Violent Political Resistance: Defence Against Injustice in Partially Just States

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February 2022

Submitted for the Degree of Doctor of Philosophy in Political Science

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Abstract

This thesis contributes to the growing literature on the ethics of violent political resistance to the state and its constituent institutions. Political theory has historically been defined by two traditions: the revolutionary tradition, and the civil disobedience tradition that limits political participation to (generally) non-violent communicative law-breaking. Theorists have recently sought to forge a third path by describing the conditions for justified non-revolutionary violence. In particular, these theorists have drawn on the resources of the literature on defensive action to discern the normative limits of political violence, arguing that violence against an unjust state constitutes a form of defence.

This thesis investigates the moral permissibility of violent political resistance. It assesses what it would take for political violence to satisfy the criteria of necessity, success, and proportionality, drawing nuanced moral distinctions between different kinds of political violence. In the process, this thesis considers in detail a range of topics: whether political violence impermissibly manipulates its victims; which agents of the state are liable to be harmed by virtue of their complicity in injustice; what moral implications follow from empirical evidence of the ineffectiveness of political violence; and whether the victims of injustice can commit violence to defend their dignity. While the thesis applies the defensive framework to a range of real and hypothetical examples throughout, it pays particular attention to the case of Fees Must Fall, a South African student movement that resorted to violence against state institutions and public universities.

This thesis finds that limited violence can be permissible as a defence against injustice, particularly if violence is non-manipulative and directed discerningly at individuals complicit in institutions responsible for injustice. This thesis also defends violence against empirical criticisms of its inefficacy, but it reaches sceptical conclusions about the use of violence in defence of dignity.

Impact Statement

This dissertation is intended as an intervention in the public and philosophical discourse concerning uncivil and violent political action. Philosophically, its aim is to contribute to a body of literature that has seen radical challenges to the trajectory of the analytic tradition. In terms of public discourse, it challenges commonly held views about political violence, with a view towards improving the quality of public debate.

The philosophical intervention of this dissertation is to contribute to the widening application of the principles of Just War Theory to political violence. In the realm of analytic philosophy, debates about political action (and violence in particular) have been framed by seminal work on civil disobedience, particularly by authors like John Rawls and Michael Walzer. Contemporary theorists have challenged some of Rawls and Walzer's claims about the limits of political violence, but predominantly from within the civil disobedience framework. However, there has been a paradigmatic challenge to this framework in the work of theorists like Avia Pasternak, who have challenged the basic assumptions of the civil disobedience framework: that political action in democracies should always be aimed at dialogical ends. Pasternak's intervention—that political violence can be conceived in terms of defence— presents a fundamental challenge to the categorical prohibition of violence in democracies and avails a new framework with which to consider the moral intricacies of violence. This thesis explores this framework, first by showing how the categorical prohibitions of violence fail to hold once we conceive of violence as defence, and second by elaborating the implications of the defensive framework when applied to more detailed and specific problems in political action. The impact of this dissertation is therefore its detailed application of the analytical tools of Just War Theory, and of reductive individualism, to the field of political violence and to a particular case of political violence—that of Fees Must Fall.

The broader intervention of this dissertation is to contribute to the public discourse surrounding political action, in South Africa and democracies generally. In this dissertation, I explore the case of Fees Must Fall—a student movement that disrupted South African academic and government institutions using uncivil and violent means. The movement generated significant public debate, much like contemporaneous movements abroad, including Black Lives Matter and *Gilet Jaunes*. However, as I explore in the dissertation, the public debate lacked a sensitivity to the nuances of violence in partially just states like South

Africa: critics of Fees Must Fall dismissed the resort to incivility and violence on spurious grounds and did not discern between acts along the broad spectrum of uncivil acts that the movement deployed. This dissertation addresses this lacuna: first by repudiating these critics' categorical criticisms of the movement, and second by proposing a more detailed and nuanced analysis of the movement's actions. By stress-testing the arguments for nonviolence, this dissertation aims to improve the quality of arguments on both sides of the debate.

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Introduction

I. 1. Fees Must Fall and the Partially Just State

Although this project started officially in late 2017 when I began my doctoral research, the moment of germination was March 2015. I was a student at the University of Cape Town (UCT) in South Africa studying law and philosophy. The 9th of March saw a moment of protest on the campus that would evolve into a political movement that soon engulfed not only UCT, but the entire South African university system, spilling over into the towns and cities that surrounded them. The movement soon came to be known as Fallism, an allusion to its demands that 'Rhodes Must Fall' (referring to a statue of Cecil John Rhodes on UCT campus) and that 'Fees Must Fall' (referring to the increasingly prohibitive cost of tuition).

