



An Interview with Jonathan Parry: Authority in War and the Ethics of Wrongful Observation

Conducted by Kate Farmer and Jack Grimes

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Kate Farmer: *Dr. Parry, thank you so much for being here. Our first question: what might be the moral verdict on a soldier who's fighting for the just cause of national self-defense but who also kills enemy combatants indiscriminately, regardless of whether her own life is directly at risk? Does the imminent threat to her nation shield her actions in any morally significant way, and can the defense of the nation ever be considered a defense of oneself?*

Jonathan Parry: There's a lot in there, so let's start with a bit of background to help frame the question.

One big topic of debate within the ethics of war is the relationship between the moral norms that govern individual self-defense and those that govern the justification of warfare (wars in self-defense being the paradigmatic example).

There's a split on this. Some people think the ethics of killing in war *just is* the ethics of individual self-defense. On this view a justified war is just an aggregation of individuals exercising their individual permissions to defend themselves and others. This is sometimes called the "individualist" or "reductive" view. Then you have another view that disagrees with this. It says there is something above and beyond the rights and interests of the individuals that plays an important role in the morality of war. For example, on this view, there may be value in defending "the nation" or "the community" over and above the value of defending individual people. So, on this view, there may be wars that are justified even if they cannot be justified solely in terms of defending individual rights and interests. Let's call this the "non-reductive" view. I'm on the more reductive side of this debate. I generally think war, when it is justified, is just a very large-scale, complicated exercise of individual self-defense and defense of others.

So then, returning to your case of the soldier who indiscriminately kills enemy combatants. The tricky question here is exactly what we mean by "indiscriminately." Normally, "indiscriminate" killing refers to the intentional killing of non-combatants. But in your case, I take it, the idea is that there may be soldiers who kill enemy combatants in a war of national self-defense, but who *don't* seem to be defending

themselves or exercising their rights of individual self-defense. Perhaps they are killing soldiers who are retreating, or they are using drones to kill enemy soldiers from a position of complete safety, etc.

These sorts of cases might be thought to pose a problem for the reductive view that I favor (and hence an argument in favor of a more non-reductive view). It looks like we have a case of an intuitively justified war—national self-defense—and yet a proportion of the killing that constitutes the war can't be justified by appealing to *individuals'* rights of self-defense.

However, I don't think this is right. I think we should take a wider view of justified individual self-defense. On this view, soldiers don't need to be *personally* threatened in order to be justified in using defensive force. Rather, what matters is whether their use of force contributes to the just goals of the war. And, for a reductivist like me, the just goals of the war should be understood in terms of defending individuals' rights (including individuals' rights to political independence). So, as long as soldiers' acts of killing in war contribute to just goals, I think it can potentially be justified in terms of defending individuals. They don't have to literally be defending their own lives in order to be justified.

Let me stress that even if a soldier is fighting in a just war of national self-defense, this doesn't mean that they are automatically justified in killing enemy soldiers. There is another sense of "indiscriminate" which means something like "wonton," "gratuitous," or "unnecessary." And I think that it is clearly morally wrong to kill enemy combatants if doing so is not necessary to achieve the war's just goals.

Imagine, for example, we're fighting a just war, and in order to win this just war we have to take a strategic position. We could do it in a way that only requires killing 100 enemy combatants. But instead, we do it in a way that kills 200, without any moral benefit. I think this is obviously morally wrong—those additional 100 killings are morally equivalent to murder. If the killing isn't necessary to advance a just goal, then it's hard to see how it could be justified, even though the killing takes place within a war that has a just cause. Just because your war has a just cause (national self-defense, for example) that doesn't mean you can kill as many enemy combatants as you like.

I should also point out that I don't think that national self-defense automatically generates a just cause for war. Sometimes threats to territory or to political independence do not pose a sufficiently serious threat to *individuals' rights and interests* to justify killing people.

