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THE MORALITY OF
UNCONVENTIONAL FORCE

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Are there moral limits on what spies may do? And if so, what are they? The task of this chapter is not to set out a list of prohibitions or requirements, at least not in the first instance. Rather, it is to articulate and justify a moral framework that will result in such requirements. The framework faces the interesting and tricky problem that, for all practical purposes and with some limited exceptions, non-practitioners cannot identify any such list. Moreover, practitioners cannot do so non-mutably. One has to enjoy the epistemic privileges that come from currently being a spy in order to contribute. This is frustrating for philosophers who would like to exercise *ex cathedra* moral authority. But there is a more serious implication: the juridification of policy for spies should be resisted.

The conclusion for which I argue is well summarised in the following slogan: spies play by big boys' rules. The framework that I defend does not apply only to spies; it also applies to other practitioners of unconventional force, such as special forces or cyber-spooks, who likewise enjoy the permissions and restrictions that come from rule-governed practices.

This form of enquiry is important. The years since 9/11 have seen an increasing desire among policymakers to use unconventional force in pursuit of national security objectives. The reasons for this are various. There is an accepted practice of governmental denial when it comes to unconventional operations. Oversight procedures are not public. The organisations involved are more agile and more often able to avoid the media limelight. Most importantly, non-state actors now pose a degree of threat that was arguably not present in previous years, but war is neither a proportionate nor an effective means by which to conduct operations against these targets. Indeed, some think that the human rights violations consequent on war are so serious that there is moral imperative to seek forcible alternatives in countering threats (Dill 2014, 2016). Yet the kinds of activities in which the CIA, in particular, has been engaged, such as waterboarding and extraordinary rendition,

have raised significant controversy. We lack a clear account of the morality of these practices in both popular and academic discourse.

My argument proceeds as follows. I first identify the kinds of activities in which I am interested. I then outline how existing views on the ethics of force have been taken to apply to espionage. In particular, the *ad bellum* and *in bello* strictures of Just War theory are readily taken to apply directly to spies. This approach is compelling given some currently widespread views about the ethics of force. The approach is mistaken, however, for it misconstrues the status of Just War principles. Rightly understood, at least some of these principles have compelling force because of their status as mutually beneficial conventions. I then apply this view to espionage and other forms of unconventional force, outlining the tricky policy implications of my thesis.

Intelligence work

My interest is in force that is unconventional because of the social, moral or legal context in which it occurs. Specifically, I am interested in force used by a state outside its sovereign territory but not during declared war between nations. I use 'force' in a capacious sense, defined extensionally by the activities stated below. Such uses fall outside the two paradigmatic contexts for the legitimate use of force, viz. the international work of the military in times of war and humanitarian intervention, and the intra-national work of the police and criminal punishment system.

Unconventional force – in the forms I am concerned with – is used for two principal purposes. First, it is used to gain intelligence, in support of national security. Security relates to the severity of possible harm and the likelihood of harm. Intelligence helps achieve security by detecting likely threats, enabling steps to be taken actively to deter the threat, or to interdict it, or to mitigate the severity of harm. It also helps to reduce uncertainty regarding both severity and likelihood. The activities that take place in the pursuit of this goal include several varieties of '-INT': the recruiting and deployment of agents (HUMINT); eavesdropping on communications (SIGINT); observation of activities through satellite imagery and other image-gathering platforms (IMINT), and so forth. Learning what adversaries are saying, and what they are doing, allows analysts to assess and evaluate likely intentions and capabilities. Much of what is said and done can be learned from open sources (OSINT), where no force is required. But adversaries that pose a genuine threat are likely to wish to conceal their intentions and capabilities as much as possible. Countering this requires secret intelligence. Discovering adversaries' intentions and capabilities may be achievable, indeed only achievable, through force. This will certainly involve gaining access to private spaces, to either physical or digital property. At its most dramatic, it may involve interrogation or even torture.

