, “the French foragers and our own frequently met and helped themselves, in the greatest good humour, while any forage remained, without exchanging words or blows” (p.243). This ultimately showed that “British and French soldiers retained a measure of esteem and a feeling of fraternity towards men whom they saw more as adversaries than as enemies” (Montroussier-Favre, 2012, p.68). The ability for humans to see beyond the immediate differences of individuals creates a temporary peace within war. Developed amongst individuals in a meaningful way, fraternization creates a respect amongst adversaries and demonstrates a side rarely observed which can be replicated in the restoration of relationships, and thus endowed with meaning as indicative of human capacity more broadly.

Another example of fraternization is the 1914 Christmas day truce between enemies during WWI. This involved the exchanging of gifts and the fabled football match between adversaries during unofficial ceasefires throughout the western front. The focal point of similarities rather than differences cannot be said empirically to assuage feelings of resentment amongst foes. Yet, its presence highlights the capacity for humans to respect each other, rather than pursue violence. The very fact that we look upon this event, and subsequent similar events like this, highlights the value in fraternization and relations that it represents.

Furthermore, there was a desire to fraternize amongst soldiers, since in WWI when fraternization was “limited and more rigorously policed, soldiers lamented the fact” (Bourke, 1999, p.148). If there were no perceived value in fraternization, why would soldiers wish to do so? Their response highlights the willingness of individuals to see the humanity in their enemy, and such an attitude is conducive to ethical behaviour; for who would prefer to cause harm to those they view as equally human?

The desire to fraternize is highlighted by the account of Gerald V. Dennis, who recalls of Christmas 1916 that he would have liked to continue “fraternizing as he had done in the previous two years”, and states that “we would have liked to have stood up between our respective barbed wire, without danger and shaken hands with our counterparts” (Dennis, 1994, p.129). Fraternization demonstrates the feelings of mutuality, but does not produce it. We find value in fraternization because it shows us the manifestation of underlying attitudes between enemies.

Lastly, fraternization is a product of admirable and ethical action. Cecil H. Cox introduces an event of fraternization which sought to preserve life, rather than take it – a stroke of individual peace within war;

“I saw a young German coming towards me and at that moment I just could not murder him and lowered my gun, he saw me do so and followed suit, shouting ‘What the h—do you want to kill me for, I don’t [*sic*] want to kill you.’ He walked back with me and asked if I had anything to eat? At once the relief inside me was unspeakable, and I gave him my iron rations & my army biscuit”  
(in Bourke, 1999, p.148).

Fraternization constitutes an important experience that is an ethical act and evidence of a temporary peace *during* war, yet equally highlights the value of human interaction and its ability to overcome negative relations *after* war. Although not common (and European opponents had more in common than contemporary actors in conflict) we can learn from these experiences, and derive hope from the events that bring former enemies together.

The act of fraternization appears to be difficult for LAWs to replicate given its source in the recognition of humanity. As fraternization stems from a *feeling or emotion* towards ones enemy, it transgresses the demands placed upon combatants in war, and instead equalises their status as humans and not merely enemies. This requires something that LAWs are likely to be incapable of possessing – the ability to recognise the intrinsic value in other humans and respect them as such for the persons that they are – rather than merely replicate external functions and outcomes. LAWs are likely to perceive little value in fraternization given its individual benefits, not to mention the difficulty for humans to ‘fraternize’ with enemy machines (whatever that may entail) and derive the equivalent meaning from the same act.

## **8.2 Recognition of Humanity**

The second aspect derived from human action and interaction is in acknowledging the likeness of the enemy to ourselves. If one recognises that the enemy are not so different from us, the expression of empathy can influence the way we act towards them, and the degree of force we subsequently use, thereby encouraging peace. The recognition of humanity can manifest itself in different contexts.

One way is recognising the humanity in the fallen enemy, drawing the realisation that they are not different. Stefan Westmann, a sergeant in the 29<sup>th</sup> Division of the German Army, envisaged being friends with a young French soldier who had died;

“A boy who had to fight with the cruellest weapons against a man who had nothing against him personally, who wore the uniform of another nation and spoke another language, but a man who had a father and mother and a family” (in Arthur, 2002, p.71).

Robert Rasmus acknowledged the humanity in the fallen too. The German dead he passed by “were no longer the German’s of the brutish faces and the helmets he saw in the news reels. They were exactly our age. These were boys like us” (in Terkel, 1984, 44-45).

Recognising that one wishes their adversary was still alive and perceiving them as humans is immensely powerful. If individuals can have a visceral response to those that have died, and thereby understand the vacuous nature of differences between enemies, such sentiments could extend to the living and actions towards them. Lamenting the loss of unfulfilled life signals more than just sorrow for what could have been, but entrenches a sentiment that one would rather not experience this again.

Although such recognition is potentially acknowledged with retrospect, I have no grounds to doubt their sincerity. These examples show that humans have the capacity to understand the importance of such events, and show the realm of possible reactions that demonstrate the positive attributes of human character.

Additionally, mutual recognition manifests in the reshaping of views towards the enemy through exposure to their similitude, and thus provides a different perspective entirely. Hiram Sturdy was surprised at finally encountering German soldiers during WWI after being engrained with dehumanization propaganda;

“The batch arrives, and I get one of the greatest disappointments of the war ... Our prisoners were young men, bandaged and battered, who ... furtled and jumped, a solid bunch of nerves ... The most savage comment I heard while watching the prisoners, came from an infantryman. That was ‘poor buggers’” (in Bourke, 1999, p.165).

Experience of warfare *can* promote the recognition of humanity in the enemy and act as a positive force in future. There is value to be found in the transformation of views brought



about through experience. We can say at the very least, for peace and future prosperity, it is better to see others as humans rather than different, which may thereby justify actions that we ourselves would deplore.

There is no better example of this process being exhibited in practice than the El Alamein desert conflict during World War Two. John Bierman and Colin Smith outline in great detail in *Alamein: War Without Hate* (2003) the degree of respect harboured throughout this conflict – and after – amongst adversaries from all sides. This respect and shared humanity is exemplified in the reunion that takes place, comprising of veterans from German, British, Italian, and Australian forces from that conflict. This signifies “the extent to which shared experience, common hardship and mutual respect can create a bizarre comradeship of antagonists” (Bierman and Smith, 2003, p.1). As such, this is emblematic of how war can be fought to produce respectful peace processes between former adversaries, and that the transmission of respect and mutual recognition of humanity (and treatment of each other as such) is at the heart of such processes.

The recognition of humanity is central to questions of ethical behaviour and acting positively towards others, and is important within the peace process in viewing others as equals. As Coker (2008) says on this point, in order “[t]o remain ‘ethical’, war requires one to see it through the eyes of the enemy” (p.160). If experiencing the nature of the enemy can act as a catalyst for change, then they are positive elements of war experience after all. Samuel Stauffer found that “men without combat experience hated the enemy more than actual fighters did, and servicemen who had not left the country hated more than those overseas” (in Bourke, 1999, p. 160). Since until now war has been a present reality, we have grounds to advocate that experience is useful as it generates the mutual recognition of humanity that is productive to renewing relations.

The recognition of humanity and awareness of similarities between friend and foe was also observed during the Napoleonic Wars. In perceptions of the enemy between French and British combatants, “moderate views and mentions of respect greatly outnumber the expressions of hostility” as if they “recognised that they belong to the same world, shared the same values, and played by the same rules” (Montroussier-Favre, 2012, p.69). The French and British left similar accounts as “they had the sense that they shared the same culture and the same values, the former enemies wrote of each other with respect and esteem” (p.71). It is thus the case that humans possess the capacity to recognise the good in their opponents, generate some measure of respect for them, and act more ethically and

less destructive towards them as a result. Even though such actions are not frequent, it remains within the remit of human capabilities to exhibit such characteristics.

Despite these evidentiary beneficial aspects of humanity in warfare, Schulzke (2016) highlights a genuine challenge to this viewpoint. Although he recognises the presence of humanity within war as a factor in staying the hand of lethal force, he argues that the obfuscation of ethical sympathies via autonomous and semi-autonomous drones is sourced from a fundamental misunderstanding of how war is currently waged. Wars throughout history have included the opportunity to realise the mutual recognition of shared humanity, yet current warfare is devoid of such occurrences. The aspect of distance in using force, as well as the desire of soldiers to be invisible from the enemy until and during the point of attack is indeed a challenge to the relevance of a shared humanity within contemporary warfare. Schulzke argues that such factors are “not apt to inspire feelings of empathy” (2016, p.70).

Although I believe Schulzke is correct in his assessment of the current state of military conflict, this does not take into account the beneficial and meaningful transmission of respect and humanity with civilian populations, or those who are potentially willing to join forces against oneself. The age of terrorism and non-linear military organisations indeed reduces the opportunities of transmitting respect and perhaps diminishes the meaningfulness of such encounters. However the necessary respect and transmission of humanity is both a possibility in and of itself given the presence of agents capable of doing so. Yet human combatants also play a role in the transmission of mutual humanity and respect within *communities*. Although the recognition of a shared humanity between combatants is diminished, the need for demonstrating ones humanity, and understanding its presence in others, is fundamentally important from the perspective of amicable conclusions of warfare and the concerns of *jus post bellum*.

The recognition of humanity is a product of one’s own humanity. The reaction to the unfulfilled lives of those who have fallen is an empathy based upon what we value. The developments of attitudes that are conducive to peace are anthropomorphic in this sense, and thus are lost when LAWs displace human combatants. As for the consequences of this change, such conclusions are yet to be observed. However, this discussion merely highlights that human interaction on the battlefield can be a source of attitudes which promote ethical behaviour and subsequent peace.

### 8.3 The Dehumanization of the Enemy

It has been shown that the recognition of humanity *can* have some benefits for ethical behaviour and actions towards peace rather than further destruction. However, it is important to acknowledge the adverse effects of encouraging the opposite sentiments – to dehumanize the enemy – as a mechanism for overcoming the psychological barrier to killing which humans might possess. By doing so, we can see what effects these processes have on soldiers and their output, and why we might choose to move beyond this in order for ethical behaviour and peace to be more lasting.

The encouragement of dehumanizing the enemy and their population can be observed throughout the 20<sup>th</sup> century, with propaganda against the Germans describing them as the ‘the Hun’ or ‘brutes’, or ascribing actions to *all* soldiers such as mutilating women for example (Hiram Sturdy in Bourke, 1999, p.165). Dehumanization encourages unity against the enemy, support for the war and those fighting it, and use of lethal force.

However, the recognition of humanity can be liberating and profound for those who overcome these misconceptions, and therefore have an important utility. Shay (1995) found that dehumanizing the enemy was psychologically damaging, saying that; “[o]ur patients tell us that turning the enemy into vermin exacted a terrible price from them *after* the fight was over” (p.116, italics in original). As a result, one of his proposed measures to reduce the psychological suffering in war was to *respect the enemy as human*.

Another difficulty with dehumanizing the enemy, beyond transgressing the benefits engendering respect, is that the post-conflict phase is likely more difficult. What ground is there to build new relationships upon if the war has been spent relaying to the public that the enemy are less-than-human? Also, how do we go from dehumanizing the enemy out of perceived military necessity, to viewing them as international partners and cooperating with them? It is this question which I perceive to be of great importance, yet equally fails to be addressed within the *jus post bellum* literature. In this respect, the way the war is fought has significant consequences for how peace is achieved. Therefore, the encouragement of actions towards assisting the engendering of respect and mutuality between enemies is greatly beneficial to peace, and is also assistive towards the concerns of *jus post bellum*. The alternative practice of dehumanization however does great harm to the peace process, and anything counter to the end of peace is potentially unethical as a military strategy (given the subscription to the dependence approach), even without ramifications in prohibiting the recognition of humanity.

## 9. Martial Virtues: The Warrior Spirit and the Uniqueness of Mercy

The role of martial virtues in warfighting has been addressed throughout military ethics, including the warrior ethos in Homer's *Iliad* and historic military traditions such as chivalry. Watson (1999) maps out a transition between conceptions of military virtues; from Plato's warrior class in *The Republic*, Aristotle's widely cited virtue ethics, Machiavelli's conception as merely tools of the prince himself and a product of self-interest, as well as Nietzsche's aesthetics as a replacement for conventional morality. However, the role of martial virtues in contemporary conflict is questionable, and therefore is of concern regarding the changing nature of conflict. The implementation of LAWs questions the ability for actors to exhibit martial virtues. I find within this chapter that the only martial virtue whose ends cannot be replicated by LAWs is mercy. Since the by-products of mercy are beneficial to inculcating the conditions upon which peace is eventually founded, such as respect and the mutual recognition of humanity, it becomes morally problematic to introduce weapons of warfare that remove the possibility of such actions being exhibited, and especially those which have advantageous consequences to the ends of just wars.

Although it is difficult to establish a comprehensive list of martial virtues since they largely correspond to individual military organisation's code of conduct and ethics, there are a number of martial virtues which are often commonplace. Sparrow (2013) mentions *physical courage* as "the willingness to face fear of bodily discomfort, injury, and death" (p.89); *moral courage* as "the willingness to face and overcome fear of the social and personal sanctions that may be incurred by doing what is right rather than what is popular, expected, or prudential" (p.89); *loyalty* which involves "the willingness to bear risks and make sacrifices for the sake of that to which one is loyal" (p.90); *honour* defined as "the concern for how well one lives up to ones chosen ideals" (p.91); and *mercy* as refraining, "out of compassion, from killing or causing suffering when one is both able and would be justified in doing so" (p.92).