For example, imagine that Britain has sovereignty over some uninhabited islands in the middle of the Pacific, and France decides they're going to take them over, by force if necessary. Absent further details, it doesn't look like France poses a threat to any British person's basic rights or interests. Now, under international law, this would be a violation of Britain's territorial integrity and thus would be the kind of thing that would constitute a just cause for a war of self-defense. But I think this is just not important enough to justify killing people. In this case, I think the reductive

view gets the right results: Individual self-defense does not justify killing, and so a war of national self-defense is not justified. Moreover, if the war were to go ahead, I don't think British soldiers would be justified in killing French soldiers: those killings would not contribute to anything important enough to justify killing.

KF: *I think that hints at what you might answer to another concern of ours. Is a soldier who's fighting on behalf of an unjust cause allowed to kill enemy combatants in self-defense, even though, as a result, this could mean the victory of a deplorable regime?*

JP: This is the big question! As I mentioned earlier, there are two major views on the ethics of war. There's a reductive view (taken up by people like me, Jeff McMahan, Helen Frowe, and Cécile Fabre) which holds that justified war *just is* justified individual self-defense on an aggregated, large scale. And then there's the opposing view which holds that war is not reducible to individual morality in this way. What you think about that question bears quite heavily on what you think about this specific question of whether soldiers who fight in unjust wars are permitted to kill. If you take the reductive view here, most people in that camp think the answer is no.

The argument is quite straightforward: if I'm involved in unjustly threatening other people's important rights, I'm not morally permitted to kill those people if they fight back in defense of their rights. Imagine that me and my friends decide to rob a bank. And then the police come and try to stop us. Is it permissible for us to fight the police and kill them? Most people think the answer is no, even if we would be acting in self-defense. We would be defending ourselves only because we've triggered, via unjust actions, the circumstances in which we are threatened. So, it looks like, in individual cases, the morality of self-defense is strictly asymmetric between people who have just goals and people who have overall unjust goals. It's not like we say, "just because your life is threatened, everybody gets to kill everybody."

Those of us who take a reductive view think the same basic principle is true in war too. If you are fighting in an unjust war, you should just pack up and go home. You cannot permissibly kill people who are just trying to stop you from achieving your side's unjust aims—though my view on authority (that I'll get into later) generates some exceptions to this principle. If your killing contributes to unjust goals—goals that ought not to be achieved in the first place—it's pretty puzzling as to why we would think the killing is permitted.

On the other hand, if you think war *is* morally special—that it's discontinuous with the morality of everyday life—then you might think it's more plausible to think that soldiers are permitted to fight and kill in unjust wars. On this view, even if there is moral asymmetry between the parties to war, there remains a moral symmetry between the combatants who participate in it, and so each may kill each other in self-defense. Michael Walzer is the most famous proponent of this view. He thinks the question of whether the war is justified or unjustified applies to leaders and their communities, but when it comes down to the "poor sods" who do the fighting, they

confront each other as “moral equals.” I can see why you might be sympathetic to that view. It certainly seems like soldiers are often a kind of victim. It certainly seems like we don’t want to blame them, at least in most cases. But my view is that the reductive view is right: it is not morally permissible to kill people in pursuit of unjust goals. Even if soldiers are not responsible for launching unjust wars, they remain responsible for their participation in those wars.

Note that even if the reductive view is right, and soldiers who fight in unjustified wars aren’t permitted to kill anybody, the rough position of international law—which treats combatants on all sides equally and prohibits punishing individual soldiers for fighting in illegal wars—may still be perfectly justified. There are lots of good reasons against punishing people, even if their conduct is seriously morally wrong. They might not be fully culpable or blameworthy; there might be no way of doing it fairly; there might be no institutions that can do it legitimately; etc. There might also be good consequentialist reasons not to punish people who fight in unjust wars—maybe the threat of punishment makes conflicts last longer or become more bloody or violent.

So, even if we think that fighting in unjustified war is morally wrong, it doesn’t follow that we must radically revise any of the laws or institutions that govern war (though there may be other good arguments for doing so). The question of whether a type of conduct is morally justified or unjustified is separate from the question of whether the law ought to permit or prohibit that type of conduct.