Fallism was perhaps the most significant political movement in the country's nascent democratic era: not only did it achieve phenomenal successes in achieving many of its goals, but the militancy of its tactics has reshaped much of the country's politics.[1] Importantly, it also laid bare the shortcomings of post-apartheid democratic politics: students' needs had for too long been neglected by a supposedly representative government, their civil engagement with the government and universities had come to feel increasingly futile, and so students finally reached the limits of their patience.[2] Appealing to the legacies of resistance fighters that had taken on the brutality of apartheid and of all those revolutionaries across Africa who had ejected colonialism from the continent, Fallists turned away from conciliation and towards confrontation and militancy.[3]

Throughout the course of this project, I return frequently to Fallism, outlining its key events, motives, and actions in greater detail. For present purposes, it is instructive to highlight three key features that will run through this project, and which make this case morally complex: (a) the movement eschewed civil disobedience in favour of militant and often violent action;[4] (b) a core tenet of the movement was that, despite the semblance of democracy, South Africa remained a *de facto* colonial or apartheid state;[5] (c) contrary to its

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[1] Naicker, Camalita. "From Marikana to #FeesMustFall: The Praxis of Popular Politics in South Africa." *Urbanisation* 1, no. 1, 2016: 53 – 54.
[2] Molefe, T. O. "Oppression Must Fall." *World Policy Journal* 33, no. 1, 2016: 30-37.
[3] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." Agenda 31, 3-4, 2017: 96-104.
[4] Hodes, Rebecca. "Questioning 'Fees Must Fall'." *African Affairs* 116, no. 462, 2017.
[5] Xaba, Wanelisa. 'The Dangers of Liberalism: A Short Reflection on the African National Congress in South Africa.' *Yale Human Rights & Development Law Journal*, 20 no. 55, 2019.

frequent use of revolutionary rhetoric, the movement's aims were reformist and did not explicitly aspire to regime change.[6]

The violence and militancy of Fallism became a particular point of contention in the public debates that followed the movement's eruption, dividing opinion starkly into two camps: violence's critics, and its apologists. In brief, the critics argued that violence as a political tactic is categorically impermissible in a democracy: that South Africans, despite the flaws and failures of the new dispensation, were bound by political obligations to remain civil in their political action.[7] The arguments in this camp recalled the liberal injunction against violence offered by seminal proponents of civil disobedience, including John Rawls.[8] For violence's apologists, the transition to democracy was illusory, and what mattered was the embedded structures of colonialism that still organized South African society.

Despite my sympathies for nonviolence, I was struck in this debate by the relative poverty of the criticisms levelled at the Fallists for employing violence. Firstly, critics seemed to use conceptual frameworks that were ill-fitting in the context: democratic South Africa, beset by pervasive iniquity as it is, is not the picture of liberal democracy that Rawls or other exponents of political obligation had in mind. Admittedly, nor is it the kind of repressive colonial state described by Frantz Fanon—an ideological hero of Fallism.[9] It is, in Andrew Sabl's terms, a 'piecewise' or partially just state: one that is fundamentally committed to the principles of legality and reciprocity, but which does not fully realize those ideals due to systemic injustices.[10] If we were to think of justice as a continuum, contemporary South Africa would fall somewhere in the middle, whereas an overtly oppressive state (like French Algeria) and Rawls' ideal liberal democracy would fall far on either side of it.

Using conceptual frameworks that presuppose such different contexts seemed only to be plausible if one ignored normatively salient facts about South Africa. Critics who

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[6] Booysen, Susan. 'Two Weeks in October: Changing Governance in South Africa.' Booysen, Susan, et al. *Fees Must Fall: Student Revolt, Decolonisation, and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

[7] Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Jonathan Ball Publishers, Johannesburg, 2019: 326 – 8; Jansen, Jonathan, *As By Fire: The End of the South African University*. NB Publishers, Johannesburg: 2017; Benatar, David. *The Fall of the University of Cape Town: Africa's Leading University in Decline*. Politicsweb Publishing, Johannesburg, 2021.

[8] Rawls, John, *A Theory of Justice*. Cambridge, MA: Harvard University Press, Revised edition, 1999 [1971]. 320 – 1.

[9] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." Agenda 31, 2017 no. 3-4: 96-104.

[10] Sabl, Andrew. "Looking Forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons." *Journal of Political Philosophy* 9, no. 3, 2001: 310.

adjudged political action in South Africa by the standards of the ideal liberal democracy risked ignoring the moral relevance of the country's systemic and grinding injustice. As I will argue in this dissertation, using a framework that is not sensitive to the iniquities of South Africa erroneously suggests general prohibition of political violence.

To my mind, a second equally striking feature of Fallism's criticism was that it was so sweeping: per its critics, all violence was impermissible, because it was ill-suited to Fallism's cause;[11] because violence runs counter to the norms appropriate to a democracy;[12] because violent Fallists invariably transgressed their obligations to respect the rule of law;[13] because its victims were all innocents whose rights were violated;[14] because the resort to violence was an unnecessary 'strategic miscalculation'.[15] These complaints constitute categorical objections to violence, because they cast the Fallists' violence as necessarily morally flawed; the upshot is in each case that violence can never be acceptable in democratic South Africa.

I found these criticisms to be too coarse in their assessments: although some acts of violence seemed clearly wrong (such as firebombing a bus full of students), I was ambivalent about other acts of force (such as confronting police and security contractors or ejecting students and staff who refused to comply with the campus shutdown). Acts of the latter kind, I thought, could not be dismissed with sweeping claims, but had to be assessed carefully.

It is as a challenge to these criticisms that I began this project. Accordingly, the project is arranged to meet the criticisms I set out above, one by one. This dissertation sets out to answer the following questions by way of rebuttal:

1. Did the issues of Fallism constitute just cause for violence?

2. Were the Fallists under a stringent duty to obey the law?

3. Is violence always prohibited in South Africa's democratic politics?

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[11] Habib, Adam. "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests." *Daily Maverick*, 26 January 2016. Available at www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/ [Last accessed 13 June 2021].