Additionally, Aronovitch (2001) provides a further set of martial virtues, consisting of bravery and courage, wisdom or good judgment, truthfulness, and temperance or self-control. It is these that comprise the mainstay of martial virtues, and is thus the chief aim of military apparatuses to inculcate dispositions to virtuosity in order to influence the display of ethical outcomes.

### 9.1 The Warrior Spirit

The embodiment of martial virtues culminates in the warrior ethic, or warrior spirit. Riza (2014) argues that killing at distance impacts traditional conceptions of the warrior, and how such dispositions are limited within this new space. For Riza (2014);

“The warrior spirit is a sense that what a warrior does in war and how he (or indeed she) comes at it on a personal level transcends the cold rationality of performing a mission, completing an objective, or taking a hill ... This is an important distinction from how mere combatants, that legally defined group, may approach war, because it goes far beyond duty ... [C]ombatants do what they are told to do on the battlefield; warriors understand why such things must be done” (p.261).

Since it is the warrior spirit that is prepared to die as well as kill, Riza predicts that a trend towards killing from a distance may “generate in us an apathy about killing other human beings” (p. 270), since the embodiment of martial virtues in the warrior acts as a barrier to war for its own sake.

Morkevicius (2014) also shows how certain character traits are vital to the exercising of virtues. He argues that the ‘soul’ is a crucial aspect of moral decision-making, thus directly informing our ability to abide by certain rules such as discrimination. He also argues that empathy is a key attribute as it

“[E]nables human beings as emotional creatures to recognise the emotional states of others ... [I]t is sometimes unconscious, or so automatic as to be impossible to explain verbally. It is thus not something we can teach a robot” (p.7).

In talking about LAWs and their ethical outcomes, the advent of emotions is recognised solely as a catalyst for unethical behaviour. However, Morkevicius (2014) argues that they play a role in our moral reasoning and decisions of which ethical code to use, as well as allowing us to understand another’s emotions. “This moral imagination can help us to evaluate the *meaning* of the other’s actions,” and understanding the threat posed by the enemy “requires being able to imagine the other’s purposes” (p.14, italics in original). Exercising martial virtues such as mercy and temperance requires a disposition of character

that understands the warrior spirit, as well as the nature of their surroundings (by using those emotions for positive ends), and is thus the embodiment of a virtuous character.

Riza (2014) and Morkevicius (2014) show that new technologies such as LAWs are incapable of performing these character traits. Major Davis (2007) echoes these sentiments against the use of robotic weapons on such grounds insofar as there are things which humans are uniquely capable of carrying out. He argues that “one of the uniquely positive attributes of the combat soldier is his humanity in a particularly inhumane environment” (no page). Thus in these respects, it is clear that LAWs are incapable of performing such tasks with respect to exhibiting martial virtues.

However, I take issue with much of the previously stated arguments for one reason. Martial virtues are beneficial for both the individual and others (Foot, 2002) but do not possess any intrinsic value themselves. The need for martial virtues is to direct actions of soldiers towards more ethical ends, such that he who embodies certain virtues will thus behave ethically. For example, Aronovitch (2001) outlines this relationship with the martial virtue courage and good soldiers in that; “for genuine courage implies facing up to fearsome opposition or obstacles; cruelly inflicting suffering on those who are helpless, weak, defeated does not”; to be courageous “is neither to want nor to foster cruelty” (p.17) In this respect, we can say that the instrumental value of martial virtues is to encourage ethical actions, and incentivise such behaviour even when disadvantageous to the agents wellbeing, whether physically, psychologically or morally.

There is no sign of intrinsic value to martial virtues. If LAWs are developed with ethical outcomes at least as consistent as exhibited within human combatants, then the lack of martial virtue in conflict is irrelevant, given such ends are achieved via different means. Insofar as human behaviour is unpredictable and subject to external influences, there is a need for internal guidelines laid out by virtue ethics and the contingent martial virtues.

Moelker and Olsthoorn (2007) reiterate this point, arguing that virtue development is the best way to prevent unethical behaviour since top-down implementations of ethical guidelines are impotent when no one else is around. The removal of humans capable of performing virtuously is not an immediate threat, so long as the agents replacing humans arrive at those same ethical outcomes. However, if LAWs are unable to replicate those same ends, then the inability to exhibit martial virtues becomes morally problematic.

## 9.2 On Mercy

The only martial virtue which produces different ends to those which LAWs can likely reproduce is the martial virtue 'mercy'. Mercy bilaterally benefits both sides of the combatant divide, and for this reason I envisage LAWs as being unable to benefit the opposing side in the same valuable way that mercy does. It suffices to say that virtues such as courage, bravery, loyalty, and good judgement for example, are virtues which benefit the individual and moral patients, but only those who are fighting on the side of the exhibiting agent. Their benefits are strictly unilateral when viewed within the dichotomy of friend and foe.

Take for example the virtue of *loyalty*. Since one cannot express loyalty to the enemy as this would transgress the integrity of the human combatant, it only has unilateral benefits for ones allies. For in instances of evident division and contradicting viewpoints (which friend and foe invariably are) one cannot be loyal to both.

Additionally, nor can ones outcomes of *bravery* benefit an enemy soldier. More often than not the beneficiaries of bravery are those whom the exhibitor of bravery deems worthwhile to sustain the sacrifice and risk incurred through their brave actions. Although principally this benefits the 'friend' and is unilateral in this sense, if it were to benefit the enemy other factors and dispositions would be at play beyond the act of bravery, such as empathy or a mutual recognition of humanity between adversaries. What we can say about bravery and similarly other martial virtues such as trust, is that they do not intrinsically include a connection with an adversary, and thus can be deployed unilaterally.

Therefore, the one virtue which universally benefits all agents, regardless of combatant affiliation, is mercy. Mercy is extended across the divide of battle towards friend and foe alike, and can be defined as; "*the suspension or mitigation of punishment that would otherwise be deserved as retribution, and which is granted out of pity and compassion for the wrongdoer*" (Hampton, 1988, p. 158, italics in original). Furthermore, the act of mercy is intrinsically linked to a concern for wellbeing, and "it is when we do pay attention to the offender's wellbeing that we may decide that mercy rather than further punishment is in order" (p.158).

Mercy is thus a response to an act that *does* deserve retributive actions, but for internal reasons is deemed inappropriate. Such a concern can be logically derived from a mutual recognition of suffering and humanity that exists between the exhibiter of mercy and the

receiver by virtue of shared experience (or merely the capacity to do so). Mercy does not make sense outside of the paradigm of human-human experience and interaction. When we introduce machines, it becomes more difficult to talk meaningfully about *wellbeing* (of the machine), or the machine being able to recognise, in light of reasons for retributive actions, that mercy is instead a *just* response to wrongdoing.

I take the view that LAWs could not exhibit mercy, or be recipients of it. Its situational appropriateness and relevance is not something programmable, but stems from a shared humanity and experience amongst individuals, rather than humans as part of a larger collective. Empathetic relations in warfare demonstrate the intrinsic value of human combatants and contest the notion that LAWs could carry out merciful acts with mutually beneficial ends. It is hard to imagine, given the relationship between wellbeing and mercy, why humans would act mercifully towards a side deploying machines in place of human combatants, given the distinct lack of connection between those exhibiting mercy and its expected positive outcome.

The exhibition of mercy can resonate throughout history, and have profound impacts on the lives of many. Major Davis (2007) argues that;

“There have been instances in virtually every war involving the U.S. in which the enemy was told the American soldiers would take no prisoners and kill everyone on the battlefield. Instead, the enemy discovered that although the GIs could be as ruthless and vicious as any opponent, the same soldier could extend mercy when appropriate. As information about U.S. soldiers’ humanity spread among enemy combatants, more of them willingly surrendered instead of choosing to continue to fight – which ultimately supports U.S war aims and saves lives on both sides of the battle line” (no page).

As such, although martial virtues possess little intrinsic value themselves, we must recognise the value mercy plays on the battlefield, and how LAWs are incapable of replicating such actions. The inability for LAWs to replicate mercy – an important martial virtue – highlights how replacing human combatants can pose ethical dilemmas, even if they are not so obvious at first glance.



One such ramification of merciful action can be found as an effect of the actions of US soldiers during WWI. An interviewer of German prisoners of war in WWII found that German soldiers frequently said that veterans of WWI had advised them to surrender to the first Americans they saw. “The American reputation for fair play and respect for human life had survived over generations, and the decent actions of American soldiers in World War I had saved the lives of many soldiers in World War II” (Grossman, 1995, p.205). Thus merciful actions in warfare are positive to the extent that they benefit friend and foe, as well as the longevity that can be established when such actions are exhibited through the contingent preservation of life.

The extension of humanity through mercy is also an important facet of war’s conclusion. Surrender is a complicated process, and requires submitting one’s short term autonomy to the opponent’s authority. It requires a different process than fighting war and an alternative disposition too;

“In order to fight close range one must deny the humanity of one’s enemy. Surrender requires the opposite – that one recognize and take pity on the humanity of the enemy. A surrender in the heat of battle requires a complete, and very difficult, emotional turnaround by both parties” (Grossman, 1995, p.199).

What do we envisage this process looking like when LAWs are deployed against human combatants? Perhaps this process is jeopardised when LAWs are implemented, since the recognition of humanity is a feature of surrender, and when it is appropriate to allow this to take place. In the heat of battle, humanity plays a role in understanding the actions of the other, and tailoring our actions as a result.

Merciful action has at its centre the recognition of humanity, and the recognition of the importance of the enemy’s wellbeing. George Ashurst, during WWI recounts merciful action which would otherwise have been counterproductive if it were not motivated by the recognition of humanity;

“We saw a German lying wounded on top of an outhouse when up came another German carrying a ladder, calm as anything despite having five or six of our rifles pointing at him ... The officer said, ‘Don’t fire boys. He deserves a medal, that lad.’ So we didn’t,

we let him walk away with his wounded fellow” (in Arthur, 2002, p.73).

From a perspective of military necessity, this acknowledgement appears to be counterproductive; yet when viewed from the ends of peace, it is fundamental to the conclusion of war. The demonstration of compassion and mercy actually encourages the exhibition of ethical conduct. I am sceptical that LAWs would be able to extend such recognition, since its origin is derived from our co-humanity with the enemy, and influences our perception of when lethal force is appropriate.

These events are important, since they preserve humanity in warfare which is seemingly devoid of it, and preserves life and respect which are essential to improving the prospects of restoring amicable relations post-war. Mercy is thus a product of recognising humanity. Its beneficial nature to both friend and foe and encouraging the exhibition of ethical conduct holds immeasurable utility for the waging of just wars. Although by no means frequently exhibited, the introduction of LAWs has a significant likelihood of displacing them altogether by removing the ability for the opposing force to exhibit merciful actions, and thus has further ramifications for the ends we ourselves seek to achieve in war.

Although LAWs potentially possess transformative capabilities in terms of preventing suffering via greater precision, we should not forget the utility that humans are capable of instantiating. Perhaps instead of removing these aspects of warfare that have beneficial outcomes to the pursuit of peace and ethical behaviour, it may be better to encourage virtuous dispositions rather than replacing them altogether. Reconciling the preventative nature of LAWs with the intrinsic and instrumental benefits of humanity is no easy feat. Yet in highlighting positive human characteristics, this argument begins the discussion about which areas we are willing to sacrifice in the future.

### **Part 3: Achieving Peace after War: LAWs as Wrongdoers and Moral Repair**

Although *jus post bellum* focuses on post-conflict actions from an ethical perspective, there is an alternative view of peace theory derived from a practical perspective: peacebuilding. This area possesses an alternative utility from *jus post bellum* considerations by addressing descriptive mechanisms and requirements for peace rather than normative ones. Although both largely talk of ‘societal repair’ in the form of institutional changes and reconstruction, this section turns to the need for ‘moral repair’ defined as; “the task of restoring or stabilizing – and in some cases creating – the basic elements that sustain human beings in a recognizably moral relationship” (Urban Walker, 2006, p.23). Although just war theory focuses on ways to reduce suffering and harm through a set of rules to limit the proclivity and destruction of war, it says little about the ways in which wrongdoing should be repaired. Schulzke (2017) has provided an account of just war theory that attempts to highlight the absence of duties towards non-combatants during warfare so as to address the current “inadequate respect for civilian’s rights in just war theory itself” (p.219). This is indeed a welcome advancement in the direction of understanding how just war theory can be adapted to include what happens when its tenets are transgressed, especially towards a thorough account of the legal challenges faced too as is presented within Schulzke’s *Protecting the Victims of War* (2017). This section of the paper aims to deepen this enquiry into the underdeveloped areas of just war theory pertaining most fundamentally to the necessity of moral repair.

Throughout this section of the paper I will focus on descriptive measures for repair that are discussed within peacebuilding, and show how they are relevant to the ethical concerns of this paper. The following discussions concern the relationship of LAWs to three areas of moral repair; forgiveness, reconciliation, and truth telling, highlighting the way in which obligations incumbent upon wrongdoers manifest themselves in duties for moral repair post-conflict.

Since I acknowledge that the potential for greater precision and reduced suffering produced by LAWs is positive, one might reasonably argue that this outweighs the demands of repair, at least within the bounds of just war theory. However, I see the benefits of preventing harm as having an important instrumental component; the limited

waging of war against unnecessary suffering is beneficial for *peace*. Walzer (1992) argues that “[t]he utility of fighting limited wars ... has to do not only with reducing the total amount of suffering, but also with holding open the possibility of peace and the resumption of pre-war activities” (p.132). We can therefore perceive value in moral repair given its direction towards sustainable peace. Although just war theory directs us towards the imperative to limit suffering, it does provide a framework through which we can identify when morally culpable harm has been committed.