Force may also be used directly, to interdict and disrupt enemies. At the soft end of the spectrum, I count sowing false information about one's own intentions as a form of force, as it deceives enemies about the extent of one's own knowledge. The means by which this is achieved may be various; sometimes it may consist

merely in deceitful speech, but it may also involve more direct forms of action. More forcible measures may include the blackmail or bribery of individuals whose compliance is useful to one and detrimental to one's adversary. At the hard end of the spectrum is physical force used against property and people: sabotage and destruction; and assassination, targeted killing, rendition and detention. I use 'intelligence work' as a catch-all label for activities conducted in pursuit of the twin aims of learning about an enemy's intentions and capabilities and disrupting their activities, but not in the context of war. Paradigmatically, it is spies who undertake intelligence work. They are assisted in this work by special forces and communications specialists.

Targets of unconventional force are various. The target may be an enemy state, achieved through targeting their military, industrial, political or covert capabilities, and both personnel and physical hardware. Terrorists, from individuals to internationally coordinated networks, are now firmly on the list.

Reductivism

How should the morality of unconventional force be evaluated? A natural line of thinking is the following. We have an extensive body of theory regarding the morality of the use of force in war, namely that articulated by the Just War tradition. Rejecting both pacifism and a crass form of realism, Just War theory acknowledges the necessity of the use of force but sets boundaries on what may be done. Unconventional force differs from conventional force – that exercised by the military and the police – in its institutional context. It is conducted by the CIA, for instance, not the Pentagon. But force is force. Given the validity of Just War theory, at least in its outline terms, it is plausible that the same moral strictures it places on conventional force apply to unconventional force. At the very least, the same tension is discernible between the pragmatic necessity of intelligence and the inescapability of its moral evaluation. The philosopher's job is to explain how the criteria for *jus ad bellum* and *jus in bello* apply in this new context. The corollary practical task is to ensure that appropriate regimes of legal accountability are created, so that those who exercise unconventional force comply with the strictures of morality.

This is the approach most favoured by current and former intelligence professionals. It usually results in the re-statement of Just War principles to the form of unconventional force in hand. An example is David Omand (2009). His guidelines for the use of force recapitulate, in modestly revised terminology, those of *jus ad bellum* and *in bello*: sufficient cause, integrity of motive, proportionality, right authority, reasonable prospect of success (Omand 2009, also 2014, pp. 286–7). The principle of public declaration is naturally absent; more strikingly absent is that of distinction (see also Bellaby 2012; Glendron 2007; Quinlan 2007). Kevin McNish likewise takes this approach to the ethics of a specific intelligence practice, viz. surveillance (2014; see also Chapter 7 in this volume).

I reject this approach. But it is worth noting how compelling it is, given some currently widespread views about the ethics of war. Traditional Just War theory is

based on what Michael Walzer called 'the domestic analogy' (2006, p. 58). On this view, states are viewed as sovereign individuals that are morally analogous to individual persons. As such, they possess rights of self-defence that entitle them to go war in defence of their people and territory. Michael Walzer rejects the domestic analogy, seeking to ground the ethics of war solely on the rights of self- and other-defence that individuals hold (2006, p. 54). He reaches largely traditional conclusions about the ethics of war. Since then, scholars have adopted his premises, but questioned his conclusions. Jeff McMahan, for instance, has argued that these premises cannot justify the traditional views that combatants do not wrong if they fulfil the requirements of *jus in bello*, regardless of the *ad bellum* justice of their cause; that liability to attack arises if one is a combatant and that it arises *only* if one is a combatant (McMahan 2004, 2009). Likewise, David Rodin has argued that nations are not justified in defending their territory or political institutions against aggressors that would not kill were their aims not to be resisted (Rodin 2002, 2014). Cécile Fabre has argued that subsistence wars are justified, in which economically destitute nations invade rich neighbours for material resources (Fabre 2012, pp. 97–129).¹ These revisionary conclusions are argued on the basis of the following shared central premise: ethical permissions and prohibitions on the use of force derive solely from what individuals are permitted and prohibited to do to each other. Call this *reductivism* about the ethics of force. It has the implication that the best way to learn about the ethics of force is to examine possible encounters between individuals where there is as little distracting information as possible. It has the further implication that there are no unique moral considerations that arise from social context.