[12] Ibid; Habib, *Rebels and Rage: Reflecting on #FeesMustFall,* 326 – 8; Jansen, Jonathan, 'Charged Fees Must Fall Students Must Atone So We Can Move On,' *Business Day Live*, 13 September 2018. Available at https://www.businesslive.co.za/rdm/politics/2018-09-13-jonathan-jansen-charged-fees-must-fall-students-must-atone-so-we-can-move-on/ [Last accessed 15 February 2022].

[13] Hodes, Rebecca. "Questioning 'Fees Must Fall'." *African Affairs* 116, no. 462, 2017: 145 – 7. Jansen, 'Charged Fees Must Fall Students Must Atone So We Can Move On'; Benatar, David, 'UCT: Capitulation isn't Working', *PoliticsWeb*, 21 September 2016. Available at https://www.politicsweb.co.za/opinion/uct-capitulation-isnt-working [Last accessed 15 February 2022]; Habib, "Goals and Means: Some reflections on the 2015 #FeesMustFall Protests."

[14] Benatar, David, 'UCT: Capitulation isn't Working', *PoliticsWeb*, 21 September 2016. Available at https://www.politicsweb.co.za/opinion/uct-capitulation-isnt-working [Last accessed 15 February 2022]; Habib, "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests."

[15] Habib, *Rebels and Rage: Reflecting on #FeesMustFall,* 126.

4. Did Fallists violate the rights of all those affected by their violence?

5. Were critics right that violence was an unnecessary strategic error?

6. Were the Fallists wrong to use violence to defend their dignity?

My analysis is underpinned by two key conceptual moves. The first move is to trace the continuities between Fallism and different cases of violence that we do indeed condone—particularly interpersonal defence and resistance to oppressive states. The purpose of this exercise is to resist the criticism that there is any absolute prohibition of political violence in states like democratic South Africa. This argumentative move will produce answers to questions 1, 2, and 3 above. The second move is to impose the regulative norms of defence and Just War onto Fallism: by considering the violence of Fallism in light of the norms of *Proportionality*, *Necessity*, and *Success*, I will be able to answer questions 4 to 7 above. In the remainder of this introduction, I map out my answers to the questions above.

I. 2. Did the Issues of Fallism Constitute Just Cause for Violence?

Part of the justification of Fallism's turn to violence was that Fallists regarded injustice itself as a form of violence to which they needed to respond appropriately—a conceptual move that drew criticism from academics, who argued that violence was an inapt response to the issues that Fallism raised.[16] In the first chapter of this dissertation, I offer a partial defence of the Fallists' claim. My aim here is to show that the Fallists did indeed have just cause for violence. The argumentative strategy that underpins much of the first chapter is to elucidate the continuities between the Fallist case and a set of cases in which agents have just cause for violence.

In Chapter 1, I start from the assumption that there are paradigmatic cases in which most people would judge violence to be permissible; in particular, I home in on the following:

- *Defence*. All but the most ardent pacifists would agree that a person is permitted to commit violence in defence of their life-and-limb rights.[17] This right is enshrined in the common law,[18] and there is extensive literature on defensive ethics that details

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[16] Hodes, "Questioning 'Fees Must Fall'." 147 – 9; Jansen, "Charged Fees Must Fall Students Must Atone So We Can Move On."

[17] Coons, Christian, and Michael Weber, "The Ethics of Self-Defense." in Coons, Christian, and Michael Weber eds. *The Ethics of Self-Defense*. New York: Oxford University Press, 2016. The phrase 'life and limb' comes from David Rodin in his discussion of the distinction between vital interests (in our lives, long-term well-being, and most basic liberties) and lesser interests. See Rodin, David. "The Myth of National Self-Defence." in Fabre, Cécile, and Seth Lazar, (eds). *The Morality of Defensive War*. OUP Oxford, 2014.

[18] See LaFave, Wayne. *Criminal Law*. 4th ed. Washington, DC, Thomson-West, 2003: 569 – 74.

when and why individuals are permitted to use force to defend themselves against aggressors. Although there is considerable debate at the margins about what might be permitted, theorists generally agree on an axiomatic core of cases that are self-evidently permissible--e.g., shooting a malicious murderer charging towards you when there is no less harmful option.[19]

In cases of *Defence*, defenders have *just cause* to resort to violence. Of course, *Defence* does not describe the predicament of the Fallists: unlike defenders, their goals were collective and political. So why then is this comparison relevant for thinking about Fallism?

My strategy in the first chapter is to argue that the differences between *Defence* and Fallism are not categorical. Ordinary violence is not a phenomenon with a fundamentally different set of properties to violence, such that they are incommensurate. Rather, there are important continuities between aggression—which gives cause to *Defence*—and institutional injustice—which gave cause to Fallism—and that those differences that persist are contingent matters of degree rather than sharp normative distinctions.

As a useful point of entry into this question, I consider the debate concerning the definition of 'violence,' which is not simply a matter of linguistic difference but a debate about the normative dimensions of violence. Chapter 1 starts by considering attempts to redefine 'violence' to include structural and institutional injustices, of the kind that gave rise to Fallism. Per these arguments, 'violence' is a broad category that includes both ordinary violence and injustice.[20] Chapter 1 raises some doubts about extending the scope of 'violence' so broadly and argues that there are normative properties of ordinary violence that do not apply to many injustices: it matters that ordinary violence affects our negative rights, that it is caused by acts of commission, and that it affects our most basic rights. Nevertheless, I argue that there is a subset of institutional injustices that *do* instantiate these normative properties, because institutions can and do impose upon individuals' negative rights to their basic entitlements.