KF: *I have a follow-up scenario where I’m not sure the same answer would apply. Say a soldier is fully compelled to participate in such an army. Would you still extend that same sort of moral verdict to him, or would that be a different scenario?*

JP: This is tricky. I’m imagining soldiers who fight under duress, or they’re conscripted, or they’ll be punished heavily if they don’t fight. I should stress that these circumstances don’t plausibly apply to *every soldier* in *every war*. But let’s focus on those cases where there are serious costs for not fighting in an unjust war.

One key question concerns the extent to which we think it’s morally permissible to harm people in order to avoid costs to yourself. Here’s an extreme example. Imagine I say, “Kate, you have to kill Jack or I’m going to kill you.” A lot of people, myself included, think it’s impermissible for you to kill Jack. It’s not permissible to kill one innocent person in order to save your own life. You just have to bear the extreme cost. If we agree with that judgment, this seems to bear directly on the question of coerced participation in unjust wars.

It looks like morality requires us to bear pretty serious costs in order to avoid killing innocent people. Insofar as we agree (as I do) that fighting in unjustified wars does involve killing innocent people, it follows that we are required to bear even serious costs to avoid fighting in unjust wars.

So, in general, I’m skeptical that duress or punishment justify participating in unjust wars—though it may partly excuse participation. I think other people’s basic

rights are really important, and sometimes we have to incur serious costs in order to not violate other people's rights.

However, I think there might be *some* cases in which the costs of not fighting might justify participating in an unjust war. Imagine my state tells me that if I don't fight in this war, they're going to kill my whole family. That's true for some people who fight in some wars. Also, let's say I'm not going to fight on the front lines, so I'm not directly killing. Maybe I'm just working in the military supply chain somewhere and my causal contributions to the unjust war aren't particularly significant. In this kind of case, I think it may well be morally permissible to participate.

Jack Grimes: *I have a question about the soldier. In your paper, "Legitimate Authority and the Ethics of War: A Map of the Terrain," you write that if a soldier truly believes that an authority is "incompetent, lying, or otherwise procedurally compromised," then she's under no service-based duty to obey that authority. I'm wondering how that plays into her answering to the authority. She doesn't view the authority as legitimate over her, yet she still kills during the war, and the war is just in some way. That is, she kills, and it appears she is following orders, but in that killing she is not truly obeying the authority, as she doesn't believe that the authority has legitimate authority over her. Is that killing morally permissible?*

JP: Let me provide some background here, and then I'll try and respond to your very tricky question.

This is a question about the role of "legitimate authority" in the ethics of war. If you look at the ethics of war going back to Aquinas and Augustine, people really seem to care a lot about legitimate authority. On the standard reading of the idea, the basic thought seems to be a war can only be justified if it is fought by the right kind of entity: those that count as legitimate authorities (whoever these are).

I've always found this idea quite puzzling. Imagine an entity that satisfies *every condition* for a just war—just cause, proportionate, last resort, right intention, and whatever else—but is *not* an authority. I find it strange to think that entity is not permitted to fight. So, what is this legitimate authority thing doing? This puzzlement is how I got into the ethics of war, and my Ph.D. tried to make some progress on it. What is authority, in the relevant sense? Why should we care about it? Is it just some medieval, scholastic concept which we should jettison from our theorizing?

What I proposed is something like this: we should interpret the role of authority not in terms of whether it makes a war just or not, but whether it makes a difference in the *permissibility of individuals' conduct in war*. If you fight on behalf of a legitimate authority—whatever that means—that changes the moral status of your actions. There are things that are not permissible for you to do in the absence of authority, but which you are permitted to do if you fight under authority.

Now, if this is what legitimate authority means, a natural question arises: How could that possibly be true? This seems like moral magic. How can the fact that

you command me to kill Kate make it permissible for me to kill her, if killing Kate wouldn't otherwise be permissible? Put like that, the idea sounds crazy.

But I actually think there might be an argument that shows this isn't necessarily crazy. It goes something like this: Why, in general, should we ever obey the commands of other people? Here's one plausible response, which I borrowed from a philosopher called Joseph Raz. Raz argues that we should obey an authority because doing so can help you better do the things which you ought to do anyway. So, think about all the moral reasons and moral duties that apply to me. Maybe if, by following Jack's commands rather than by thinking about it for myself and acting on my own judgment, I'll do better overall. If so, I have a moral duty to obey Jack, since this helps me better fulfil my other moral duties.