I do not see the limited waging of war in reducing suffering, and the establishment of mechanisms for dealing with suffering (repair), as competing areas since both are equally complementary to the pursuit of peace. Given my views on *jus post bellum* as a forum of accountability and repair in order to better realise the goal of peace, I also view these as mutually existing with the remit of just war theory. Therefore, I see moral repair and its various mechanisms as conducive to peace, since the repairing of relationships and engendering of respect procures fertile ground for cooperation and societal repair.

The conclusions I reach in this part are tentative in their applicability, and I make efforts to show that the limitations of successful repair via LAWs is not tantamount to their ethical impermissibility. I emphasise the importance that means play in achieving ends, and how the implementation of LAWs as potential wrongdoers serves to transgress obligations for repair placed upon them. Though suffering is reducible via LAWs, this does not equate to the abolition of suffering altogether. So long as we are aware of the advent of suffering, and the benefits (and in many cases necessity) of repair to sustainable peace, it is worth our time enquiring into the ways that LAWs fall short of reparative duties, and how this impacts the goals of just war theory.

In discussing LAWs as ‘wrongdoers’, I am almost exclusively addressing wrongdoing from a consequentialist perspective. Within the realm of moral repair, the impact on victims is of heightened importance, and thus the consequence of action which brings unjust harm is denoted as ‘wrong’. Although deontological and virtue ethics are competing legitimate perspectives of what constitutes wrong, their insistence on the possession of wrongful *intent* or bad *character* appears to be problematic in this context. The difficulty with concluding that LAWs can *intend* at all, or that such intentions are endogenously derived from an individual character, seems to make it difficult to apply deontological or virtue ethics to the ethical judgment of LAWs’ actions. As such, it is pragmatic to rest the following ethical judgements within the realm of consequentialist reasoning.

## **10. Forgiveness**

Within *jus post bellum* or peacebuilding discussions, there is a lack of attention paid to the act of moral repair. Instead, *jus post bellum* prescriptions mainly focus on macro-level changes, (such as reinstating sovereignty and reconstruction of infrastructure and institutions), rather than individual level repair.

War has a detrimental effect on relationships. Pre-war relations are destroyed, and are often seen as irreparable; especially when the process of dehumanization is inculcated. How do we then go about repairing relationships between individuals as well as collectives so as to sustain the fragile peace attained post-conflict? Without a secure foundation from which to build peace upon, with resentment and anger still fostered, we cannot realistically enter into discussions concerning reconstructing or reforming institutions. I see moral repair, or efforts to achieve its constituent parts, as a necessary basis from which to build lasting peace upon; for if we can move beyond wrongdoing and negative feelings between previous enemies, then the seeds for future conflict will have been diminished in constructive ways.

This chapter begins by outlining the concept of forgiveness through its definitions and types to understand the demands entailed. I assess the compatibility of LAWs to forgiveness in connection with both its nature and subsequent conditions relating to victims, perpetrators, and within the act itself. I show why forgiveness is conducive to peace due to its consequences of developing moral repair between individuals as well as collectives, before highlighting the compatibility between forgiveness and LAWs within the wider theoretical schema of *jus post bellum*. Given that LAWs are unable to carry out forgiveness or be recipients of it; their implementation within war becomes morally problematic since their actions cannot reasonably be directed towards a sustainable peace via forgiveness.

### **10.1 Background on Forgiveness**

#### **A) Overview of forgiveness**

Forgiveness requires three pre-action conditions; a wrong must have been committed, for we cannot forgive something that was not wrong, even if only in the subjective sense; there must be a victim such that the wrong cannot be passive – for example, a collectively

perceived wrong such as speeding is not, *prima facie*, forgivable since it is lacking a *victim*; and the consequences of committing that wrong must lead to a development of justified negative sentiments towards the wrongdoer.

### **B) Defining Forgiveness**

Forgiveness predominately entails the foregoing of resentment and negative feelings towards the wrongdoer (Govier, 2002; Griswold, 2007; Salzberg, 1995; Murphy, 1988), with resentment defined as “a response not to general wrongs but to wrongs against oneself” (Murphy, 1988, p.16). Forgiveness is endowed with meaning because it overcomes genuine and justified feelings of resentment. Walsh (2005) similarly argues that forgiveness entails holding the offender “excused from an offence, even in one’s thoughts, while still acknowledging his or her responsibility for the offence” (no page), and Roberts (1995) alternatively suggests that forgiveness “is a dispelling of justified anger at one who has offended against oneself” (p.302). These two definitions complement those previously mentioned and strengthen the view that forgiveness requires forswearing resentment and overcoming negative feelings. Given the complementary nature of the aforementioned definitions, I accept that forgiveness entails victims to forego negative sentiments, whether resentment or alternative emotions – such as anger, hatred, or the desire to seek revenge– and thus arrive at a situation whereby the wrongdoer is redeemed from the offence.

### **C) Types of Forgiveness**

Forgiveness can also manifest itself in two types; within a bilateral context, whereby the act is situated between the two principle agents of forgiveness –the victim and wrongdoer – and also on a mutual level in acknowledging the reciprocity of wrongdoing and suffering which is largely contingent to conflict. Importantly, military conflict produces grounds for mutual forgiveness, since neither military force are simply victims or sources of wrongdoing, but occupy the space in between. Just war theorists may disagree with the manifestation of mutual forgiveness, since one may take the view that the *unjust* side must surely have more to apologise for, or perhaps have the sole burden of apologising. Even if one rejects the moral equality of combatants (whereby regardless of *ad bellum* conditions, combatants are equally liable to lethal force), mutual forgiveness is reconcilable with just war theory. For example, it would be disingenuous to argue that the just side cannot commit wrongdoing towards the unjust side, even despite their morally permissible cause. Just combatants are therefore morally culpable for harm they inflict. From an *ad bellum*

perspective there might be a hierarchy of culpability for wrong committed, yet this says nothing about wrongs committed during war which either side can be subjected to.

## **10.2 Forgiveness and LAWs**

The compatibility of LAWs to the act of forgiveness will be assessed in relation to the necessary conditions required, and will look at three conditions; those related to the forgiver, wrongdoer, and within forgiveness itself.

For the forgiver, Griswold (2007) believes that “recognition of shared humanity by the injured party is a necessary step on the way to forgiveness” (p.79). It is necessary that the forgiver see the wrongdoer as human as the shared mutual humanity allows for the necessary conditions of forgiveness to flourish. Similarly, Roberts (1995) argues that the victim has to know “that her anger can be reduced by finding excuses for her offender, by considering her own moral resemblance to the offender, by focusing compassionately on the offender’s misery, [and] by remembering her own indebtedness” (p.303). The recognition of equal fallibility is an essential feature and condition of forgiveness.

It is difficult to see how a victim could reasonably excuse the actions of the wrongdoing agent to the extent of forgiveness when they are not like-body and mind, possessive of the same capacities, and lacking “moral resemblance” (Roberts, 1995, p.303). The recognition of humanity within forgiveness is necessary precisely because the parties to forgiveness are similar enough for such sentiments to arise, and not differentiate between essential natures and characteristics. Within these conditions it is clear that arguments can be made for an anthropomorphic condition of forgiveness, thus requiring human combatants as the principle agents of warfare if the reparative nature of forgiveness is desired post-conflict.

For the wrongdoer, Griswold (2007) argues that they must acknowledge responsibility, repudiate their deeds, experience and express regret, commit to being the sort of person who does not inflict injury, and show they understand the damage done. In relation to LAWs, I have no trouble imagining that they could commit a wrongful act. My difficulty is their capacity to acknowledge their offence.

Fundamental to the renewing of relationships is the ability to put things right between individuals who were wronged, and no longer feel such actions affect their views of the wrongdoer. This is achieved through the genuine expression of regret and being believed in their repudiation of misdeeds and commitment to a better future (Griswold, 2007). I see

these conditions as being incompatible with the capabilities of LAWs. This is because of the difficulty of LAWs expressing regret in the way we might expect humans to do so and equally be convinced by. Since forgiveness is counter to one's intuition of foregoing legitimate negative emotions, the relationship between victim and wrongdoer must be genuine. Similarly, LAWs are required to commit to becoming a better self that turns against former dispositions. Can we envisage LAWs to publicly show declaration of this reformation – or have it mean something to LAWs as a personal recognition of wrongdoing? I view this as unlikely since the recognition of wrong demands different processes than merely carrying out a wrongful act, such as moral awareness, and the repudiation of misdeeds is an important *internal* process, not simply imposed from the outside. Requirements upon actors within forgiveness to acknowledge their responsibility and wrongdoing whilst committing themselves to do better in future, places significant questions over the ability of LAWs to be involved in the act of forgiveness.

Griswold (2007) also sees guilt as the key motivator for forgiveness, such that we envisage forgiveness as only truly arising when the guilty are involved within the act, arguing that “[t]he wish to alleviate the burden of guilt is surely the most common and pressing motive for requesting forgiveness” (p.52, italics in original). There are legitimate metaphysical questions as to whether LAWs could realistically acknowledge their actions as being wrong *per se*, never mind feel guilty and seek to do something in response.

The final set of conditions relate to the act of forgiveness in general, that if not met forgiveness will not take place, or not be *forgiveness* in any meaningful and generally understood sense. Griswold (2007) argues that forgiveness is underpinned by “[t]he ideals of responsibility, respect, self-governance, truth, mutual accountability, friendship, and growth” (p.213). We can recognise the importance of each condition, and similarly recognise their anthropomorphic nature. Let us take, for example, mutual accountability and friendship as two qualities necessary for forgiveness, yet somewhat anthropomorphic.

First, mutual accountability within the context of forgiveness requires being able to hold the wrongdoer responsible, not only for the wrongs they have committed, but also for their future deeds such that trust is secured. This is anthropomorphic in two respects. As outlined before, there are few available other agents to take responsibility for autonomous weapons (Sparrow, 2007). Forgiveness requires, to a large extent, that responsibility be sought for the wrongdoing by the perpetrator, and thus it is as an endogenous process that meaning is found within the healing nature of forgiveness. If LAWs, as an agent in war



capable of committing wrongs, are not capable of being held accountable for them, then this contravenes the necessity for mutual accountability.

The *mutual* feature of this condition is somewhat contextually anthropomorphic too. Since LAWs must hold the victim of their crime accountable (presumably for the offering of *genuine* forgiveness and not self-interested or alternatively motivated forgiveness-like acts), this places mutual accountability within the realm of human-human interaction. It is difficult to envisage how humans might appropriately hold autonomous weapons responsible for their wrongs and how an autonomous weapon might reasonably reciprocate this.

Second, friendship is a two way process, a relationship between two parts of relative equivalency that must both be aware of their nature. The relationship between humans from which friendship springs is not the sort that is easily theoretically replicated, and indeed necessarily reciprocated, by humans towards machines and *vice versa*. Forgiveness aims to bring about some kind of relationship, in degrees of friendship or amicable relations, which requires the ability to relate and omit those characteristics necessary for genuine connections between agents. This is something beyond the *prima facie* replication of human functions in machines, but instead relies on its approach and behaviour towards those around it (in this case LAWs) and the way others are towards them. In the restoring of relationships within moral repair we see a fundamental rejection of LAWs, in that they are by their nature as non-humans, opposed to the sorts of positive relations we seek to bring about through forgiveness and moral repair.

Alternatively, Long (1994) argues “that an act for which forgiveness is sought must involve something less than either full knowledge of the alternatives or their consequences and/or less than full freedom to choose among them” (p.107). There are two parts here which are contingent to bringing about forgiveness.

First is the extent of knowledge we have over the consequences of our actions. *Intending* harm means that forgiveness is unlikely to take place; whereas committing an act which has *unforeseen* wrongful consequences can still be forgiven. We can reasonably envisage LAWs as unable to a) act on less than full knowledge of its actions, and b) prove that it did not have full knowledge. On a), the inputs leading to the decisions and actions of LAWs are fully considered and entered into the process. It is therefore only acting because of those inputs. Although consequences cannot be wholly foreseen, in the case of collateral damage, this is no different to human combatants and thus the outcomes are still evidence

of wrongdoing. On b), how would the machine profess acting on less than full knowledge? Perhaps in a mechanised way whereby a list of inputs which led to the decision could be uncovered and analysed, although this would be an external process placed upon the machine, rather than an endogenous process originating from within. An inward desire to do so, and a knowledge of the meaning in *proving* that they had less than full knowledge, as well as why they would want to do so, is something that forgiveness requires in what is essentially a two-party action. This is clearly a demand that is difficult for LAWs to fulfil in the theoretical sense given the need for moral awareness.

Second is the requirement of having less than full freedom to choose among the available actions. In this sense, if one was free to choose, and *intentionally* chose the action with wrongful consequences/outcomes, then forgiveness cannot easily occur. With respect to LAWs being able to fulfil these conditions, the conclusion is dependent upon the ultimate nature of LAWs. If their nature is a determinant on the plausibility of achieving the necessary outcomes related to forgiveness, we must ask; what would the deliberative process within LAWs look like in choosing/deciding their actions? Although this is speculative and thus difficult to determine, we have seen with the condition on knowledge that there is an inherent difficulty in proving one's intentions.