Accordingly, Chapter 1 outlines the continuities between *institutional* injustices and ordinary violence. Per *Defence*, we accept that ordinary violence can provide just cause for defensive violence; however, the properties of ordinary violence that do the normative work

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[19] Coons and Weber, 'The Ethics of Self-Defense,' 5.

[20] Hodes, "Questioning 'Fees Must Fall'", 147 – 9; Honderich, Ted. *Violence for Equality (Routledge Revivals): Inquiries in Political Philosophy*. Routledge, 2014. See also Coady, Cecil Anthony John. "The Idea of Violence." *Philosophical Papers* 14, no. 1, 1985: 2 – 4.

are not unique to violence: they can be replicated by institutional injustice. If we accept the right to commit violence in *Defence*, the same principles should then apply in Fallism.

In this sense, Chapters 1 is engaged in something like *reflective equilibrium*: the process by which we revise our considered judgments and theories to achieve harmony between them.[21] Our specific judgments in paradigm cases of *Defence* must be underpinned by a more general abstract theory about what makes the use of violent force permissible. If this theory countenances other cases of violence that we might not have approved of before—like the violence of Fallism—we must then either revise the theory or revise our judgments about those cases. In this case, I argue that our judgments about *Defence*—and the theories that underpin them—are too sturdy and that we should revise our judgments about Fallism instead. Naturally, one need not accept this conclusion for the project to be worthwhile: one might think that it is not possible to accept the judgment I suggest about Fallism. But, I suggest, one must then confront the following dilemma: one must either (a) find a normative property that distinguishes Fallism from *Defence* that I do not cover in Chapter 1, or (b) reject the judgments about *Defence* that I take for granted in this project.

This account does not deny that there are any differences between Fallism and *Defence*. The literature on defensive ethics evinces clear superficial differences: defensive ethics concerns instances of runaway trolleys, falling fat men, and malicious murderers all threatening grievous and immediate bodily harm; Fallism, by contrast, concerned a constellation of institutions, populated by academics and government officials, making bad policy decisions that would slowly trickle down to poor students.

Nonetheless, *Defence* and Fallism converge in their key normative features—those features that ground our rights and duties with regards to violence—even when they differ in their morally arbitrary features. To illustrate the difference, consider the common law requirement that limits lethal self-defence to cases in which serious harm is 'imminent'.[22] 'Imminence' is a useful proxy for morally salient features of *Defence*: if a lethal attack is imminent, it is unlikely that there is a less harmful means of defence than violent force. However, imminence is morally arbitrary: holding other things equal, what is the moral difference in our rights against a killer attacking you now and a killer vowing to kill you in a

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[21] For the seminal exposition of reflective equilibrium, see Rawls, John, *A Theory of Justice*, Cambridge, MA: Harvard University Press. Revised Edition, 1999 [1971] 18. See also Daniels, Norman, "Reflective Equilibrium", *The Stanford Encyclopedia of Philosophy* (Summer 2020 Edition), Edward N. Zalta (ed.), URL = https://plato.stanford.edu/archives/sum2020/entries/reflective-equilibrium/.

[22] LaFave, Wayne. *Criminal Law*. 4th ed. Washington, DC, Thomson-West, 2003: 569 – 74.

week's time? If we suppose there is an equal prospect of using less harmful means in each case, it is not clear that imminence continues to make a difference.[23] Imminence taken by itself does not directly bear on your rights or duties with respect to defending yourself.

Chapter 1 concludes that the persistent differences between Fallism and *Defence* are morally arbitrary, the principles permitting violence in *Defence* should similarly apply to Fallism. This chapter therefore makes the putative case for a right of defence against injustice, thus going part of the way to refuting the suggestion that the Fallists lacked just cause for violence. Of course, critics might argue that the Fallists might have such a right, but that it is always defeated by their political obligations in democratic states like South Africa—I turn to this claim in Chapter 2.

I. 3. Were the Fallists Under a Stringent Duty to Obey the Law?

Even if we accept the continuity that I outline in chapter 1, we might still think that individuals' right to defend themselves against injustice is defeated by their political obligations to obey the state, to support its institutions, and to maintain a civil peace.[24] Critics of Fallism claim, for instance, that Fallist's resort to violence was categorically inappropriate in a democratic state, and that they had a stringent duty to obey the law that prohibited violence.

We accept that violent political resistance is *sometimes* permissible, even when it runs counter to the laws of the state. Consider the following:

- *Resistance*. Victims of the oppressive regimes are permitted to use violence against at least *some* regimes that threaten their basic rights, including the rights to life, liberty, and security.[25] In these cases, they are under no political obligation to obey the state at the cost of their basic rights. The right to disobey an oppressive regime formed the moral underpinning of the revolutions in France and America, anticolonial struggles across the subaltern, and the seminal expositions of human rights, including the

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[23] For a similar discussion, see Brennan, Jason. *When All Else Fails: The Ethics of Resistance to State Injustice*. Princeton University Press, 2018, 28 – 31.