Given this reductivism, it follows that there is no substantial difference between the ethics of force in the conventional context of war and the unconventional context of intelligence work. The attempt to apply the principles of Just War theory to unconventional force finds its grounding not just in there being a useful analogy between the two contexts (see e.g. McNish 2014, p. 146). Rather, it is grounded in there being no moral difference between the two. It is important to note that the application of the Just War criteria to the unconventional context does not depend on one's view about what the correct principles are. One may be a Walzerian traditionalist or a McMahan-esque revisionist regarding its content. So long as traditionalism or revisionism is based on the reductivist premise, then we learn the ethics of unconventional force by looking at those of conventional force. This is so not because of any logical priority, but merely due to historical contingency: scholars started reflecting on the conventional context prior to and in a more sustained way than they have done for the unconventional. According to one's views on the correct account of the principles of Just War, one derives the content of principles for just intelligence work. As it happens, most prior accounts of the ethics of intelligence work have incorporated traditionalist views about the conditions of Just War. But that is inessential to the methodology.

Reductivism provides a ready critique of attempts to identify moral considerations that are unique to unconventional contexts. Daniel Brunstetter and Megan

Braun (2013) aim to do the latter for force that falls short of war, and which is subject to evaluation under '*jus ad vim*'. They propose that force short of war is morally permissible in situations where war would not be, with certain kinds of *injuria* or threat – such as the bombing of embassies, kidnapping of citizens or the prospect of a state failing which possesses nuclear weapons – meriting a forcible response, but one that falls short of war. They propose that a necessary condition for the just use of force short of war is that there be limited prospects of escalation. Brunstetter and Braun's position is highly plausible. But the reductivist reply comes quickly. The moral significance of the prospect of escalation is already expressed by the *jus ad bellum* criterion of proportionality. The deeper point is that the category of *jus ad vim* is redundant, because the categories of *jus ad bellum* and *in bello* are also redundant. Or rather, the utility of each of the terms is given purely in terms of their extension; each picks out a certain category of acts that it is useful to be able to talk about discretely (Helen Frowe makes this argument; see Frowe n.d.). In sum, the ethics of force is not domain-specific. As McMahan puts it, the 'conditions of war change nothing at all; they merely make it more difficult to ascertain certain facts' (2006, p. 47).²

An alternative view, to which I subscribe, takes the social context of force to be morally significant. I shall now develop this in more detail.

Conventions of force

The reductivist premise is false. The principles of Just War have a different structure of justification from that deriving from permissions held by individuals *qua* individuals. As such, permissions and prohibitions regarding the use of force may be sensitive to prevailing social practices. Call this *exceptionalism* about the use of force. Exceptionalism about force is the tacit assumption underlying the traditional view of the ethics of war, and it accounts for why permissions to kill are present in war that are extraordinarily absent in civilian life. But there is no plausible reason to suppose that it applies only to war. If it applies at all, I argue, exceptionalism also applies to unconventional force. I do not aim to provide here an all-things-considered defence of the position; that task would be too large. Rather, my aim is to provide a statement of the position and outline how a justification of it would proceed. I do so by examining a disagreement between Jeff McMahan and Henry Shue, and drawing an unnoted conclusion from Shue's position.

McMahan – arguably the most prominent reductivist – distinguishes sharply between the 'deep morality' of war and the laws of war. The former assumes the reductivist premise, from which he derives revisionary conclusions. The latter serves to regulate the actual conduct of war. The laws of war have 'to be formulated to take account of the likely effects of its promulgation, institutionalization, and enforcement' (McMahan 2008, p. 33). He acknowledges the practical discrepancy between the two. It is 'entirely clear that the laws of war must diverge significantly from the deep morality of war as I have presented it' (McMahan 2004, p. 730). Given the possibility of discrepancy between morality and law, McMahan then

considers possible forms of conflict between the two. He concludes that individuals must follow the dictates of either law or morality where one forbids or requires; that doing so is consistent with a permission from the other; and that one must follow the prohibitions of morality in defiance of the law's requirements (2008, pp. 37–9).