In my work, I have tried to extend Raz's general argument to the specific case of war. The basic idea is that there may be some people who are better than me in terms of figuring out when we should fight and when we shouldn't, and how we should fight when we're fighting. If so, I should follow their commands with respect to killing people (in fact, I have a moral duty to do so), rather than trying to figure it out myself in every case.

Importantly, I claim, that might be true even in some cases where the authority makes an honest mistake and commands me to inflict unjustified harm. Overall, I might still do better by following their commands: it's difficult for me to identify the particular cases where they go wrong and follow my own judgment in those cases. That's the general thought.

So, that's my attempt to try and defend the authority condition, in a highly qualified form. Let me stress that it's only going to apply in very specific cases when the authority does, in fact, help me in this way. I doubt many real-world authorities actually do this. I think lots of states and political systems claim authority that they don't in fact have (and I think most political philosophers agree with me on that).

With this backstory in place, let me address your question. The question drills down on one specific possible case. This is where the soldier believes that the authority is incompetent and will make a lot of errors, and so she believes that she will be better off following her own judgements about fighting in war. What should we say about this case? Let's assume that the subject judges correctly: she will in fact be better off without the authority. In this case, I think the soldier is on her own, so to speak: If she correctly judges her war to be just, then she fights permissibly. If she gets things wrong and fights in an unjust war, then she is fighting impermissibly. This just repeats my basic view about participation in unjust wars that we discussed earlier. But, to note: I don't think the fact that she ignores the authority's commands morally impugns her actions in any way. If soldiers are in a better position to judge the morality of their actions, I think they *should* ignore the authority.

Now, let's imagine the inverse case: the soldier misjudges that the authority knows better than she does, and so she fights on the basis of her own judgement rather

than obeying the authority. Again, I think if a soldier fights in a just war, they fight permissibly (they “get lucky,” morally speaking), and if they get it wrong and fight in an unjust war, then they fight impermissibly. But in both cases, I think the soldier here acts wrongly *in one sense*: she ignores an authority that would have helped her better comply with her moral duties. By ignoring a competent authority, the soldier acts recklessly with respect to other people’s rights and is open to moral criticism for that.

JG: *Our next question might be a clarifying one. So, the emphasis here is on whether particular entities have the authority to wage war. I’m wondering if whether something is a war depends on the entities involved—could there be a case in which something could only be a war if a certain authority is involved? I think that might fit into just war theory in general, like that the criteria make up what a war is, but I need some clarification on that. So, what if the existence of an authority is needed to make the war what it is?*

JP: As an interpretation of how people have thought about war, and the ethics of war, historically, I think that’s spot on. The basic thought is that wars are defined in terms of the kind of entities that are capable of bringing a state of war into existence. So, on this view, the idea of legitimate authority in just war theory doesn’t just bear on the question of whether a war is just or not, but also (more fundamentally) on whether the activity being morally evaluated counts as a war in the first place.

This invites an important question: so what? One might think that the question of *defining* wars is not really relevant to the *ethical* questions of whether the use of force is justified. I myself am sympathetic to this view.

It’s worth thinking about how this connects with some of the things we discussed earlier. Recall how earlier I distinguished between two broad views about the ethics of war: the reductive view (which holds that the ethics of war is reducible to the ethics of individual self- and other defense) and the non-reductive view (which holds that war is morally special or exceptional, in some sense). If, like me, you take the former view, then it is hard to see why we should care so much about whether some violence counts as a war or not. The same moral rules apply regardless of how we classify the violence. On this view, the classification of violence as war or non-war is important for empirical political scientists, but it’s not important for moral philosophy.

However, if you are sympathetic to the idea that war is morally exceptional—that the moral rules governing war are different to those governing other forms of violence—then the question of whether a violent activity counts as war is *really* important, for we need to be able to clearly demarcate the zone in which the special rules apply from all other zones. The question “Is this killing morally justified?” cannot be answered without first answering the question “Are we evaluating a war or something else?”