[24] Habib, *Rebels and Rage: Reflecting on #FeesMustFall,* 326 – 8; Jansen, Jonathan, 'Charged Fees Must Fall Students Must Atone So We Can Move On.' I take the term 'civil peace' from Walzer, Michael. "Civil Disobedience and Corporate Authority." *Obligations: Essays on Disobedience, War, and Citizenship.* Harvard University Press, Cambridge, MA: 1970.

[25] See Finlay, Christopher J. *Terrorism and the Right to Resist: A Theory of Just Revolutionary War*. Cambridge: Cambridge University Press, 2015.

Declaration of the Rights of Man and Citizen[26] and the *Universal Declaration of Human Rights*.[27]

More saliently to South Africa, as I suggest in Chapter 2, it is now widely accepted that Nelson Mandela and the ANC were acting permissibly—and not in contravention of their duties to the state—when they turned to armed struggle against the apartheid state. But compare this to the Fallists' claim that there has been little actual change in the living conditions of poor Black South Africans since the end of apartheid.[28] Why is it then that they are now obligated to respect the authority of the state? Chapter 2 argues that there is no categorical difference between apartheid and democracy that should burden the victims of injustice with stringent duties to respect the state.

Chapter 2 investigates the possibility of such an obligation, particularly a partially just state like South Africa. I start here from the premise that the ANC had no such obligation during apartheid, and then I consider the claim by Fallism's critics that there is now such an obligation restraining Fallists. My conclusions here are all sceptical: even if there might be such an obligation in certain ideal conditions, democratic South Africa is not such a case. The bare fact of democracy does not impose a categorical obligation upon Fallists not to commit violence. Moreover, even if we accept such a defeasible obligation in states like South Africa, it cannot be absolute and must admit of exceptions in cases of serious injustice.

This is not to erase the differences either: the democratic dispensation means that there are often less harmful means of recourse available to the victims of injustice, that they are less likely to suffer serious harm, and that government officials are less likely to be liable. However, these differences—like the difference made by imminence—are all contingent: there are conceivable (and actual) cases in democracies in which they fail to make a moral difference to the right to commit violence.

My aim in this chapter is to meet the charge by Fallism's critics that argue that political violence was fundamentally inappropriate in democratic South Africa. By illustrating the continuities between Fallism and *Resistance*, I aim to show that there is no

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[26] *Declaration of the Right of Man and the Citizen*. 26 August 1789, Available at: https://www.refworld.org/docid/3ae6b52410.html [accessed 1 March 2022].

[27] United Nations General Assembly. *Universal Declaration of Human Rights*. 10 December 1948, 217 A (III). Available at: https://www.refworld.org/docid/3ae6b3712c.html [accessed 1 March 2022].

[28] Molefe, T. O. "Oppression Must Fall." *World Policy Journal* 33, no. 1, 2016: 30-37; Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." Agenda 31, no. 3 – 4, 2017: 96-104; Xaba, Wanelisa. 'The Dangers of Liberalism: A Short Reflection on the African National Congress in South Africa.' *Yale Human Rights & Development Law Journal*, 20, 55, 2019.

sharp distinction that separates Fallism, that violence cannot be dismissed *a priori*, and that we must engage with the specifics of each instance of violence if we want to render an accurate appraisal. This chapter engages with recent work on political obligation by theorists—chiefly by Candice Delmas,[29] Robert Jubb,[30] and Avia Pasternak[31]—who argue against stringent political obligation in partially just states; my aim here is to bolster their arguments through an illustrative historical case study.

I. 4. Is Violence Always Prohibited in South Africa's Democratic Politics?

After dismissing any decisive political obligation debarring violence in South Africa, Chapter 2 turns to considers the norms that *should* limit violence in this case. Building both on the argument in Chapter 1 (that some injustice is itself violence), as well as the Fallists' own suggestions that they were acting in defence against the state, I consider political violence against the normative framework of defensive action. In doing so, I look to build on the increasing trend in philosophical analyses that have sought to understand political violence as a form of defence, or at least to subject it to the same norms of defence—a trend exemplified by the work of Pasternak,[32] Christopher Finlay,[33] and Simon Caney.[34] This trend is itself a reflection of the ascendance of reductivism: the view that acts of violence (in war, punishment, defence, and beyond) are subject to the same set of moral principles.[35]

The regulative norms of defence describe the rights that individuals have in defending themselves against violation, and their duties to restrain themselves in defensive action: defensive rights permit violence insofar as it meets the standards of *Necessity* and *Proportionality*.[36] In light of these norms, I argue democracy can make a difference to the permissibility of political violence: violence is less likely to fulfil *Necessity* and *Proportionality* in a democratic state. But, as I conclude in Chapter 2, these differences do not impose immutable limits to violence in democracies, but describe the contingent

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[29] Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil*. Oxford: Oxford University Press, 2018.

[30] Jubb, Robert, "Disaggregating Political Authority: What's Wrong with Rawlsian Civil Disobedience?" *Political Studies* 67, no. 4, 2019: 955 – 971.

[31] Pasternak, Avia, "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 384 – 418.

[32] Ibid.

[33] Finlay, Christopher. *Terrorism and the Right to Resist: A Theory of Just Revolutionary War*. Cambridge: Cambridge University Press, 2015.