The account is puzzling. McMahan's enquiry can be understood as investigating the permissions and prohibitions that individuals enjoy in the state of nature, so to speak – that of Locke, not Hobbes. It is pre-societal. But given the existence of society, we can ask what the best rules are that would enable us to interact, and perhaps even to cooperate. As Henry Shue notes, one ought to aim at the morally best rules. But we do not have to choose:

between what the morally best laws permit and require and what morality permits and requires, because morality requires that, where we need laws, we formulate the best laws and then follow them where they apply. We can take the morally best action by obeying the morally best law, where we ought to follow a law. We may of course have to choose between the actual laws and what morality requires the law to be, but that is because, and when, the actual laws are not the best laws.

(Shue 2008, p. 91)

Shue's account does not pit morality against law. Rather, in morality's requiring obedience to legitimate law, morality 'is all of a piece: the fundamental moral considerations are the fundamental moral considerations' (2008, p. 88; see also Dill & Shue 2012). McMahan's enquiry focuses on an unduly restricted subset of fundamental moral considerations, viz. desert and liability to attack. But there are other fundamental moral considerations, such as the minimisation of loss of life, which also weigh in the balance when it comes to the formulation of law. The moral obligation to follow the best law – or even just a reasonable, legitimate one – is an all-things-considered obligation. Desert is not the only moral consideration.

My sympathies in this disagreement are with Shue. In support of his position, just think what its denial would entail. Law, on McMahan's picture, becomes a solely pragmatic interest, albeit pervasively present. But this cannot be right. Law claims the moral authority when it comes to action-guidance; it is not merely a practical incentive to avoiding punishment. Rather, punishment is expressive of the public's moral judgment of the criminal. Very often, when laws are good, the responsible person also views herself as under an obligation to accept that authority. To forestall objection, it is also important to note what Shue is *not* committed to. He is implicitly committed neither to consequentialism, on which a right action is one that maximises the greatest goodness, nor contractarianism, on which one ought to follow the rule that a reasonable person would agree to under fair bargaining conditions (contractarianism readily gives rise to exceptionalism about the use of force; see Benbaji 2009, 2014). No doubt his view is amenable to both

these positions. But all he is committed to is the claim that fundamental moral considerations include more than desert-relations; that the last do not trump; and that law derives part of its moral force from other such considerations. There is one implication of his view, however, that he does not draw and which I wish to highlight.

The fundamental moral considerations that Shue identifies are not only served by law. They are also served by tacit conventions. In David Lewis's analysis, a convention arises when there is mutual interest in arriving at a regularity of behaviour in a repeated interaction, but where there is more than one possible regularity that each would prefer, and in which it becomes common knowledge which regularity of behaviour has been settled upon (1969, p. 76). Whether one drives on the right or the left is an example. It does not matter which side is settled upon, but it matters very much that a side is adopted. In other situations, it matters which regularity is settled upon, but it matters to everyone that a regularity is settled upon more than that their favoured regularity is arrived at. A convention is thus a stable equilibrium. Conventions *could* be set by a central authority. But equally often, they arise through a certain regularity of behaviour's having a degree of salience and thereby being settled upon by a number of people. Or it could be simply a historically contingent matter, a result of someone finding a good resolution of the coordination problem, and the social influence that they had, the networks of which they were members, and so on. In the latter case, a convention is tacit. In the former case, where it is set by a central authority, a convention is formal. Indeed, there is a compelling understanding of part of the origin of law – and thus part of its justification – on which the law is a formal, centralised means of setting beneficial conventions (see Marmor 2009).