This then raises the difficult task of trying to demarcate war as a morally special zone. Most people in the just war tradition have done so by appealing to the legitimate authority condition, which says that wars are defined in terms of *who* has the moral

power to create a state of war. However, as I mentioned, many just war theorists of a reductive stripe deny that whether something counts as war or not makes any moral difference. Accordingly, reductivist just war theorists tend to be skeptical that legitimate authority matters very much, if at all.

KF: *Another question we want to cover with this topic is the really complicated one of how you decide which group is the victim and which is the wrongdoer, especially in complicated cases where both feel they're the victim of some wrong done by the other. Is it possible that the victim is the one who's lost more lives in the conflict, or perhaps it is the group on the side of the intervener? Like, is it possible for us to make that decision?*

JP: Yeah, it's a tricky one. I don't have a theory of this, but I think there's one really important thing to remember. As I mentioned earlier, I think when war is justified, it's justified in terms of self- and other defense. This is very different from thinking about things in terms of revenge or punishment. Whereas revenge and punishment are backwards-looking and concerned with "who did what to who," defensive force is forwards-looking: it's concerned with preventing violations of individual's rights. So, on my view, the relevant sense of "victim" is the people who are *now* threatened, not people who have historically been persecuted.

Your question is absolutely right in that, when we consider the historical backstory in conflict zones, there is often a long history of cyclical retaliatory violence between different groups. Looking at things historically and at the group-level, it is often true—in some sense—that both groups are "in the wrong." But I think, when it comes to justifying war, that the historical group-level backstory is not that relevant. What matters is whether, in the here and now, there are some people who are threatening to unjustly harm innocent persons. If they are, then they are potentially liable to have defensive force used against them.

Maybe this is another way of putting it: When, for example, some armed members of one ethnic group are threatening to kill unarmed members of another ethnic group, I don't think it is morally relevant whether the grandparents of the second group murdered members of the first group 50 years ago. In general, I am strongly against the "collectivization" of responsibility and liability, in which the wrongdoing of a subset of group members is attributed to all the members of the group. I think it's only permissible to target people based on what *they* have done or are doing. The fact that their ancestors were murderers doesn't give us any reason to kill them.

Now, there may be cases in which there are *ongoing, contemporaneous* threats posed by both sides towards each other. But even in these cases, I think we should avoid collectivizing perpetration and victimization. In fact, what is normally going on in these cases is that a small subset of one group (e.g., a militia group) is threatening completely innocent members of the other group and vice versa. So, morally speaking, this is not a case where you have two individuals who are threatening and victimizing each other—rather, we have innocent people on both sides being targeted by unjust

actors from both sides. From the perspective of an outside intervener, the individual perpetrators on each side are liable to be harmed to protect their victims.

JG: *For my next question, I'm going to quote you and ask about the quote. You say, "The proposal to be considered holds that agents subject to (a very specific kind) of authority can be morally required, all things considered, to obey commands to cause harm in war. Importantly, this will include cases in which causing harm would not be morally permissible in the absence of the command" (from "Legitimate Authority"). I'm wondering, since you say in the beginning that authority can be an entity other than a state—like, under the reductive issue, I think it holds that an authority can be a private actor, or something like that, other than the state. So, if an authority could be in any other state, couldn't that entity use the fact that their commands will be morally permissible to make commands that, while not excessively harmful, are outside of the scope of their authority?*

You make this claim that they have authority to command, but not if the commands are excessively harmful. I'm thinking of cases that, while not excessively harmful, might be outside of the scope of an authority that isn't a state. Think of really harsh military training, or something that might cause internal trauma or harm to the soldier that isn't externally, excessively harmful. I'm wondering what your view is on something like that.

JP: Just to clarify: when I mean authority, I'm thinking about it as a purely moral notion. The thought is something like: for me to have authority over you is for me, by commanding you, to give you a new (moral) reason to do what I command. So, that's what I'm thinking of when I think about authority. So, your case is one in which there's something else going on, right? There's a hierarchical and quite forceful kind of relation between the commander and the commanded—is that right?