[34] Caney, Simon. "Responding to Global Injustice: On the Right of Resistance." *Social Philosophy and Policy* 32, no. 1, 2015: 51 – 73.

[35] McMahan, Jeff. *Killing in War*. Oxford: Oxford University Press, 2009.

[36] Ibid, 8 – 9.

properties of democratic states that *sometimes*—but not always—makes violence disproportionate or unnecessary.

Since these norms do not generate firm limits to violence, it is necessary to assess each case on its own merits. Here, I shore up Pasternak's arguments for the contingent permissibility of violence in democracies: the remainder of Chapter 2 considers different claims that purport to provide categorical reasons against violence in democracies, but I show why these concerns can be subsumed by the regulative norms of defence.

Chapters 1 and 2 address critics of Fallism who claim that political violence is in principle impermissible in democracies, arguing that one cannot infer a general prohibition of violence in partially just states from theories of political obligation, and that, if we treat political violence as a form of defence—as I suggest we can and should—then the regulative norms of defence cannot generate a general prohibition of violence either. However, some of the criticisms of Fallism—and of political violence more generally—still amount effectively to general prohibitions of violence. I address these claims in the remaining chapters.

I. 5. Did Fallists Violate the Rights of All Those Affected by Their Violence?

Criticisms of Fallism included the objection that violent action 'trampled' the rights of innocents.[37] This claim can be brought into sharper relief if, as I suggest in chapter 2, we assess it using the regulative norms of defence. The suggestion that violence violates the rights of its victims assumes that these victims' rights remain in force, and that weightier considerations do not override their rights. However, the literature on defensive ethics outlines the conditions in which individuals become liable by forfeiting their right not to be harmed, or in which there is a lesser evil reason to infringe upon their rights that are still in force. Determining whether the Fallists violated anyone's rights, therefore, requires considering more closely whether there were liability or lesser evil reasons for the Fallists to transgress the rights of their victims.

Chapters 3 and 4 are aimed at answering this question. My central contentions are that not all the Fallists acts of violence violated innocents' rights: in many cases, those who were harmed were liable, and therefore did not have a claim against violence; in other cases, the harms that resulted from Fallism's tactics inflicted little enough moral cost that they plausibly constituted the lesser evil. Importantly, this does not capture all instances of Fallist violence: as I suggest during Chapters 3 and 4, the Fallists' resort to violence caused some clear rights

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[37] Benatar, "UCT: Capitulation isn't Working."

violations. That said, this does not constitute an objection to their resort to violence altogether.

Chapter 3 begins with a broad introduction of the key considerations that inform liability and lesser evil assessments. First, I argue that, even if ordinary citizens—like students, university administrators, and so on—do not themselves inflict oppression or violence, they can nevertheless be liable to defensive harm when they are morally responsible for contributing to injustice. This argument refutes Michael Walzer's 'political code' view that limits political violence to agents of state oppression.[38] Next, I turn to the incidental, unintended harms caused by political violence, which include transgressions to innocents' rights to democratic participation and civil peace.

Following the lead of Just War Theorists, I deflate this concern, arguing that such foreseeable but unintended harms are less morally costly, and are therefore less likely to constitute rights violations. Lastly, I consider the possibility that the victims of political violence are inappropriately *used* for political ends, contrary to their status as ends in themselves. Although I admit here that such manipulative harm occasions a higher justificatory standard, I argue that this does not rule out using others for political ends where they are sufficiently liable (as some individuals were).

Chapter 4 turns to more specific concerns about liability. Even if we allow for the possibility that ordinary citizens might in principle be liable, theorists have argued that the structure of institutional injustice makes liability failure highly likely: the injustices that precipitated Fallism were the result of institutional operations involving a very large number of actors, many of which make negligible causal contributions to the injustice; moreover, it is often impossible for the agents of political violence to discern between targets who are and are not responsible for injustice.[39] If violence was to satisfy the requirements of narrow proportionality, we must show that they could in fact identify liable agents.

Taking my lead once again from an analogous debate in Just War Theory, I propose in Chapter 4 that people can be liable not only by virtue of their individual causal contribution to wrongdoing, but also through their complicity in injustice, and institutions

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[38] Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books, 1977: ch 12.

[39] This concern is clearly expressed in Flanigan, Edmund Tweedy. "From Self-Defense to Violent Protest." *Critical Review of International Social and Political Philosophy*, 2021: 1 – 25.

that commit injustice.[40] This would save agents of violence, like the Fallists, from potential liability failure, since they can more readily identify complicitous contributors. That said, liability-by-complicity is limited to very particular circumstances and subject to philosophical dispute; the remainder of Chapter 4 outlines the limits of liability-by-complicity and defends the core claim against objections from the Just War literature.

The result of chapters 3 and 4 is that many (but not all) victims of Fallism's tactics did not have their rights violated. In the conclusion to this dissertation, I combine my conclusions from chapters 3 and 4 to indicate who did and who did not suffer rights violations during the Fallist campaign.