It is often a tricky empirical question whether a convention holds in a particular domain, but it does so if and only if there is a regularity of behaviour that is followed, and if it is common knowledge that it is followed, by people who face a particular interaction situation. A convention exists only under generally sustained conditions of reciprocity. Conventions are morally significant. Where they exist, and are beneficial, there is moral reason to follow them. But they are morally significant only in the domains of interaction in which they hold. Where they do not hold, one has to fall back on other sources of moral direction.

Conventions exist in war. What counts as a legitimate target for attack, for instance, could have been construed very differently. The convention of counting all and only those in uniform as legitimate targets has the merit of being simple, symmetrical and mutually beneficial in its limitation of war's destructiveness. This also applies to conventions around care for prisoners of war; the exemption of medical and religious personnel from targeting; the prohibition of poisoning; protection of parliamentarians and so forth. Each of these limits the destructiveness of war, without strict regard for the moral permissiveness of attacking individuals that arises in virtue of the unjustified threat they either caused or now pose. All of this serves to illustrate Thomas Schelling's remark that 'the possibility of mutual accommodation [in war] is as important and dramatic as the element of conflict. Concepts

like deterrence, limited war, and disarmament, as well as negotiation, are concerned with the common interest and mutual dependence that can exist between participants in a conflict' (Schelling 1960, p. 5; for longer discussion see Mavrodes 1975).

Noting the moral significance of conventions is important. For one, it explains how international humanitarian law could have arisen through a gradual process of development, in which conventions evolved, rather than being created *ex nihilo* in an act of law-making. For another, it suggests how someone can be justified in following not the letter of the law, but a rule of behaviour that is actually complied with by participants in an activity.

Practices of surrender illustrate both of these points. Various conventions and nationally self-binding documents state that an enemy soldier is considered *hors de combat* if they clearly indicate their intention to surrender (see ICRC 2005, pp. 161–9), and quarter must therefore be given. Undoubtedly so. But throughout history, very different moments at which quarter must be accepted have been adopted. In early modern European warfare, for instance, it was thought that besieged cities had the right to surrender while attackers were investing the walls. Upon indicating a desire to surrender, the expectation was of a parleying for terms, with the garrison's worst prospect being that of being taken prisoner. Depending on the strength of their position, they may very well have been allowed to walk away with their arms, ceding only the town. But a breach of the walls constituted a point of no return. Once the attackers had forced a hole in the walls or had committed to the assault, the defenders forfeited the right of surrender, and no quarter could be expected. Although attackers could still accept an attempted surrender if they chose, they did not wrong the defenders if they refused. The seizure of most cities resulted in a lot of bloodletting.

The justification for this practice was mutual self-interest. The horrendous costs in blood incurred by an attacker in seizing a defended city were to be avoided if at all possible. In raising the expected costs of continued defence, the convention ensured that defenders had to make a clear-headed decision about the likelihood of success. Changing the strategic structure of the choice resulted – it was believed – in fewer deaths overall, and less destructive patterns of warfare. Nor is this style of thinking restricted to the early modern period. In the Falklands campaign, British paratroopers adopted a *de facto* 100 metre or so threshold. They declined to accept the surrender of Argentine soldiers who fought while the paras were in the exposed and vulnerable advance, and then put their hands up as the assaulting troops jumped into the trenches. 'Too late' was the thought (for such cases, see Fraser 1973; Jennings & Weale 1996).

Categoricity

Conventions are not morally limitless. There are some actions that cannot become morally permitted, even if there were a convention according to which they had. This is as true of rules of warfare as it is in other areas. I take the prohibition on

torture to be an example. To mark the contrast, distinguish *categorical requirements* from conventional rules, whether tacit or formal. Because some moral norms are categorical requirements, rather than conventional ones, the principles (for example) of Just War have multiple justifications. This is marked, roughly, by the distinction between *mala in se* and *mala prohibita*. The former generate categorical requirements.