However, some features of AI programming simply do not allow this avenue to be explored at all. Matthias (2004) argues that attempts to create connectionist systems within learning artificial intelligence – whereby the “basic principles of neural operation in living systems” (p.178) is emulated – gives rise to an evaluation that can only be deduced from behaviour. Matthias argues that within connectionist systems we cannot “have a look at the information stored inside the network, or even more importantly; see what information is *not* represented inside it” (p.178-9). Therefore this avenue of exploring the mechanical representation of what actions were taken, or other opportunities available that were *not* taken, is therefore testament to the glaring difficulties that LAWs have in replicating reconciliatory mechanisms.

These two conditions are not only dependent on what actually happened, but also on the extent to which the forgiver knows what happened too. Since trust is important within forgiveness, transparency over the process which brought about the wrongful act is essential to successful acts of forgiveness – and also in some respects is an obligation incumbent upon the wrongdoer in order to prove their commitment to the act of forgiveness and to a future without committing those wrongs again. LAWs have difficulty proving choices, available alternatives, and why it chose the wrongful act due to limitations

in communication and trust between machines and humans. As such, LAWs have difficulty fulfilling conditions which are necessary to forgiveness.

Importantly, forgiveness is only acceptable; “in cases where it is consistent with self-respect, respect for others as responsible moral agents, and allegiance to the rules of morality” (Murphy, 1988, p.19). The conditions of when forgiveness is appropriate similarly delineates when forgiveness is virtuous or not. If actions are ‘forgiven’ regardless of severity or other aforementioned conditions, then the transgression of self-respect highlights its lack of virtue in that situation as it is inappropriate. Forgiveness thus requires an intuitive understanding of the complex prerequisites and conditions, and how they relate to our feelings about the wrong committed.

With respect to LAWs, to what extent can we say that machines merely replicating the *outcomes* of humans through various inputs can truly replicate the necessary interpersonal and related functions that forgiveness requires? LAWs, since they cannot fulfil the demands placed upon wrongdoers within forgiveness, lack the ability to be *appropriately* forgiven thus burdening the victim to transgress their self-respect and moral dignity. Therefore, LAWs can neither lead to virtuous behaviour on the part of the forgiver, nor be conducive to the renewal of relationships.

Through the demands upon victims, wrongdoers, and the broad conditions of forgiveness in general, LAWs frequently transgress the accepted provisions for producing successful forgiveness and moral repair. However, this only becomes *morally* problematic when assessed against the importance of forgiveness as a mechanism for achieving peace.

### **10.3 Forgiveness and Peace**

The inability for LAWs to act within forgiveness is only of concern when forgiveness is valuable to the pursuits of peace. This can be determined through two areas; being free from the past and the renewal of damaged relationships. I argue that the failure of LAWs to bring about the act of forgiveness becomes ethically problematic if implemented within war as a result of such inadequacies.

Being free from the past is a benefit of forgiveness. The ability to distance oneself from the past has both intrinsic and instrumental value. Forgiveness intrinsically plays a therapeutic role as thoughts of guilt or grievance are admonished. Instrumentally, it allows for moving forward from past events and approaching things anew in a seemingly more positive way. Govier (2002) argues that forgiveness benefits the wrongdoer with “the opportunity to

begin anew, allowing the better acts and a brighter moral future are possible” (p.44), and benefits the victim by “escaping negative emotions of anger and resentment with more positive emotions and escaping a fiction with the past and potentially obsessive desire for revenge” (p.49). Both ‘escaping’ and ‘fresh start’ are inferences of moving forward. Shriver (2001) argues that forgiveness is able “to unlock a society in danger of being imprisoned in the past” (p.167). The manifestation of forgiveness in this context is evidently beneficial, in both its intrinsic and instrumental consequences towards peace.

The second benefit of forgiveness is the healing of damaged relationships. This is inferred throughout the literature (Roberts, 1995, Hampton, 1988). Conditions such as the interpersonal process of forgiveness, as well as the development of empathy and generation of mutual recognition all lead to the idea that forgiveness heals. Forgiveness does not mandate a *type* of relationship, yet its requisite actions lay the foundations upon which to build new relations and repair those previously destroyed. Once one can move beyond the past, there are no barriers to a relationship, pointing us in the direction of advocating for forgiveness post-conflict. Since war contingently destroys relationships, and we can collectively recognise that peace is sustainable when relationships are genuinely renewed, we can advocate for the necessity of forgiveness in achieving the function of moral repair. By its very nature, in foregoing resentment, forgiveness is conducive to peace. The relinquishment of resentment is unlikely and therefore we cannot *expect* its large-scale use. However, we must understand the importance of renewed relations between wrongdoer and victim in contributing to moral repair.

In order to advocate for forgiveness on a larger scale than merely the interpersonal which we have done thus far, it is helpful if forgiveness can be situated between collectives rather than simply individuals. If we can satisfy collective forgiveness, then it becomes more valuable to large scale peace processes and not strictly within the realm of individuals.

Govier (2002) argues that group level forgiveness can take place since groups fit the necessary elements required for forgiveness, such that they “can be agents responsible for wrongdoing ... can suffer wrongful harm ... [and] can have –and amend – feelings, attitudes, and beliefs about various matters, including harms they have suffered at the hands of others” (p.87). I am inclined to agree with this point on groups being able to fulfil the elements required by forgiveness. Govier argues that “[t]here is no justification for a pessimistic double standard at this point. If negative emotions and attitudes such as hatred, rage, and vindictiveness can characterise groups, so too can positive actions such as

affection and compassion” (p.91). Given that theoretically groups can undergo the sorts of process and conditions necessary for forgiveness, and we frequently normalise the attribution of negative emotions and attitudes at the collective level, it is not a stretch to say that groups can forgive. Therefore, we can say that forgiveness is evidentially beneficial for peace as it is a mechanism which can conceivably take place on a large scale, and thus extend the benefits of healing and renewed relationships more effectively.

However, there are a number of criticisms to collective forgiveness which I believe are ill-founded, and will thus be dealt with in turn.

Griswold (2007) sees forgiveness as being replaced with the term ‘apology’ at the group level and emphasises the myriad of alternative factors in play at the political level beyond the pure form of forgiveness. Griswold argues that the ascription of forgiveness to the political realm is metaphoric and not *actual* attribution, arguing that “[a]t the political level, the spokesperson for a political entity may apologize for an injury committed by the body even though neither the spokesperson nor any of its current members may personally be responsible for the wrongdoing” (p.140).

I agree that group forgiveness, whether we frame it in the public or political space, is difficult because of the plethora of additional interests and actions taking place. The pure motive of forgiveness is harder to repatriate beyond the interpersonal. Griswold is also correct in asserting that if a group consists of current members who did not bear witness to the wrongdoing, whether as victims or culpable for a wrong committed, forgiveness cannot by definition arise.

However, I see group forgiveness rising out of membership from certain groups based upon the equality within which one is a party to wrongs committed (whether victims or wrongdoers). Instead of seeing the *group* as a corporation or body of individuals who collectivise around a specific interest, I instead see the *group* formed as a result of its member’s culpability to wrongdoing or as victims of the same actor. Although this requires a specific and somewhat semantical redefinition of ‘group’ or ‘collective’, it shows how forgiveness takes place beyond the interpersonal. Members of a group cannot forgive if they were not wronged or wrongdoers. This seems self-evident if one understands the necessary conditions of forgiveness, and something I see missing from Griswold’s claim. It is because the group does not fit the conditions of forgiveness, not forgiveness in general, that is important in this example.

Furthermore, I do not see a significant variation between the term apology and collective forgiveness. Ignatieff's (1998) outlines the process of 'apology', and displays essential elements which are present within forgiveness, that;

“Without an apology, without recognition of what happened, the past cannot return to its place as the past ... Of course, an apology must reflect the acceptance of the other side's grief” (p.189-190).

The acknowledgement of past wrongs is an important feature of forgiveness, and one can take little away from a unique exploration of 'apology' in its place. An apology includes recognition of wrong committed, the admonition of guilt, and an acceptance of the harm caused, all of which are important elements in forgiveness too. Therefore it is clear that the way I have outlined forgiveness above is conducive to a collective manifestation, and thus supports the pursuit of peace by engendering the benefits of forgiveness on a larger scale.

A similar criticism of group-level forgiveness comes from Long (1994), arguing that “one relates corporate intention to individual intentions, that relation becomes still more problematic when the corporate self outlives the individuals who provided its original occasion” (p.113). In making this assertion, Long (1994) evokes an example of current day Germany requiring forgiveness for the actions of its Nazi history. He argues that “the enormity of the Nazi wrongdoing and the related fact that the primary victims cannot speak for themselves contribute to a conflicting sense ... that whatever efforts Germany may make –corporately or individually – those do not remove the burden of Germanys past” (p.113).

I take issue with this argument too. I would say that it is not a 'related fact' that the primary victims cannot speak for themselves but is actually at the centre of this example. I understand forgiveness in the bilateral sense (Govier, 2002) as a process which requires assent from the victim in order for the wrongdoer to be forgiven. This is the reason that we cannot attribute corporate level forgiveness to the aforementioned example.

I also find the term 'corporate' in place of 'collective' problematic too. In a corporate environment, it is conceived that agency stems from the corporate insofar as its constituent individuals can change (just like in a corporation with changes through individual employment) yet the *corporate* itself remains the same, such that it is not identified by its specific members. This is the same formulation as is evident within a conglomerate conception of responsibility (French, 1984, p.13f) and is present within

Long's concern of the 'corporate' outliving the individuals. However, in the case of forgiveness at the collective level, this does matter. One cannot join the collective of victims without having been wronged in the same way or by the same actor. Its constituent members are the victims, yet it is the broad scale and shared experience of wrongdoing that constitutes the collective in the case of forgiveness. For this reason I prefer the term collective, as it refers more closely with the notion of a collective of similar individuals of similar experiences, rather than a corporate conception which *prima facie* represents something external to its constituent members.

Another counter-argument may take the form that, without a formal decision making structure within such groups committing harm, how can collective forgiveness take place or at the very least, how can we hold individuals of that group collectively responsible for forgiveness too? May (1987) deals with this issue by asserting collective responsibility through a 'mob' (which has no decision-making structure) in three ways; "by direct causal contribution ... by indirectly contributing through aiding or facilitating those directly involved ... or by indirectly contributing through omissions" (p.75). In this formulation, the group is constitutive of the harm its individuals bring, but for the reasons of associative responsibility. Therefore, we might reasonably attribute responsibility for wrongdoing to a group based upon collective responsibility and causal links to harmful consequences via its constituent members. Although the most controversial of these conditions is the third – that one is responsible via omission – May's arguments highlight why it might be intuitively possible for that same group to request forgiveness (or forgiveness like acts that equally constitute the sort of moral repair we are seeking). Omissions count in ascribing moral responsibility since "the omission contributed to the result ... *and* the omission was not part of the normally existing background conditions" (p.77, *Italics in original*). The background conditions which are accepted by group membership distinguish the group's members from disassociated bystanders. As such, as forgiveness is sought from the group, its members are collectively responsible for its transmission and acceptance.

I take the view that group-level forgiveness can take place and thus we can derive two aspects; a) that we can include forgiveness as a more universal principle for post-conflict peace. If, by virtue of war, one becomes a perpetrator of violence and a victim of it, there are grounds for repairing relationships between groups and not simply individuals. And b) collective wrongdoing can generate possibilities of collective forgiveness. If this can in theory take place, that former enemies relinquish negative feelings and recognise the

exculpatory factors to those who committed wrongs, we can extrapolate interpersonal-like acts onto the collective. Therefore, forgiveness becomes conducive to the demands of peace on a larger scale rather than strictly interpersonal.

Collective forgiveness has ramifications for LAWs, for if we see that collective forgiveness can take place between combatants and between combatants and non-combatants, and is beneficial to moral repair on that scale, then we must include human combatants in order to be able to extrapolate the necessary elements of collective attribution within group-level forgiveness, such as responsibility, dissemination of information, and agreement on collective intention.

Shriver (2007) place these benefits of forgiveness within the political context and intrinsically linked towards the ends of peace, arguing “[p]eace and reconciliation are the great purposes and consequences of just and forgiving resolutions to political conflict ... for recovery from the vast uselessness of most warfare, forgiveness may be a critically important political virtue” (p.52). For Shriver (2007), the pursuits of justice and forgiveness are not contradictory procedures and processes, but instead complementary to achieving peace on the political level.

#### **10.4 Are Forgiveness and *Jus Post Bellum* Compatible?**

The discussion of forgiveness takes place within *jus post bellum* discussions on peace and justice, and therefore it is important to show how concepts of moral repair are compatible with *jus post bellum*. The objection to their compatibility is that forgiveness does not allow for punishment, and since *jus post bellum* requires wrongful acts be held accountable and punished, this misconception needs to be settled.

Punishment is a common feature of justice, and thus present within *jus post bellum* too. A core component of justice within war is that people are held accountable for their actions, such that justice can be served through various mechanisms including retributive justice, publicly, or through distributive justice in the form of punishment. Punishment is metered out to those that have committed unjust actions, and plays a corrective function on future behaviours, such that providing accountability for one’s action deters similar injustice.

Punishment is important within *jus post bellum*. Within the minimalist approach the vindication of rights is linked to some form of accountability via punishment, and similarly a maximalist approach requires punishment as it is necessary in moving towards



peace. The formal settling of the past, whilst also recognising the wrongs committed on both sides, are a core component of punishment and justice.