I. 6. Were Critics Right That Violence Was an Unnecessary Strategic Error?

Critics of Fallism's turn to violence—both within and outside of the movement—argued that violence was impermissible because it was 'counterproductive',[41] and that the resort to violence was a 'strategic miscalculation'.[42] Insofar as these are normative claims, and not simply strategic observations, these complaints can be assessed within the bounds of defensive ethics: the regulative norms of *Success* and *Necessity* limit the use of force according to its effectiveness and its propensity to minimize overall harm. If violence was indeed strategically ineffective, or less effective than nonviolent alternatives, then it would fail to meet these norms and therefore be impermissible. These complaints echo broader criticisms of violence: that empirical surveys have shown violence to be less effective than nonviolence. Chapter 5 assesses these claims.

Chapter 5 begins by surveying the literature concerning *Success* and *Necessity*. Next, I argue that the relevant thresholds for *Necessity* and *Success* are evidence-relative. In other words, action does not fail *Necessity* or *Success* if (as in some cases of Fallist action) it does in fact turn out to be ineffective. Rather, the relevant test is whether it was reasonable from the perspective of the committing agent to belief that the action would be effective in minimizing harm. We must therefore appraise whether, *ex ante*, the Fallists discharged the relevant epistemic duties in deciding to commit violence. This standard, I argue, is

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[40] See for example Bazargan, Saba. "Complicitous Liability in War." *Philosophical Studies* 165, no. 1, 2013: 181 – 83; Lazar, Seth. "Complicity, Collectives, and Killing in War." *Law and Philosophy* 35, no. 4, 2016: 365 – 389.

[41] Godsell, Gillian, & Chikane, Rekgotsefetse. "The Roots of the Revolution." *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016: 102.

[42] Habib, *Rebels and Rage: Reflecting on #FeesMustFall,* 126.

particularly vexed and must be applied with caution, particularly—as Pasternak suggests—when applied to victims of oppression.[43]

Next, I argue that there is sufficient ambiguity in the evidence available to us for the Fallists not to have been unreasonable in deciding upon certain acts of violence. In this section, I survey the empirical literature to suggest that it does not conclusively rule out Fallist violence. That said, skepticism about violence from within Fallism suggests some reason for doubt in this case, but the broader lesson from this discussion is that the kind of violence committed by Fallists cannot be ruled out as unnecessary or ineffective *a priori*.

However, I argue that we must focus not only on whether violence passes *Necessity* and *Success*, but also upon the force of individuals' claims against unnecessary or ineffective violence. In the final section of Chapter 5, I argue that those who are complicit in injustice have limited or no meaningful moral claims against such violence, even if it does fail the relevant tests. This does not constitute a moral defence of the violence, but it does deflate the ability of Fallists' critics to register meaningful complaints against it.

I. 7. Were the Fallists Wrong to Use Violence to Defend Their Dignity?

Lastly, I anticipate a potential criticism of Fallism. Fallists argued that their confrontational and militant stance—which resulted in violence—was necessary in redeeming or defending their dignity, which had been eroded by racial injustice.[44] This justification differs from the foregoing arguments: rather than focusing on harm to their material interests, this argument would justify violent defence of immaterial interests in dignity, honour, or self-respect.

This argument parallels a recent debate in Just War Theory about whether the victims of aggression can commit futile defensive action as a way of affirming their status when aggressors treat them without due concern for their status as autonomous persons.[45] Chapter 6 therefore begins first with a survey of the impact of racial injustice on the immaterial status-

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[43] Pasternak, Avia. "'It's Good to Do Something With Your Rage': Violent Protests and Epistemic Injustice." Unpublished Paper, 2021.

[44] Maxwele, Chumani. "Black Pain Led Me to Throw Rhodes Poo." *Business Day*, 16 March 2016. Available at https://www.pressreader.com/south-africa/business-day/20160316/281883002451263.

[45] See Statman, Daniel. "On the Success Condition for Legitimate Self-Defense." *Ethics* 118, no. 4, 2008; See also Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Press, 2014; Ferzan, Kimberly Kessler. "Defending Honor and Beyond: Reconsidering the Relationship Between Seemingly Futile Defense and Permissible Harming." *Journal of Moral Philosophy* 15.6, 2018: 683-705; Bowen, Joseph. "Necessity and Liability: On an Honour-Based Justification for Defensive Harming." *Journal of Practical Ethics* 4, no. 2, 2016.

related goods of Black South Africans, followed by a survey of the Just War literature on the use of defensive force to protect these goods.

In Chapter 6, I accept that this kind of status-affirming defence is possible. Nevertheless, I argue that the justificatory force of this status-affirmation is muted in a case like Fallism. First, even if violence can redeem some of one's personal honour or self-respect, I am sceptical about the possibility that violence can redeem the dignity of others when it takes the form that Fallism did. Second, I argue that status-affirming violence is narrowly constrained by the boundaries of proportionality and liability: one is permitted to cause only very limited harm, to a very small subset of targets.

My conclusions in this chapter are sceptical: despite the conceptual possibility of status-affirming violence, I argue that the application of this argument in cases like Fallism is very limited. In assessing political violence. Accordingly, I argue that it is more useful to direct our energies towards surveying the *material* reasons for violence.

I. 8. Contributing to a Growing Literature

As I have mentioned, there is an increasing number of theorists recently who have challenged the presumption against uncivil and violent disobedience, and who have started mapping the regulative norms of defence onto different forms of conflict and resistance. My aim in this project is to contribute to this literature. I want to flag the following in advance. First, by drawing detailed parallels between the Fallist case, apartheid, and interpersonal violence, this dissertation seeks to enrich the philosophical challenge to traditional accounts of political obligation by demonstrating the normative continuities between an actual partially just democracy, its oppressive predecessor, and violent aggression. Second, this dissertation contributes to the growing trend of explaining political resistance in terms of defence, by mapping out in finer detail where the limits of defence's regulative norms lie in cases of political violence, and by responding directly to common criticisms of political violence.