JG: *Yes, and it's not necessarily excessively harmful, but it seems to be outside of the bounds of what the authority can do.*

To give an example, I recently read an article about forest patrolling in Zimbabwe, for conservation. The paramilitary guards kill poachers, and their training is really, really harsh—they're trying to kill anyone in sight who seems to be poaching, and they're harshly treated during this training. The authorities have made a case that they need to be harsh to make sure conservation efforts will be enforced, so these soldiers need to be fundamentally changed. They need to be killing machines, essentially. To me, that seems outside of the scope of the Forest Commission's job to protect the forest, but it also seems kind of justified. I'm interested to see how you would view that.

JP: Yeah, that's a tricky one. So, I think there are two questions here side-by-side. One question is from the point of view of the subject: Do I have reason to do what the commander tells me? But another question is framed from the point of view of the commander: by what means is it permissible for me to ensure that the subject follows my commands? It seems plausible that a major part of military training is to get people into a position where they can just follow orders without thinking about it

too much.

It seems to me if the only way an authority can successfully get its subject to obey is by doing things that are independently wrongful, then this is a case in which the authority is unjustified. It ought not be the case that they have authority.

I'm trying to think of a good example. This is a silly one. But imagine I'm really bad at parking, and I do better at parking if I just follow Jack's commands with respect to parking in every case. But imagine I'm not good at following commands, and the only way Jack can get me to follow them is to give me electric shocks whenever I disobey. This really makes me conform and so I do better at parking. It strikes me there's two things we might say about this case. One, there's a sense in which it's true that I will do better if I follow Jack's commands. There's a sense in which Jack's commands really do serve me. But it also seems true that it ought not to be the case that Jack serves, because the only way in which Jack can serve me is by violating some independent moral constraints.

So that's what I'd say about that case. It strikes me that your example has a similar structure. Maybe it's true that the only way to protect the endangered species is to brutalize the people who are commanded. But, nonetheless, we might think—to the extent that it's wrong to brutalize people—if the goal isn't important enough, even if it's the only way of achieving the goal, it's just not worth it.

On your other point: I'm absolutely with you on the thought that authority is always scope-restricted. So, when we define authority, we should define it as a three-place relation. (This is boring, technical, philosopher stuff here). People tend to define authority just as a two-place relation—A has authority over B, where A is the commander and B is the commanded. But I think the right formulation is something like, A has authority over B *with respect to domain C*, where C is the range of things over which authority is had.

This seems very plausible. Let's assume, for the sake of argument, that the British government is justified and legitimate. It looks like they can command me to pay my taxes quarterly rather than yearly, and I therefore have an obligation to do so. But the state can't command me to marry some particular person. It looks like that's outside the scope of their authority. I think that's true of all authorities: the scope is *always* restricted. Here's a difficult philosophical question: can you offer a theory which explains the scope restriction? But nonetheless, it seems very intuitive that there are such restrictions.

JG: *What started your interest in your paper on wrongful observation? It's quite a different topic from the rest of the papers you've written.*

JP: Yes, it's high quality, for one thing! Or maybe it's lower quality! I'll leave that up for debate. Yeah, it's pretty different. It's entirely independent of the rest of my research so far. I've written a lot about warfare and authority and all that stuff. You can't bang the same drum forever, so over the last few years, I haven't worked on

warfare that much. I've said more than enough on that topic, so I'm looking for new pastures. The observation paper is a completely independent project. My coauthor and I started off thinking about complicity and whether you have to causally contribute to someone's actions to render yourself complicit in their actions.

In the course of thinking about this, we became aware of a U.S. Supreme Court case—*Paroline v. United States*. We discovered that, under US criminal law, people who view images of child sexual abuse can be liable to pay compensation to the particular victim in the images that they consume. This case is interesting because it's not at all clear that there's any sense in saying that the viewer makes a causal contribution to the abuse by watching it. Often the abuse took place years prior to the viewing. So, unless you think time travel is possible, it doesn't look like we can say this is a case of causally contributing to other people's wrongdoing. Yet it remains intuitive that the viewer owes compensation to the victim. So, what connects the observer's actions to the victim? What's the nature of that connection? That's the puzzle that got us interested in the topic.