Forgiveness and punishment are compatible given that forgiveness does not require one to forget or ignore the wrongdoing suffered, but instead requires the acknowledgement that although the wrongful act is bad, he or she who committed the act is not. Salzberg (1995) summarises this point aptly in that “[f]orgiveness does not mean condoning a harmful action or denying injustice or suffering” (p.75) and Walsh (2005) arrives at a similar conclusion, that forgiveness means; “to hold him or her excused from an offence, even in one’s thoughts, while still acknowledging his or her responsibility for the offence” (no page). The important area for forgiveness is how we separate the actions from actors when victims of wrong, and similarly how, as wrongdoers, we allow ourselves to be redefined as separate from the wrong committed. It is clear that forgiveness allows for punishment, and is thus conducive to inclusion within *jus post bellum* considerations.

Similarly, Govier (2002) provides the summary of these features in that forgiveness demands only the forswearing of resentment toward the causer of the wrong, and not the wrong itself; that

“to regard people as absolutely unforgivable on the ground that what they have done is atrocious is to extend attitudes, unwarrantedly, from acts to persons, to argue from acts to character is such a way as to mark an irrevocable stain on the agents ... To claim that because he has committed terrible deeds a moral agent is thus absolutely unforgiveable is to ignore the human capacity for remorse, choice, and moral transformation” (p.93).

In this sense, it can be said that forgiveness is aimed uniquely at the wrongdoer and not the wrong; that the wrong is not forgiven or corrected in any way – excused or other – but rather the wrongdoer is treated anew *despite* out feelings towards the act. Forgiveness does not necessitate we forego obligations incumbent upon us to deliver justice, and therefore the act of forgiveness is consistent with the demands of *jus post bellum*.

## 10.5 Conclusion

The concept of forgiveness has been addressed both in relation to its nature and subsequent conditions, its compatibility with LAWs, as well as its importance to both the peace process and relevance to *jus post bellum*. It has been shown that LAWs are incapable of fulfilling the demands incumbent upon actors within forgiveness from three perspectives. First, for victims, LAWs cannot be forgiven in any meaningful sense, since the recognition of a shared humanity is a fundamental principle within this area. The ability to acknowledge the equal fallibility of oneself with the actions committed by the wrongdoer is unattainable for humans to accomplish in relation to LAWs. Second, wrongdoers within forgiveness are expected to acknowledge their wrongdoing and persuasively commit to a future without continuing that offence. LAWs are incapable of publicly acknowledging their wrongs, since this demands an awareness of right and wrong and the contingent moral awareness of ones actions. Given their nature, LAWs are unable to convincingly *commit* to any kind of future, since this equally requires the advent of internal processes and a genuine desire to do so. And third, LAWs are unable to fulfil the additional demands of forgiveness itself, such that they transgress the requirements of foreknowledge, less than full freedom, as well as burdening victims with a transgression of self-respect in the event that they are actually forgiven.

I have also shown how forgiveness is integral to moral repair post-conflict in its encouragement of the necessary factors conducive to peace. Since forgiveness benefits its actors from freeing them from past events, as well as repairing broken relationships, the inability of LAWs to forgive or be forgiven has evident ramifications for the likelihood of peace. Since LAWs are incompatible with the act of forgiveness, and that forgiveness is integral to peace, the actions of LAWs within war are questionable ethically as per the dependence approach, since their actions cannot reasonably be directed towards reparative ends and a sustainable peace. There are further obligations upon wrongdoers in achieving peace post-conflict, and it is within this realm that LAWs fail to satisfy such obligations.

## **11.Reconciliation**

Reconciliation is an important concept when looking at moral repair and its necessary components. As shown within the previous discussion on forgiveness, there are demands upon wrongdoers post-conflict requiring conditions that LAWs are unable to fulfil. Importantly, if reconciliation between wrongdoer and victim is constructive for sustainable peace post-conflict, then can LAWs replicate the demands upon wrongdoers? For if they cannot fulfil the conditions incumbent upon actors within reconciliation, their actions within war cannot be directed toward peaceful ends. This is an ethical dilemma as laid out through the dependence approach within *jus post bellum*, and therefore challenges the implementation of LAWs as ethical agents within war.

I begin this chapter by outlining the definitions and types of reconciliation, and aligning those conclusions with the ability of LAWs to achieve reconciliation. I then turn to mechanisms of reconciliation, and argue that the necessary acknowledgement, cultural awareness, and accountability, are found wanting when LAWs become principle agents of warfare. I show both theoretically and empirically that reconciliation is an essential process in securing sustainable peace, before responding to a likely criticism from the perspective that reconciliation within different cultures might discount some of the concern raised with wrongdoers being unable to participate fully in such processes. I conclude by highlighting that LAWs jeopardize the process and mechanisms of reconciliation which thus becomes morally problematic given the dependence approach of *jus post bellum*.

### **11.1 The Nature of Reconciliation**

#### **A) Defining Reconciliation**

There is a general consensus on how one can define reconciliation. One suggestion within the literature involves the restoration of relationships. For Govier (2002), reconciliation means “coming together again, in restored relationship, after a rift resulting from actual or perceived wrongdoing on the part of one or both parties” (p.141), and similarly for Hamber and Kelly (2009), one of the core elements of reconciliation includes the “[b]uilding of positive relationships” (p.292).

Similarly, reconciliation is considered in relation to the establishment of a desired ‘wholeness’. Peterson (2001) defines reconciliation as a “a restoration or even transformation toward intended wholeness” (p.13), whilst Villa-Vincencio (2006) sees

reconciliation as “perhaps an anthropological if not a primordial longing for wholeness, even where wholeness is no longer part of historical consciousness” (p.62).

Therefore two important aspects can be derived. First, both conceptualisations of reconciliation are complementary, since they necessarily include a restoration of what was broken. Second, the inclusion of an innate longing for ‘wholeness’ places reconciliation in an anthropomorphic perspective, such that ‘longing’ to be whole is intrinsic to humans. This is relevant to whether we can expect LAWs to carry out the same necessary functions that lead to peace. If the intimate longing for wholeness is not present within LAWs, then they cannot personally carry out reconciliation *in the same way*. I am accepting of both conceptions within the following discussion on the relationship between LAWs and reconciliation, since how we see reconciliation and the way it is defined has implications for the way we expect it to be carried out.

## **B) Types of Reconciliation**

It is also important to look at the types of reconciliation. Clegg (2008) develops a typology of reconciliation in four stages. Political reconciliation concerns macro-management such as peace deals and negotiations; societal reconciliation consists of a group-to-group level and “tries to establish or re-establish the possibility of people co-existing without violence in a shared space” (p.83); interpersonal reconciliation “is directly about personal hurt and healing” (p.83) between individuals or small groups; and personal reconciliation “is about a person reconciling the parts of her/himself that are, or have become, alienated since conception” (p.83). Clegg argues that although we focus predominately on personal and political reconciliation, the others are valuable since they tell us something about reconciliation too.

Gloppen (2005) divides reconciliation into thicker and thinner perspectives. A ‘thinner’ perspective describes mere non-violent coexistence, whereas ‘thicker’ involves a shared comprehensive vision of a common future. There also exists a middle ground which creates conditions “where former enemies may continue to disagree, but respect each other as citizens with equal rights” (p.20). These varying lenses of reconciliation recognise its complexity and highlight the important role it plays within renewing relations and moral repair.

Borer (2006) principally views reconciliation as existing within two strands; individual reconciliation, and national unity reconciliation. Individual reconciliation can either exist

within a medical paradigm, emphasising the healing of individual victims and the restoration of relationships, or a religious paradigm which alternatively emphasises repentance and forgiveness (p.32). National unity reconciliation is close to a political perspective, starting from the assumption that since enemies are unlikely to agree with each other, the best outcome is peaceful *coexistence*. It is associated with; “tolerance, peaceful coexistence, rule of law, democracy, human rights culture, conflict resolution, transparency, and public debate” (Borer, 2006, p.33). Borer argues that both of these models are necessary for peace. “A society at peace is one in which not only victims are healing and victims and perpetrators coexist, but in which the rule of law, gender equity, justice, human rights, and tolerance flourish as well” (p.35). Reconciliation is thus different to the aforementioned tenets of forgiveness, and equally necessary for peace. By including third parties within reconciliation such as courts, tribunals or truth commissions, the mechanisms are different to those of forgiveness.

## **11.2 Reconciliation and LAWs**

Since the background of reconciliation has been addressed, we now turn to the way that LAWs can be expected to fulfil the demands of reconciliation, and in turn, aspects of moral repair. With respect to the nature of reconciliation, such as fulfilling the longing for wholeness and its interpersonal and collective manifestations, LAWs are inherently disadvantaged. Similar to interpersonal forgiveness, individual reconciliation is uncondusive to non-human actors, and reconciliation’s definition in satisfying the innate longing for wholeness and repaired relationships attests to this, for it presupposes the presence of the internal longing and incomplete wholeness. The extent to which LAWs can *desire* something such as wholeness – let alone whether LAWs could feel ‘less than whole’ – is questionable. Reconciliation derives its meaningfulness through the desire from both parties to accomplish their aim. It is because they are both consenting and willing to enter into reconciliation that it is effective at renewing relationships and moral repair – for example, this would not be the case if the desire for moral repair via reconciliation was unilateral.

Although political reconciliation is vaguer, collective reconciliation involves a process consisting of individuals reciprocally experiencing injurious relations in need of repair. As such, political/collective reconciliation must acknowledge individual actors in order to be successful in restoring relationships or establishing peaceful coexistence. Since reconciliation means little to LAWs given their inability to desire such ends, this highlights

the redundancy of reconciliation for LAWs, yet fails to dispel its necessity for victims of wrongdoing. If LAWs cannot provide the requisite elements of moral repair via reconciliation, then we have no choice but to question their implementation within warfare as they jeopardize the mechanisms of peace as a result.

Addressing the mechanisms of reconciliation is another avenue for exploring the compatibility of LAWs to reconciliation and subsequent moral repair. Gloppen (2005) introduces two important mechanisms for establishing reconciliation; the need for justice (holding perpetrators accountable), and the need for truth, restitution and rehabilitation of individuals (acknowledging and repairing damages). Hamber and Kelly (2009) propose similar mechanisms for reconciliation. They see a human rights perspective of reconciliation as stressing “regulating social interaction through the rule of law and preventing the recurrences of certain violations” (p.293) which is intimately linked to our perspective on justice, and as such we will equate the two into a broad condition of justice. And second, they see a religious perspective as emphasising “moral reflection, repentance, confession and rebirth” (p.293) which is tied closely to acknowledgement. As such, it is clear that both Gloppen and Hamber and Kelly propose similar conditions of *justice* and *acknowledgment*. These two conditions of reconciliation apply explicitly to actors of reconciliation and moral repair, thus we can analyse the use of LAWs against both conditions.

With respect to mechanisms via justice – the process of holding perpetrators accountable – we find the same barriers to the involvement of LAWs that we found with forgiveness. LAWs possess an inherent deficiency through lacking the necessary functions to be held accountable, since programming rather than endogenous processes determine behaviour. There is also the difficulty of how to hold machines accountable and what that would look like. For example, distributive justice (punishment) is intuitively irrelevant when applied to machines. Reconciliation via justice is therefore prohibited so long as the perpetrators are not human combatants, given the necessity of moral responsibility implied within justice demands.

Mechanisms via acknowledgement that seek to bring about reconciliation – such as truth, restitution, and rehabilitation – are also jeopardized. The presence of acknowledgement within these mechanisms is an important aspect and relevant to the capabilities of LAWs to the peace process. Acknowledgement can be; existential (acknowledging “the existence of an individual or group and the moral stature and entitlements of these people” (Govier,

2009, p.37)), aversive (“what is acknowledged is something unwelcome” (p.38)), and affirmative (“what is acknowledged is something positive” (p.38)). In terms of reconciliation, we are most interested in aversive acknowledgement, since we are acknowledging the wrongs committed in order for moral repair. Acknowledgment requires the knowledge of what one has done, what its outcomes were, and why this was wrong. This demands a further level of intelligence than required within LAWs – as the functions of recognising right from wrong need to be developed. For example, being able to carry out *x* is different from understanding *why x* is being carried out, and the moral weight it carries. Therefore, acknowledgement demands more from LAWs than military necessity requires. Creating LAWs that are able to recognise the moral weight of their actions can have short term ethical consequences, such as whether this could plausibly lead to LAWs rejecting orders they deem to be morally insufficient.

In addition to the problem of whether LAWs can acknowledge their own behaviour and attach a value judgment and moral weight to it, the second issue is how they go about transmitting this in a meaningful way. It is difficult to see how LAWs as wrongdoers can enter into reconciliation in a non-mechanical way. There is a legitimate concern as to whether reconciliation is relevant to LAWs, since the restoration of relationships and healing processes between individuals or groups makes little sense, given the different sorts of relationships and emotional states associated with machines. If reconciliation contributes to moral repair such that those who are reconciled no longer seek conflict, the inability of LAWs to bring about these reparative ends questions their ethicality as per the dependence approach of *jus post bellum*. It is clear that acknowledgment requires more than LAWs possess, since from a military perspective, LAWs grounded in necessity need not ascribe moral weight to their actions.

Gloppen (2005) mentions some additional mechanisms of reconciliation, yet these consist of third party actors rather than the principle actors of reconciliation itself, including strategy reform such as constitutional and institutional reform, and healing over time through amnesty/amnesia. Although these mechanisms rely less on the actors specifically and are somewhat macro in their approach, they still involve individual wrongdoers, and therefore we can equally admonish the implementation of LAWs since they are expected to fulfil roles that they are incapable of fulfilling.