Against juridification

The basic case for exceptionalism about force has been made. I now apply it to unconventional force, and draw a key policy implication.

Given exceptionalism, the rules that govern the use of force in the unconventional context may be substantively different from those governing the conventional context. Moreover, they may be different in ways that grant moral permissions – as well as prohibitions – that are not found elsewhere. This is not true of all moral norms, for some are categorical requirements. But it is true of those that are conventional – although it may turn out that analogues of the principles of Just War theory are generally thought to apply to espionage, at least by intelligence practitioners, which would be an interesting and surprising outcome. But this is probably not the case. Instead, spies, special forces and cyber-spooks refrain from certain kinds of actions on the grounds that their own people and property will be liable to the same treatment if they do not restrain themselves, such that it serves the purposes of all in that community, internationally, to restrain from those actions.

More significantly, intelligence practitioners may undertake certain kinds of action on the understanding that their own people and property are *already* reciprocally liable to such treatment. In this case, an existing regularity of behaviour may create permissions that pre-social morality would deny. There are limits to what permissions may be created, namely those constituted by the categorical requirements of morality. These categorical requirements need not be trivial. Targeting those who are uninvolved in the affairs of state or in political activity may well be prohibited. But outside of these prohibitions there may be considerable lassitude. Spies, and other practitioners of unconventional force, play by big boys' rules.

The conventional rules that govern intelligence work are tacit. Through repeated operations between adversaries, regularities of behaviour emerge that render some actions permissible and others forbidden. Reciprocity is a necessary condition for these to emerge. They have an awkward consequence. Given liberal nations' standing suspicion of the intelligence services, there is a continual demand for greater oversight. The demand is invariably for juridification: the establishment of oversight procedures based on the creation of law to govern intelligence agencies, and its application by the judiciary. This is in contrast to oversight exercised by the executive which is politically accountable to the electorate. I reject this view because it relies on moral norms that go beyond the categorical requirements of morality. As well as being self-defeating, the juridification of intelligence work is neither required nor possible.

Juridification is self-defeating because it undermines the conditions of the possibility of intelligence work. For Shue, the laws of war ordinarily take the form of black-letter law. Black-letter law, however, is peculiarly inapposite to intelligence work. It is of the essence of law that it be public. But public declaration of which methods are prohibited, and by implication which are permitted, renders one's techniques transparent to adversaries. It thereby thwarts the very point of having an intelligence capacity – the possession of which is itself permissible, by the criterion of reciprocity.

Juridification is not required morally. The parameters of legitimate action by intelligence practitioners are substantially dependent on what is accepted practice between adversaries. Self-binding oneself to an articular code of conduct, from which adversaries have reneged, is plainly imprudent; nor is it required.

Finally, juridification is not possible. Partly as a result of the problem of self-defeat, the conventions that govern intelligence work are forced to remain tacit rather than formal. As such, non-practitioners cannot gain the epistemic standing that would allow them to learn about the regularities of behaviour that govern force in the unconventional contests between nations and networks. Furthermore, accepted practice is mutable and susceptible to development and change – as all mores are. One must be a current practitioner to know what the current conventions are. Only big boys get to know what the rules are, but it is by those rules that they must be morally evaluated.

Notes

- 1 It is disputed how revisionary some of these conclusions are, or whether they constitute a return to views espoused by the medieval jurists. See Reichberg 2008 for discussion.
- 2 I owe the reference to Helen Frowe.