After thinking about it for a while, we came to the view there are at least three ways in which observing wrongs, such as by looking at images depicting wrongdoing, can render a person complicit in that wrongdoing, and liable to compensate the victim or victims.

The first is that, by observing, you can contribute to the victim's humiliation. Often, part of the initial wrong (such as posting intimate images of another person online) involves humiliating the victim. We think, even if you are one among millions, you add to the victim's humiliation by looking at the images. This is perhaps the simplest and most straightforward argument. But we also think that you can contribute to the person's initial wrong in at least two other ways.

Second, many wrongs involve *degrading* the victim, especially wrongs that involve an element of public spectacle. Consider the case of lynchings in the U.S. South, or videos circulating showing ISIS beheadings, or revenge porn videos that people circulate, or videos of sexual assault. We think that when you observe these degrading wrongs, you play a constitutive role in creating what we call an "evaluative environment," in which the victim's moral status is publicly denied: where the victim is treated as if they do not matter, morally speaking.

To help illustrate, the brilliant feminist philosopher Anita Allen has an insightful discussion of what's really problematic about public sexual harassment—like catcalling in the street, for example. In particular, she draws attention to the role that third party observers or bystanders play in that wrong. She thinks the catcaller communicates to an audience that the victim lacks moral status (as she puts it, that the victim is "an instance of a type that counts for naught"). The audience, by observing the harassment and not challenging it, thereby endorses that message of inferiority and contributes to the victim's degradation.

The third argument we offer is that, sometimes, third-party observation helps

to make the initial wrongdoer's plan more successful. So-called "revenge porn" is the clearest example of this. The initial perpetrator puts the images online, with the intention of humiliating and degrading the victim. We think every person who observes makes that evil plan more successful. So, there's a sense in which you can contribute non-causally, as paradoxical as it sounds, to other people's wrongs.

My friend Victor Tadros has a nice example to help illustrate the idea. Imagine you apply for a job, and you get offered the job. Great! But then you find out you were initially second in line for the job, but your mother—who loves you a bit *too* much—murdered the person who was first in line to the job, in order to ensure that you get the job. Victor thinks that you have a strong moral reason not to take the job. This is because, by taking the job, you make your mother's evil plan successful: you bring about the state of affairs that constitutes the plan succeeding. That's a really intuitive example of constitutively contributing to another person's wrongful plan. We think this generalizes to cases of observation too: sometimes "just looking" at something is a way of making a wrongful plan more successful.

KF: *So, one of our questions is, to what extent does the recency of the documented wrong have to do with the moral permissibility of viewership? An example we gave here is that it's considered widely acceptable to view and display images of the dead and suffering in Nazi concentration camps—in a tasteful, educational manner, obviously—but circulating images or videos of recent Islamic State beheadings is clearly labeled as wrongful observation by the standards in your paper. How would one draw the line here?*

JP: Yeah, good. There are two things side by side here. One is *time*: does it make a difference that the initial wrong is temporally recent or distant? The other is the *context* of observation.

These are tricky issues. With respect to the question of time, I think my view is that time, in and of itself, isn't very morally significant. Take the child abuse images, for example. I don't think the period of time makes much difference as to whether you wronged the victim by looking at those images. Imagine we find someone who's viewing the image and we ask them to explain their behavior and justify it. I don't think it would make any difference to my assessment of that person if they pointed out, "Hey, this image was taken 100 years ago," as opposed to five weeks ago. I don't think that's particularly morally significant. One tricky issue is cases where the victim of the initial wrong is long dead. I think you can wrong the dead, so I think our theory applies to those cases too. But this is a more controversial claim than the mere claim that the passage of time is morally insignificant.

Let's turn to context and the way in which images are presented and viewed. My coauthor and I don't want to say that *every time* someone looks at an image of wrongdoing, they're complicit in that initial wrongdoing. That would be an explosion of complicity and that seems overbroad. We limit our view to cases of *unjustified* observation, not observation *per se*.