Hamber and Kelly (2009) offer a unique mechanism of reconciliation through an intercommunal understanding approach which focuses on “bridging divides between

different cultures and identities” (p.293). However, an intercommunal understanding is equally difficult to envisage, as the appropriation of cultural norms, practices, and identities, equates to a complex societal arena and not a mechanical and fixed set of programmable processes. The ability to recognise culture and identity is a product of societal education, and not simply a product of our intelligence. Therefore LAWs would require more than simply the ability to replicate human functions. The inability of LAWs to realistically carry out such mechanisms prohibits them from being agents of moral repair, and limits their prospects of achieving peace too.

However, why can't others (humans) still reconcile within this process? In other words, could reconciliation not take place without LAWs? I would argue that we have to understand that the way war is fought has a role to play in the sort of peace that is achieved. An implementation of LAWs that supersedes human combatants is troublesome for reconciliation, and although this can take place on one side, it is not the sort of mutual recognition that reconciliation entails. For example, non-combatant victims of wrongdoing benefit greatly from moral repair with the combatants that wronged them through reconciliation. Similarly, if they are human on-the-loop LAWs, then the process is merely analogous to a parent apologizing for the deeds of their child. The enveloping responsibility complex that is crucial to reconciliation is weakened by on-the-loop representation in reconciling efforts, and this jeopardizes the benefits that reconciliation can bring about.

### **11.3 Reconciliation and Peace**

As it has been shown that LAWs are unable to be actors within reconciliation if they are wrongdoers, we must ask; is reconciliation important for peace?

Reconciliation is conducive to peace because it renews relationships as an avenue of moral repair. Hamber and Kelly (2009) argue that “addressing relationships specifically, and to some degree achieving limited reconciliation, is necessary with regard to achieving any aspect of the peacebuilding process” (p.294). This is an important assessment of reconciliation, as even in a limited capacity it is necessary to peacebuilding.

Similarly, Llewellyn and Philpott (2014) view reconciliation from a relational justice perspective. Relational justice is directed towards “equality of respect, dignity, and mutual concern for one another” (p.19). They argue that;



“A relational approach does not offer the static ‘end state’ of justice done, delivered, or served up or of peace settled, achieved or realised ... On a relational approach justice and peace are transformed into a way of being in relationship, and thus less something one has ‘done’ than something one is ‘doing’” (p.32).

This perspective highlights the benefits of reconciliation to peace, that viewed from a relational perspective justice is achieved when peace is relational and therefore the two are intricately related. As this paper looks at LAWs within *jus post bellum* and just war theory, the pursuits of reconciliation to just outcomes provide an important observation of the compatibility of reconciliation to the demands of justice. This shows that reconciliation is necessary for peace and sustainable future relations, as well as relevant within *jus post bellum*, which has thus far been omitted.

Furthermore, there is useful empirical evidence linking reconciliation efforts to peace. Long and Brecke (2003) looked at successful reconciliatory mechanisms that were deployed in civil and international peace settlements. They introduce the ‘reconciliation as forgiveness’ model which involves; mechanisms of acknowledging harms caused, reducing societal identities as something other than ‘victim’ or ‘enemy’, the foregoing of revenge, and the public expression of forgiveness. They found that peace was achieved through these ‘reconciliation as forgiveness’ factors in seven of the ten cases of civil conflict that were assessed, (Argentina, Uruguay, Chile, El Salvador, Mozambique, South Africa, and Honduras). They found that “over the last two decades, countries wracked by civil conflict, often protracted and horrendously violent, can peacefully reach an ending settlement through forgiveness and national reconciliation” (p.148).

The authors saw a different process of reconciliation within international conflict – the sending of successful symbols – involving; the higher cost of the peace offering the better, vulnerability, novel approaches to reconciliation, voluntary action, and making noncontingent and irrevocable offers of reconciliation. Although the ‘reconciliation as forgiveness’ approach is not explicit within international conflict, they remain relevant such that “the cases suggest that the presence of these factors – public acknowledgement of harm, for example – helps to reinforce the costly, novel and irrevocable nature of the signal and this makes it more reliable” (p.153).

Long and Brecke found that when reconciliation “events are part of a four-part forgiveness process they can contribute to the successful termination of civil conflict and

social reconstruction” (p.157). As such, these events mark turning points and significantly reduce “rates of recidivist violence within and between nations” (p.2-3). It can therefore be shown empirically that reconciliation is an important process in the re-establishment of peace.

Legitimacy is important for reconciliation, and also within peace insofar as an illegitimate peace – as an attempt to impose measures from an illegitimate source – threatens the likelihood of peaceful outcomes. Long and Brecke (2003) argue that “[c]ontrary to some findings on the possibility for peaceful termination of civil war, these forgiveness processes were substantially “home grown” rather than imposed from the outside” (p.150). This entails recognising that peace itself cannot be imposed externally in order to take place through forgiveness orientated reconciliatory efforts. Gloppen (2005) similarly argues that “strong and direct international engagement appears to make it more difficult to generate legitimacy” (p.45). Legitimacy is difficult for international actors to procure within reconciliation since “[t]hey are often perceived as geared more towards the needs of the international community than the local context, and in many cases they appear to have little effect on processes of national reconciliation” (p.44). Therefore legitimacy is a barrier to reconciliation as it needs to be present and endogenously derived.

#### **11.4 A Cultural Critique: The Practice of *Sulh***

Thus far I have outlined the ideas and mechanisms related to reconciliation, however it is important to develop a perspective of *cultural* reconciliation to explore a potential objection to the view I have laid out thus far. I will address the Islamic cultural practice referred to as *Sulh* as a *prima facie* objection to the conclusions I have arrived at on LAWs and reconciliation.

*Sulh* occurs after a wrong has been committed, and mandates that the offender go into hiding until the final process of apology has occurred; “[h]e has to do this because if the other tribe sees him they will kill him” (Kilcullen, 2009, p.167). The wrongdoer’s community selects a mediator – a respected sheikh recognised between tribes – to open negotiations on their behalf with the victims’ family. The sheikh, if successful, brings the two tribes together in order to negotiate terms of apology through the settling of *diya* or ‘blood price’. After the terms have been agreed, the dispute is over and the wrongdoer can emerge from hiding (Kilcullen, 2009). Importantly;

“After this, no one can take revenge, so the dispute is over. If they do take revenge, it would be considered a new dispute, and they would be guilty. The guilty man can come back, but this may not happen straight away. No one will break the deal because if they do they might be banished from the tribe, in which case they would die. They might not like it, but they can’t take *tha’r* (revenge)” (Iraq Field Note June 5 2008, in Kilcullen, 2009, p. 168, italics in original).

This process was adopted as a mechanism for conflict resolution by coalition force commanders, most notably Colonel H.R. McMaster who “emulated the behaviour patterns of a responsible sheikh in Iraqi tribal society, which helped gain community respect and build peer-to-peer relationships with local leaders” (Kilcullen, 2009, p.169). However, it is important to note that *Sulh* can only be replicated by a non-Iraqi. The process merely demonstrates genuine intent for apology, since “[e]ven if you pay them compensation from the government they will still be your enemies because there is no *Sulh* for your actions” (Iraq Field Note June 5 2008, in Kilcullen, 2009, p.169, italics in original). The advent of different practices in the form of *Sulh*, as well as its use for apology by those individuals who are not the wrongdoer –but merely acting on their behalf – present a potential objection to the views I have previously espoused. If cultural practices can generate new mechanisms that do not include the wrongdoer, my criticism of LAWs within reconciliation holds little weight for moral repair.

Despite the advent of alternative mechanisms for apology existing outside of reconciliation, I see little genuine objection from this cultural critique. My response can be addressed within three strands which exist as independent responses, yet taken collectively constitute a much stronger rejection; a) Reconciliation must be aimed at both the victim and wrongdoer; b) Reconciliation should be voluntary not coercive, and; c) Reconciliation requires both justice and accountability.

First, it is clear from the outset that the process of *Sulh* focuses uniquely on the victim. As the wrongdoer is excluded out of fear for their own wellbeing, it is difficult to convincingly say that this particular cultural manifestation is a reconciliatory process, since reconciliation must be, by its nature, *reparative* and *restorative*. By ignoring the necessity for reconciling the wrongdoer it seems to me that *Sulh* can only be understood from the perspective of an apology, rather than a bilaterally restorative process.

Krause (2005) shows within a restorative justice approach that there exists multiple obligations incumbent on actors within the process of reconciliation, one of whom is invariably the defendant. As such, restorative justice as a mechanism for healing necessitates the inclusion of the wrongdoer since its function is aimed at healing all parties, not solely the victim. Smith (2005) also argues that the crucial factor of these processes “resides in the capacity of practices involved to restore or repair the co-humanity of both victim and offender” (p.44), thus mandating the inclusion of the wrongdoer within reconciliation.

Furthermore, reconciling the wrongdoer is fundamental to breaking the cycle of violence that peace emerges from. The perpetuation of violence and retaliatory states is broken by including, rather than omitting, those who have committed the offence. An Na’im (2005) highlights that;

“[O]ne has to start at some point in the cycle of violence and counterviolence and consider what it would take to bring parties to appreciating the need for reconciliation and having confidence in its viability and sustainability” (p.241).

Holding the offender accountable, whether through requesting confession or acknowledgement, offers an alternative avenue for resolution than that of retaliation, yet only holds value to peace when the wrongdoer is reconciled as well. Urban Walker (2006) argues that the wrongdoer actually possess the obligation for instigating reconciliation, such that; “those most directly responsible for wrong are also those with paramount and unique responsibilities for attempting to make amends for it” (p.7). It is clear that *Sulh* escapes the fundamental aspects of bilaterally including victim and wrongdoer. It achieves a different type of restoration and as such poses no criticism to the sorts of reconciliation applied to LAWs within this paper.

The second response to this cultural objection comes from the belief that reconciliation must be voluntary, and the healing incurred is an intentionally derived process. The cultural imposition of healing we see within *Sulh*, such as the enforcement against revenge even though feelings of resentment may remain, shows the dislocation of this practice to the process of healing relationships. However, a response to this claim could be that I fail to acknowledge or appreciate the cultural differences present, and am therefore imposing my own conception of reconciliation onto another culture.

My response is that *Sulh* offers a *different kind* of conflict resolution than reconciliation. Dugan's (1996) model of nested conflict is useful to draw upon here. She proposes we view conflict as a set of integrated levels; beginning with the *issue* (the cause of the dispute itself), nested within a *relational conflict* (the breakdown of relations between those which the issue involves), which is further nested in a *structural mode of conflict* on the macro level (which both the issue and relational conflicts are a product of). The chosen method of conflict resolution cannot be conducive to all levels; such that by prioritising structural challenges we necessarily ignore the importance of relational reparation, yet prioritising the restoration of relationships, we fail to address the broader structural issues (Lederach, 1997, p.57).

It is within this framework that I see this paper situated within. The relational approach to conflict resolution, or 'moral repair' (Urban Walker, 2006) is complementary to, but not substituted by, 'social repair' (Urban Walker, 2006). I frequently acknowledge the process of *jus post bellum* which approaches peace and repair on the macro or social level, yet instead highlight the importance of moral repair, such that the interpersonal restoration is conducive – but different – to the broader societal approaches that *jus post bellum* is currently aimed towards.

With respect to the cultural critique, the process of *Sulh* evidently ignores the relational conflict resolution mechanisms, yet remains important on a societal level, such that wrongs experienced between individuals do not become a product of, or a catalyst to, wider tribal conflicts. I see *Sulh* as a method of cultural societal repair but not reconciliation which is conversely a method of moral repair. I do not see *Sulh* as an objection to LAWs and reconciliation as it has been laid out, since it is not aimed at the restoration of relationships but rather societal coexistence, and therefore does not contradict the type of reconciliation that I outline emphasising relational restoration.

Lastly, reconciliation must, by its nature, involve *both* justice and accountability. Although *Sulh* does in many ways represent a sort of justice for the victim – a voice and vindication of their suffering – the practice omits entirely the necessary process of accountability. An Na'im (2005) argues that the two pillars of reconciliation are justice and accountability, whereby "[j]ustice addresses the underlying causes of that desperate and lawless behaviour, and accountability addresses the violation of the rule of law in international and national affairs" (p.235). More than that however is the need to recognise the advent of both in order to consider something reconciliation. We might call these the intrinsic

elements. The presence of justice and accountability serves to constitute instrumental benefits too, such that reconciliation is conducive to peace and not merely a peaceful coexistence on offer within *Sulh*. An Na'im (2005) argues that;

“The existence of fair and credible norms and mechanisms of accountability reduces the risk of self-help and vigilante justice ... since a different choice is always available to all sides in a conflict, each side can seek to break the cycle of violence, which is more likely to happen when there are prospects of justice and accountability” (p.236).

Holding the wrongdoer to account is therefore fundamental to peace, yet it need not be distributive in the form of punishment, but merely reparative within restorative justice for example.

Although we can recognise that *Sulh* delivers some kind of justice (although incomplete as is testament to the top-down enforcement of non-violence rather than an internal response to justice received), it does not address the need for both society to hold the wrongdoer accountable (within the Rule of Law), or the interpersonal need for victims to hold their offender to account. After all, the broad spectrum of needs on the part of the victim is largely shared; including the values of “reassurance, safety, recognition of suffering, and appropriate placement of blame. Victims of grave wrongs are likely to feel they desire this from both offenders and others, whether or not they desire to see the offenders punished” (Urban Walker, 2006, p.18). This broadly recognised sentiment which arises within victims shows that LAWs are required to do such things within moral repair, but also that the cultural example of *Sulh* is lacking in its recognition of these important processes.