References

- Bellaby, R 2012, 'What's the harm? the ethics of intelligence collection', *Intelligence and National Security*, vol. 27, no. 1, pp. 93–117.
- Benbaji, Y 2009, 'The war convention and the moral division of labour', *Philosophical Quarterly*, vol. 59, no. 237, pp. 593–617.
- Benbaji, Y 2014, 'Distributive justice, human rights, and territorial integrity: a contractarian account of the crime of aggression', in C Fabre and S Lazar (eds), *The morality of defensive war*, Oxford University Press, Oxford.
- Brunstetter, D & Braun, M 2013, 'From jus ad bellum to jus ad vim: recalibrating our understanding of the moral use of force', *Ethics and International Affairs*, vol. 27, no. 1, pp. 87–106.
- Dill, J 2014, *Legitimate targets? Social construction, international law and us bombing*, Cambridge University Press, Cambridge.
- Dill, J 2016, 'Forcible alternatives to war', in J Ohlin (ed.), *Theoretical boundaries of armed conflict and human rights*, Cambridge University Press, Cambridge, in press.
- Dill, J & Shue, H 2012, 'Limiting the killing in war: military necessity and the St. Petersburg assumption', *Ethics and International Affairs*, vol. 26, no. 3, pp. 311–333.

- Fabre, C 2012, *Cosmopolitan war*, Oxford University Press, Oxford.
- Fraser, A 1973, *Cromwell: our chief of men*, Weidenfeld & Nicolson, London.
- Frowe, H n.d., 'The use of drones and the ethics of defensive force', podcast, Stockholm University, www.elac.ox.ac.uk/podcasts
- Glendon, A 2007, 'Just war, just intelligence: an ethical framework for foreign espionage', *International Journal of Intelligence and Counter-Intelligence*, vol. 18, no. 3, pp. 398–434.
- ICRC 2005, *Customary international humanitarian law: Vol. 1 Rules*, J-M Henckaerts & L Doswald-Beck (eds), Cambridge University Press, Cambridge.
- Jennings, C & Weale, A 1996, *Green-eyed boys: 3 para and the battle for Mount Longdon*, Harper Collins, London.
- Lewis, D 1969, *Convention: a philosophical study*, Harvard University Press, Cambridge, MA.
- Marmor, A 2009, *Social conventions: from language to law*, Princeton University Press, Princeton, NJ.
- Mavrodes, G 1975, 'Conventions and the morality of war', *Philosophy and Public Affairs*, vol. 4, no. 2, pp. 117–131.
- McMahan, J 2004, 'The ethics of killing in war', *Ethics*, vol. 114, pp. 693–733.
- McMahan, J 2006, 'Killing in war: a reply to Walzer', *Philosophia*, vol. 34, no. 1, pp. 47–51.
- McMahan, J 2008, 'The morality of war and the laws of war', in D Rodin & H Shue (eds), *Just and unjust warriors*, Oxford University Press, Oxford.
- McMahan, J 2009, *Killing in war*, Oxford University Press, New York.
- McNish, K 2014, 'Just surveillance? Towards a normative theory of surveillance', *Surveillance and Society*, vol. 12, no. 1, pp. 142–153.
- Omand, D 2009, 'Ethical guidelines in using secret intelligence for public security', in C Andrew, RJ Aldrich & WK Wark (eds), *Secret intelligence: a reader*, London: Routledge, pp. 395–410.
- Omand, D 2014, *Securing the state*, Oxford University Press, Oxford.
- Quinlan, M 2007, 'Just intelligence: prolegomena to an ethical theory', *Intelligence and National Security*, vol. 22, no. 1, pp. 1–13.
- Reichberg, GM 2008, 'Just war and regular war: competing paradigms', in D Rodin & H Shue (eds), *Just and unjust warriors*, Oxford University Press, Oxford.
- Rodin, D 2002, *War and self-defense*, Oxford University Press, Oxford.
- Rodin, D 2014, 'The myth of national self-defence', in C Fabre and S Lazar (eds), *The morality of defensive war*, Oxford University Press, Oxford.
- Schelling, TC 1960, *The strategy of conflict*, Harvard University Press, Cambridge, MA.
- Shue, H 2008, 'Do we need a "morality of war"?', in D Rodin & H Shue (eds), *Just and unjust warriors*, Oxford University Press, Oxford.
- Walzer, M 2006, *Just and unjust wars: a moral argument with historical illustrations*, Basic Books, New York.

PART IV

Remote surveillance and killing