This obviously then raises the question: what counts as justified? We don't have a perfectly worked out view on this. But we can make some suggestions. One thought is that you can be justified in looking if you do so *for the victim's sake*. Consider the case of a police officer viewing an image of sexual assault in order to gather evidence. We think the officer is justified in observing, even if it's true that they contribute to the victim's humiliation as a side-effect.

Another kind of case is one where we don't observe for the victim's sake, but we observe for the sake of other people. Imagine the initial victim is dead, but the police officer views images in order to gather evidence to catch the perpetrator before they harm others. This is a case where the interests of people other than the victim might play the justifying role. And when it comes to the interests of other people, there's quite a lot of things that could count. I think your example of the Holocaust images is a good one, as well as cases of images of lynchings displayed in museums and places of remembrance.

If the purpose of displaying the images is educative, designed to highlight injustice—and maybe even prevent more injustice from happening in the future—then we think displaying and viewing the images may well be justified. Perhaps there's also a sense in which, when the images are presented in a certain respectful way, it is possible to counter some of the degradation: observation affirms the victim's status, rather than denying it.

So, we certainly think that, sometimes, observing wrongdoing is permissible. But obviously it is sometimes tricky to distinguish justified from unjustified observation.

JG: *Our last question is: how far—if it all—does observer liability extend beyond interpersonal relationships? And not even just interpersonal relationships—for example, if a state observes another neighboring state harming its citizens, is that first state liable in that harm as an observer? I was thinking about this, and that there might be a problem between states, because the observer liability that you talk about seems to imply some sort of punishment for the liability, and states can't really receive that kind of punishment in the international arena when they're not bound by some sort of international law that covers interstate relationships. Is there any way to reconcile this idea of observer liability with states observing neighboring states?*

JP: Yeah, so there's two questions at play here. One is: can states observe? And the other part of the question relates to whether states can be liable to compensate or to be punished.

So, for the first question. I haven't really thought about this before. It's a good question. I think my initial view—without having done any research on this or thought about it for too long—is that states can't observe. Observation seems to essentially involve sensory perception. I don't think states can observe in that sense—I think only perceivers can, and states aren't perceivers in that sense.

So, I tend to think, to the extent that it's ever true that states “observe,” that just

means that there are individual agents of the state observing. Not the state itself. But of course, since people could perceive on behalf of the state or at the direction of the state, it's not like the state is irrelevant in these questions. States don't literally have eyes and ears, but many people act as the eyes and ears of the state.

JG: *I'm thinking of CIA members who observe on behalf of the US or something like that. Say, the president of a state receives information from an intelligence officer working for their state, and that officer has observed some wrongdoing in another state. It seems this state, in that the officer is acting as an entity of the state, would have some sort of liability, in that they've observed from a distance or heard something. It seems, in your model, even hearing of this officer's observation would give them some kind of liability.*

JP: Good example. Of course, it may turn out that the intelligence officer in the example is justified in observing. Let's assume for the sake of argument that some intelligence gathering is permissible, and as a result of doing so, intelligence officers are going to end up observing images that would ordinarily be wrongful for someone to observe. But if the observation is justified, the observer need not be specially liable to compensate.

But let's assume for the sake of argument that the example involves *unjustified* observation. Imagine that the Russians are up to dirty tricks on the Internet and they're disseminating and observing loads of abuse, and they haven't got a justification for doing this. On my view, in those kinds of cases, the individual observers may be straightforwardly individually liable. But it also seems plausible that, if the observers are doing it as part of a coordinated, state-backed policy, then the state should presumably be on the hook as well. In this example, Putin would be liable to compensate the victims of the abuse. But importantly, this need not be because Putin has observed anything, but rather because he's the boss of the organization that has directed the observation.

So, we should distinguish between the liability you can incur *qua* observer and the liability you can incur *qua* bringing about observation. And the second kind of liability needn't require that you do any observing. I'm open to the idea that states can be liable in this second way.

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