As such, I would term *Sulh* either a method of societal repair, or a process of apology. Given its ineffectiveness to fulfil the interpersonal and voluntary process of restoring relationships, as well as lacking in accountability mechanisms for the victim, I fail to see how this cultural critique poses a satisfactory and coherent objection to the formulation of reconciliation I have previously addressed. It is clear that LAWs have a conventional role to play in reconciliation as wrongdoers, and their failure by virtue of their nature to constructively participate in this area of moral repair casts doubt on their ability to act ethically in warfare, since their outcomes cannot reasonably be articulated towards peaceful and restorative ends.

## 11.5 Conclusion

Throughout the preceding discussion on reconciliation, two important elements regarding its relationship to LAWs and peace have been satisfied. First, LAWs are, by the demands incumbent upon wrongdoers, unable to participate in reconciliation post-conflict. It has been shown that with respect to acknowledgment and responsibility, LAWs are insufficiently placed to serve this function, or in the case of being held accountable, fulfil these demands due to insufficient moral responsibility. Additionally, LAWs cannot be expected to bridge cultural and identity divides since they are a product of human based reality. Education within that forum – rather than a programmable recognition of context dependent factors – is a necessary element of cultural recognition. Although macro-level reconciliation such as institutional reform and healing over time are proposed, LAWs continue to remain important actors within reconciliation, and thus must still be able to adequately participate towards the ends of relationship development. Since ‘relationship’ requires two parties, and the other being humans, the fruitful relations brought about through reconciliation are restricted from the outset by replacing relational agents (humans) with non-relational agents (machines). Second, reconciliation is fundamental to peace in civil and international conflicts, shown theoretically through relational justice (Llewellyn and Philpott, 2014), and empirically (Long and Brecke, 2003). It was also shown that reconciliation requires endogenous legitimacy to be successful, and so replacing the combatants of war (LAWs) with externally imposed peacekeepers is neither legitimate, nor successful for establishing moral repair.

Furthermore, I have outlined a possible objection to the arguments made within this chapter, stemming from a cultural critique claiming that reconciliation manifests itself differently within different cultures. Although the potential objection of *Sulh* is relevant to societal repair, it is not an example of moral repair. I respond by outlining three essential conditions of reconciliation for valuable moral repair; that it includes both wrongdoer and victim, that it be voluntary, and that it involve both justice and accountability. It is clear that reconciliation, by virtue of its bilateral approach to securing the involvement (and fulfilling the obligations) of the wrongdoer, is applicable to LAWs as a pathway of moral repair, yet found wanting for the aforementioned reasons.

It suffices to say that given peace is the main goal of just war theory, mechanisms and processes of reconciliation must be conducive to the development of peace by way of the dependence approach. Since LAWs are unable to play a role within reconciliatory

processes, we can derive conclusions that the implementation of LAWs is problematic if wrongdoers should necessarily be actors within this process. Although within reconciliation (unlike forgiveness) a third party can mediate and encourage mechanisms, machines remain unable to be actors within this process, and thus we can go some way to rejecting LAWs on the ethical grounds that their use jeopardizes the healing of relationships post-conflict.



## **12. Truth Telling**

Truth telling is an important mechanism to moral repair, since it also includes the participation of wrongdoers. Truth-telling addresses the underlying necessity of developing better relationships between former enemies, and is thus a foundational mechanism upon which the future reconstituting of states rests upon. I begin this chapter by addressing the nature of truth telling with respect to the important pillars required to be effective and meaningful, looking at the dissemination of knowledge and the acknowledgement of wrongdoing. I then assess the compatibility of LAWs to knowledge and acknowledgment, and show that neither function is able to be replicated by LAWs. Lastly, I show why this is an important conclusion as truth telling is both instrumentally valuable to the pursuit of peace, and possesses intrinsic value in and of itself through the pursuit of truth and its relationship with future justice. I conclude that since truth telling is important for the pursuit of peace and is irreplaceable because of its intrinsic value, it is morally problematic that LAWs cannot fulfil the demands incumbent upon wrongdoers within moral repair.

Before address the concept of truth telling, it is important to outline why it constitutes a unique concept and not merely replicates forgiveness or reconciliation. Truth telling mechanisms are different from forgiveness since the advent of a third party differentiates the type of relationship which is sought. Forgiveness, by its nature, only includes the principle actors and cannot be facilitated through third party intervention. Truth telling thus becomes uniquely valuable as a post-conflict mechanism since it involves facilitation by third parties, and becomes an additional feature of moral repair.

Similarly, we can differentiate truth telling from reconciliation. Borer (2006) argues that by equating the two concepts, we are looking at whether reconciliation is brought about, rather than recognising the inherent value within truth telling; although reconciliation may be a function of truth telling, the mechanism of truth telling is more than simply a tool for reconciliation. Borer argues that “focusing only on the presence or absence of reconciliation as a basis for assessing contributions of truth-telling mechanisms runs the serious risk of overlooking various other ways in which they *are* successful, or the many contributions they *do* make” (p.31, italics in original). In this sense, we can see that truth telling is related, but different, to both forgiveness and reconciliation.

## 12.1 The Conditions of Truth Telling

Truth-telling is a mechanism deployed post-conflict with the aim of disseminating truth and reconciling individuals from once opposing sides. This is an area of the peacebuilding literature that, rather uncommonly, addresses the estrangement between individuals and groups, rather than focusing on societal repair such as the reestablishment of institutions. Taking place through truth commissions or courts, these are areas where stories can be told and the past revealed so that it no longer manifests itself in negative resentment, but plays a therapeutic role in order to settle animosity between individuals. Truth telling is significantly underrepresented in the literature (Borer, 2006) and therefore warrants further analysis in order to understand its capacity for promoting peace.

The foundations of truth-telling can be derived from the sorts of truths that are brought about within this forum. Borer (2006) highlights a range of different truths, as seen in the Truth and Reconciliation Commission in South Africa, including “factual or forensic truth, personal or narrative truth, social truth, and healing and restorative truth” (p.21). In this case, we can understand factual truth as *knowledge*, and narrative truth as *acknowledgement*, both of which are necessary to successful truth telling. Borer (2006) highlights the fundamental pillars of truth telling—knowledge and acknowledgement—must be carried out by any actor within this process. I will call these ‘personal’ conditions, since they apply uniquely to participants within truth telling to the extent that any actor not accomplishing such processes significantly affects the success of moral repair via truth telling.

Conversely, Méndez (2006) outlines the requisite conditions for truth telling, yet focuses specifically on the demands incumbent upon third parties. These conditions require “some initial acceptance that there are facts that require investigation, disclosure, and reckoning” (p.142); that “the process has to be fundamentally fair and has to be seen by the public as such” (p.142); and lastly that “the result must contribute to a societal knowledge of the tragic events of the recent past and that is unassailable, at least in terms of its reflection of events” (p.143). The process must also produce “a series of data and analyses that can resist the pressures of time and oblivion and stand as a barrier to those who would rewrite history by falsifying the record” (p.143). We can therefore say that third parties within truth telling, such as those creating or overseeing such forums, must meet these conditions. Third party conditions are such because they can be directed from above onto the forum of truth telling.

Importantly then, there are two sorts of conditions. First, there are those which apply to the individuals, or 'personal' conditions, within truth telling. These conditions are acknowledgement of wrongdoing brought about through personal and narrative truth, as well as disseminating knowledge of what happened such that accountability processes can be set in motion. And second, there are those conditions that apply to third parties, whether wider society or government organisations who seek peace and reconciliation, to ensure that truth telling is appropriate, effective, and achieves what it set out to accomplish.

For the purposes of my argument, only personal conditions will be assessed against the abilities of LAWs to fulfil such demands. This is because although third party conditions are important to the ultimate utility drawn from truth telling, such conditions continue to rely on effective actors within the process in order to bring about the requisite truth, regardless of the successful imposition of third party conditions.

## **12.2 Truth Telling and LAWs**

In assessing the ability of LAWs to take part in truth telling, one important area is to be able to acknowledge ones past wrongs. This concern has been satisfied two fold in the aforementioned discussions on forgiveness and reconciliation. The argument that LAWs are incapable of this sort of acknowledgment is based upon LAWs being unable to recognise the moral weight of their actions, such that being able to carry out a morally permissible action is different from both wanting to acknowledge, and understanding why their actions possess moral weight. Additionally, it would be technologically expedient from a military perspective not to programme this sort of moral awareness, since sufficient acknowledgement of ones actions, and a complete awareness of the morality of those actions, can lead to ethical dilemmas such as refusing to carry out necessary military orders. Furthermore, LAWs themselves lack the ability to 'acknowledge' when acknowledgement in this sense is considered as personal apology. Internal acknowledgement within the truth telling process is not enough, and thus LAWs are required to be able to disseminate this acknowledgement in a meaningful way. Since humans are expected to do this, it is not unreasonable to require LAWs to do the same, and thus is difficult to imagine a human responding similarly to machine acknowledgement than they would to human combatants.

Additionally, knowledge is a key factor to truth-telling (through forensic or factual truth), and is also found wanting in LAWs. As Borer (2006) point out; the purpose of knowledge in

this process is that it is “important for prosecutions and thus for furthering justice and the rule of law” (p.22). Although we may envisage some method of factual truth being derived from LAWs in terms of their actions being made public, the possession of such knowledge does not serve the ends it should within the forum of truth telling because of the inability to hold LAWs responsible for their misdeeds. This is unachievable from an ethical perspective since they are not morally responsible agents in the same way humans are, and from a practical perspective in that society simply lacks the mechanisms to *punish* machines for wrongful action. In the lack of ability for LAWs to be held accountable, the utility of the truth telling process is significantly weakened. As such, it is clear that acknowledgement and knowledge, the two pillars of truth telling– and the source of its value to peace and moral repair – are unable to be carried out when the actors within truth telling are LAWs.

However, it is important to acknowledge that LAWs could offer a kind of truth telling in the form of video feedback and record keeping of actions taken. This would be able to provide, at least in theory, an overview of the event and what occurred which could then be relayed to victims. In some cases, this would provide far greater factual knowledge within the truth telling processes than attempts to recollect factual information from memory. However, this sort of truth telling serves a rigid purpose in simply portraying the events themselves whilst still being devoid of meaning. Although this could indeed be of some value, it is not accompanied by personal accounts of remorse, or reasons why such actions were taken. An apology cannot be given alongside these sorts of black and white accounts, and therefore is not restorative in the same way humans can be. Such avenues perhaps offer the best hope for LAWs to play a role in reparative processes if indeed they possess such features. Without attaching meaning to this however, or simply lacking the interplay with victims and satisfying their personal needs through exploring the reasons behind such actions, the truth telling process which LAWs are privy to achieves only a limited purpose compared to equivalent human processes.

### **12.3 Truth Telling and Peace**

Given this determination on the relationship between LAWs and their applicability to truth telling, it suffices to say that I must now turn to why this is an important conclusion to the pursuits of peace – the question being; are truth telling procedures advantageous to peace? And similarly, can those benefits be replicated through other means? It will be shown that, predominately through the development of justice in truth telling, that such a

mechanism is important for the pursuit of peace, but also similarly, that truth telling possesses intrinsic value in uncovering truth and therefore is irreplaceable post-conflict.

Truth telling is important for the pursuits of peace since it is conducive to varying forms of justice. Llewellyn (2006) discusses the benefits of truth telling within a framework of *restorative justice*. Since we can acknowledge that truth telling is a restorative process, we can understand that “the restoration of relationships is at the heart of justice” (p.100). In that respect, we are obligated to focus on processes that encourage the procurement of relationships to bring about just and peaceful outcomes. Llewellyn argues that

“[t]ruth-telling mechanisms, insofar as they are restorative justice based, are important not only for what they can offer in terms of justice in transitional times but also for what they can contribute to ensuring a just and lasting peace beyond the transition” (2006, p.101).

On the same theme of justice, De Grieff (2006) argues that it contributes to the establishment and entrenchment of the rule of law. This is “because truth telling can foster the development of civic trust, both among citizens and between citizens and institutions. Such trust is both a condition and a consequence of the rule of law” (p.194). Since the rule of law is a foundation upon which lasting peace is necessarily built, and an equalizer of justice too, processes which lead to the creation of necessary trust conducive to the rule of law are therefore fundamental to peace. Truth telling leads to aspects of sustainable peace, and firmly establishes the demands of justice between parties.

Another benefit of truth telling to peace involves its ability to reintegrate estranged groups back into society. Becker (2006) highlights that “if truth processes have something to do with reintegrating an aggressive and destructive past into the social fabric, then they have the potential to contribute to peace” (p.249). In this respect, the benefits of peace rely on a *type* of truth telling mechanism which involves intrinsic elements of moral repair. As such, peace arises from a firmly universal approach to the truth telling mechanism insofar as it satisfies the necessity of healing divisions between formerly alienated parties.

Additionally, if met, the conditions of truth telling are conducive to peace too, such that acknowledgment and knowledge; “are important in different ways for fostering sustainable peace. Knowledge can be important for prosecutions and thus for furthering justice and the rule of law. Acknowledgement can contribute to the personal healing of victims. Both are

necessary for peace” (Borer, 2006, p.22). Knowledge serves a kind of justice role here, that it encourages accountability, whereas acknowledgment is similar to Becker’s (2006) contention of healing and reintegrating individuals into society.

However, truth telling is not only instrumentally valuable to peace, but also valuable in and of itself. Méndez (2006) argues that the contingent *pursuit of truth* is valuable, arguing that “[i]t is important to advocate that society must confront its past ... and that the pursuit of truth should be carried out for its own sake” (p.143). The pursuit of truth therefore, is of supreme value to society, and additionally, there is value to be found in confronting the past too. Truth telling, as a mechanism for bringing about both, is irreplaceable in terms of the function that it serves.

Furthermore, truth telling can serve an education function in teaching society about justice. Llewellyn (2006) argues that truth telling mechanisms do more than simply act restoratively between participants, but equally contribute to a lasting and just peace too. “Through participation in these processes, citizens gain an understanding of, and experience in, doing justice (restoratively)” (p.101). This ‘education function’ for future just processes and actions highlights the positive utility found within truth telling.

Therefore, we can acknowledge that truth telling mechanisms are important to the peace process, and additionally, that they do more than simply repair the social fabric but also present a unique utility. Truth telling mechanisms have a value beyond their role in bringing about peace which further emphasises the necessity they play post-conflict, and entrenches this specific mechanism within the remit of forgiveness and reconciliation as precursors to other ascriptions of securing peace and moral repair. Since truth telling is largely a mechanism for those involved in conflict, the fact that LAWs are unable to be actors within truth telling has been shown to contradict their ethical obligation to direct actions towards peaceful ends as per the dependence approach within *jus post bellum*.

Although it appears that truth telling can be accomplished collectively, thus making room for LAWs and their human commanders to achieve moral repair as a combined effort, I believe it would be unjust to include those implementing LAWs as equally culpable for wrongs committed, or even associated to those wrongs in the first place. It is important to separate those responsible for wrongs committed within truth telling, as apology on behalf of others is in some ways unjust, and in others impractical.

It is unjust to associate the humans which commanded LAWs as culpable in some way with the wrongs committed, given the independent and autonomous nature of LAWs themselves. Although parents are in some measure responsible for the actions of children during their formative years, it would be unreasonable to place responsibility or the obligation to devolve truths about actions of their children for which they knew nothing of, had no control over, and were only loosely associated with in the first place, especially when their child's degree of autonomy develops into adulthood as is equivalent to LAWs. I believe this sort of activity would develop a precedent of robotic weapons that would evade responsibility out of convenience, and thereby hold humans responsible for wrongs and potential crimes that they had little or nothing to do with.

Additionally, warranting collective truth telling with LAWs and their human commanders is impractical. For victims, they only receive a partial closure, since the meaning behind wrongful acts and trust in the future behaviour of the wrongdoer is not restored, given that those involved in the process – the human commanders – possessed no control over the wrongful act itself. Additionally, the purpose of accountability and justice demands within truth telling are found wanting. By shifting the burden of blame onto those who had no control over the actions of LAWs weakens the system of justice, and guilt by association (although perhaps legitimate in some cases if the human commanders were wrong in their instructions) does little to restore relations between victim and wrongdoer as is the purpose of reparative processes. It thus appears that LAWs must be, by virtue of their independent and unpredictable nature, the sole responsible agent within truth telling. Although human commanders may be able to assist in developing factual accounts for the victim by divulging information about the event, the lack of personal meaning derived from this process leaves LAWs solely responsible for their incompatibility with the mechanism of truth telling.

#### **12.4 Conclusion**

It has been shown that LAWs are incompatible with the mechanism of truth telling, for the principle reason that the conditions– knowledge and acknowledgment – cannot be fulfilled by the sort of AI that we expect LAWs to possess. For this process to be worthwhile and provide instrumental benefits to the procurement of peace post-conflict, the victims of wrongdoing perpetrated by LAWs have to be in receipt of a genuine and clear dissemination of truth. LAWs can neither disseminate knowledge of their wrongdoing in a meaningful way, nor attach a moral significance to why they would choose or see value in

doing so. LAWs equally fail to acknowledge the demands and expectations of their victims and meet the individual needs which the dissemination of truth demands, and therefore are unfit to participate within the truth telling process.

Much like forgiveness and reconciliation previously discussed, this enquiry into the relevance of LAWs to truth telling shows that there are additional demands incumbent upon perpetrators of wrongdoing post-conflict which require addressing for moral repair and the transition to a lasting and sustainable peace.

Within all three areas of moral repair, it has been shown that the requisite conditions and fundamental pillars of each concept are beyond the capacity of LAWs. Collectively, this constitutes an argument to highlight the inability of LAWs to fulfil these actions which are evidently conducive to peace, and therefore raises serious questions concerning the moral suitability of LAWs, since their actions within war cannot be directed towards the ends which just war theory demands, nor moral repair in fulfilling reparative duties as wrongdoers.



## **Conclusion**

The trend to displace human combatants in warfare via technology is underway, evidenced in many contemporary conflicts around the world. The development of technology and AI has the potential to create weapons of war with greater independence than modern weapons, and superior capabilities than humans possess. However, I have attempted to argue throughout this paper that we should proceed with caution before employing these changes. Too quickly came the onset of nuclear weapons, and too readily we are walking into the same unknown with weaponised AI.

My aim throughout this paper has been to highlight the ways that humans offer unique methods to achieving peace – the only justifiable end of war – and present the notion that there are discussions that need to take place regarding what we lose in exchange for the preventative advantages of LAWs. I answer this question through two broad themes, focusing on the role of human action and interaction in the pursuit of peace *within war*, and the role of moral repair *after warfare*. I have argued that these themes are conducive to peace – and in some respects essentially so – and are comprised of various manifestations which are currently conducted by humans, yet cannot be replicated by LAWs.

The first set of arguments addressed the way humans respond and relate to each other within war; either through past events such as war experience and memory, or through physical interaction. I showed that experience of warfare can be positive to our rejection of unnecessary suffering and our support for necessary and just wars, and can reform how war is conducted to encourage ethical conduct and, indirectly, peace itself. Additionally, I show that there is value to be found in fraternization and the mutual recognition of humanity which are conducive to a greater degree of ethical conduct and more amicable relations existing post war. Lastly, the role of martial virtues is satisfied within conflict involving weaponised AI. I discuss the relevance and multi-faceted presence of martial virtues, and conclude that although worthy of discussion broadly, it is only mercy which is unable to be replicated by LAWs. Since mercy can be a motivator for ethical conduct and encourage the presence of humanity between adversaries, the inability to replicate outcomes of mercy is equally problematic.

Therefore LAWs are found to be unable to replicate the recognition of humanity and development of beneficial war experience. This is primarily due to the fact that, by and

large, the aforementioned actions are a product of our own humanity, and the anthropomorphic ability to see the enemy as ourselves. Since this recognition is beyond LAWs, we cannot expect these acts to be performed, endowed with the same meaning, viewed the same way by the opposing force, or exercised with the same proclivity as these actions have and are currently being performed. As such, the important benefits that these processes bring to warfare are lost when humans are replaced by LAWs in a variety of areas.

The second set of arguments concern the necessity of moral repair. I show that since much of the present literature focuses on institutional and macro-level restructuring (which I distinguish as a type of societal repair), the role of moral repair is underestimated in establishing a foundation upon which to instantiate societal repair.

I found that LAWs are unable to replicate the necessary elements of three areas of moral repair – forgiveness, reconciliation, and truth telling. For forgiveness, I show that the need for recognition of harm done, the suffering endured, and a commitment to changing ones character, are fundamental aspects to forgiveness that LAWs cannot replicate. I also highlight that forgiveness is acted in appropriate situations which are consistent with the victim’s self-respect (Murphy, 1988), meaning LAWs cannot be forgiven without the victim transgressing their own dignity. Furthermore, given the inability of LAWs to be held accountable, by lacking moral responsibility or their inability to be morally aware of their action for reasons of military necessity, I conclude that LAWs are incapable of being actors within reconciliation. I found that the conditions of reconciliation – accountability and justice – are essential to moral repair and peace, whilst also being unable to be replicated by LAWs. LAWs were equally incompatible with the process of truth telling. Given the similar demands to both forgiveness and reconciliation, I find that the plausible conception and characteristics of LAWs to be unable to participate meaningfully in this process of moral repair – given the need to acknowledge the severity and moral weight of ones actions, and disseminate information meaningfully concerning the events of wrongdoing – thereby prohibiting the benefits of moral repair to peace that arise via truth telling

For this reason, the lack of effective forums whereby LAWs as wrongdoers can act is of genuine concern, since the absence of closure for victims and renewal of amicable relations upon which former enemies can work together signals difficulties for sustainable peace. The continued existence of resentment amongst individuals threatens the fragile peace secured.

The conclusions within this paper contribute to three important areas; to the study of artificial intelligence within war and autonomous weapons; to *jus post bellum* theory and the importance of reparative processes; and discussions surrounding preferable mechanisms post-conflict.

Firstly, this paper highlights the way we should approach the discussion of autonomous weapons within warfare. The present debate surrounding the permissibility of LAWs focuses on the many number of positive attributes that AI brings to the conduct of warfare, and particularly on the way they might contribute to the ethicality of future conflicts. However, the analysis that I have provided in comparing the relational aspects of peace and ethical behaviour amongst human combatants presents an alternative viewpoint to the current trend. By assessing LAWs in light of their shortcomings with respect to replicating actions that are currently perceived as worthwhile and conducive to peace, I have shown that there is room for more discussion concerning the prospects of what humanity may lose by waging war via LAWs. I believe more debate needs to take place concerning the way war is fought, and how LAWs fit into the present paradigm. Much focus will need to be placed on the role LAWs might be expected to play, so as to act as a compromise between the beneficial aspects they bring, but also what we as humans currently possess too.

The findings within Part Two of this paper will hopefully provide a basis for addressing some of the positive benefits of human combatants, and to remind us to act more cautiously in replacing means of warfare for the short term benefits of technology. The areas which I have touched upon and actively encourage – such as the recognition of humanity – appear to be difficult for LAWs and technology more broadly, yet if inculcated within human combatants, could present a positive trend towards sustainable peace. It is my hope that offering a viewpoint which emphasises the benefits of humans, and their ability to relate to those most distanced from themselves, is a lesson which is of paramount importance that we must take heed of. No matter the degree to which such acts take place, their manifestation is testament to the power of humans to create order out of chaos, and as such should not be lightly thrown aside.

Additionally, this paper presents a fissure that arises between the demands of preventative strategies within war and the needs of moral repair. Despite the clear necessity of recognising humanity and moral repair to sustainable peace, these avenues must be weighed up against the benefits that LAWs bring. The just war tradition has always been a preventative theory, aimed at reducing suffering in war. Since LAWs may have the capacity

to prevent suffering far better than humans via greater precision, they are arguably more permissible within just war theory than humans. The difficulty is therefore in reconciling the need for repair and relationships with preventative advantages. I am tentative in proclaiming the impermissibility of LAWs based upon the inadequacy of repair as there are benefits, particularly from a utilitarian perspective, that LAWs present. We may say that repair is necessary, yet if LAWs generate the need for less moral repair, then this is an indirect benefit to concerns regarding repair itself. Although suffering cannot be universally abolished in war – thus always leaving the need for repair – it is important to equally acknowledge that not all instances of wrongdoing can be repaired either. Although these judgments are limited and simplistic in their scope, they do at least highlight the difficulties that exist when faced with changes that LAWs bring.

Until now, prevention and repair can be prioritised and carried out by different actors, with prevention via technological or strategic improvements still leaving space for reparative duties. Yet in the case of LAWs the same agent is expected to accomplish both. This compromise might be accomplished through innovations in post-conflict mechanisms, or through a coalition between machines and human combatants being effectively deployed. However, such judgements are beyond the scope of this paper. I hope that by raising these issues contingent to the development of LAWs, I have at least highlighted the concerns which LAWs bring through their inadequacy to accomplish the demands of moral repair.

Thirdly, through my focus within the realm of *jus post bellum*, I have consistently highlighted the inadequacy of the present literature when dealing with interpersonal and smaller-scale elements of moral repair. As I have expressed, much of the literature on *jus post bellum* ignores the demands of moral repair as a post-conflict imperative for sustainable peace, and fails to give enough credence to the view that one's actions within war affect the likelihood and methods of achieving peace post-conflict. As such, my conclusions on the necessity of moral repair should at the very least serve as a reminder that issues arise post-conflict that are smaller in scale than institutional restructuring. The purpose of *jus post bellum* should be similar to the other tenets of just war theory; to act as a check on actions and to accommodate the likelihood of securing a just peace. Although I do not advocate for policy prescriptions *per se*, I think more attention needs to be paid to the efficacy of moral repair as a basis from which to build societal repair upon, as well as to its role in developing sustainable peace in its own right.

For now, my aim has been to show that we should not so readily ignore the ways that human actors can uniquely achieve peace, and by the same token, generate sustainable peace inter-relationally. Through a unique approach to autonomous weapons by focusing on their contribution to peace, this paper has highlighted the benefits of human behaviour and interaction, and whether LAWs can replicate such avenues. Although focused on narrow areas that are individually linked to peace, this paper has shown that despite the superior capabilities that LAWs possess over human combatants in a range of areas, it is the products of relational processes that cannot be so easily replicated. As such, we must collectively find ways to preserve such avenues, or at the very least ensure that we continue to acknowledge the horrors and suffering of war at a distance. At the very least, we may be able to decide before it is too late whether the outcomes of human action within war – both good and bad – are something we wish to see displaced.

**Abbreviations**

AI	Artificial Intelligence
IHL	International Humanitarian Law
LAW	Lethal Autonomous Weapon
LOAC	Law of Armed Conflict
ROE	Rules of Engagement
UAV	Unmanned Aerial Vehicle

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