Importantly, I want to suggest too that Fallism exemplifies a distinct category for normative consideration, which I refer to here as 'political violence'. Ultimately, I endorse the reductive view that the same set of normative principles apply to Fallist political violence, war, revolution, and self-defence. That said, the nonmoral facts about the Fallist case raise new and interesting questions about the application of the deep moral principles I consider. Unlike war and revolution, political violence occurs within the boundaries of a partially just state, and so its aims are reformist rather than maximalist. It directly implicates and affects members of civil institutions, rather than partisans or soldiers. Insofar as it involves collective

action against institutions, it is also distinct from self-defence. The complexity of political injustice—particularly in partially just states where injustice is perpetuated slowly, structurally, by well-intentioned functionaries—raises questions for necessity, liability and proportionality that do not occur in cases of imminent attack. It is these novel questions that motivate this dissertation.

Chapter 1: A Just Cause for Violence

1.1. Introduction

In 2015, Dr Mbuyiseni Ndlozi, then the spokesperson for the Economic Freedom Fighters (EFF), South Africa's third-largest political party, wrote an op-ed in the *Daily Maverick*, perhaps South Africa's most influential left-wing newspaper, defending recent violent skirmishes at the Tshwane University of Technology in which members of the EFF's Student Command (EFFSC) were implicated.[46] In defending the EFFSC, Ndlozi sought to distinguish a special, liberatory form of violence that occurs 'when blacks fight against all forces that seek to keep them on our knees begging for bread, water, and affirmation from the white world.'[47] The impoverished state in which Black South Africans existed, Ndlozi claimed, was already equivalent to 'living under a million slaps,' to which they could no longer 'turn their cheeks,' in the Biblical sense.[48]

The EFFSC was at the radical vanguard of Fallism, a movement comprised of myriad student groups that had coalesced around several complaints about the institutional structure of South African universities.[49] According to the Fallists, universities had maintained their colonial form despite the advent of democracy and the end of apartheid;[50] they remained, in the words of Mahmoud Mamdani, some of the 'most racialized' institutions in post-apartheid South Africa.[51]

The ensuing movement rallied around concrete objectives: the unseating of a bronze statue of Cecil John Rhodes at the University of Cape Town; the suspension of annual tuition fee inflation that was increasingly squeezing (predominantly Black) middle and working-class families into debt and pushing (overwhelmingly Black) students out of university through financial exclusion; the insourcing of non-academic staff that had been outsourced to ethically-dubious service companies; and the reconfiguration of curricula that reproduce racial and political biases.[52] More than that, the movement was a synecdoche for the national

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[46] Ndlozi, Mbuyiseni. "In Defence of Black Violence." *Daily Maverick*, 31 August 2015. Accessible at https://www.dailymaverick.co.za/opinionista/2015-08-31-in-defence-of-black-violence/

[47] Ibid. Note that Ndlozi is paraphrasing Steve Biko's description of Black Consciousness. See Biko, Steve. *I Write What I Like: Selected Writings*. Chicago, IL: University of Chicago Press, 2002: 48.

[48] Ibid.

[49] For a description of Fees Must Fall see Booysen, Susan, et al. *Fees Must Fall: Student Revolt, Decolonisation, and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

[50] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." *Agenda* 31, no. 3 – 4, 2017: 96-104.

[51] Mamdani, Mahmood. "The South Africa Moment." *Journal of Palestine Studies*, 45 (1), 2015: 63–68.

[52] Godsell, Gilian, & Chikane, Rekgotsefetse. "The Roots of the Revolution." 54-73; Satgar, Vishwas. "Bringing Class Back In: Against Outsourcing During #FeesMustFall at Wits." Booysen, Susan

discontent with the democratic government's failure to rectify the injustices of apartheid and colonialism.[53]

Ndlozi's comments used the language of *violence* to describe the injustices that Black students suffer under the post-apartheid dispensation. His choice of words was not merely rhetorical; rather, it was exemplary of a broader theoretical move underpinning the confrontational and violent tactics of Fallism. According to the Fallists, the injustices of 'colonial' institutions, including universities in democratic South Africa, constituted a form of 'violence'.[54] Since they understood the institutions themselves as violent, the Fallists were able easily to explain away any violence or incivility emanating from the movement as a natural or even justified response to the violence to which they were subject.[55] This was evident in the movement's genesis moment when Chumani Maxwele poured buckets of human excrement over the notorious Rhodes statue, claiming it as an apt response to the students' pain inflicted by the university.[56]

Critics of Fallism were sceptical about this 'discursive strategy,' lamenting the violence to which it led.[57] Critics claimed too that violence was not an apt fit to the cause' of the Fallists.[58] I take these suggestions to mean the following: the issues raised by the Fallists

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(ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johanneesburg: Wits University Press, 2016: 214 – 234.

[53] Ibid. Godsell and Chikane note that the society-wide 'problems of both poverty and exclusion are personified on South African campuses by first-generation students,' (60). Sandile Ndelu makes a similar point in "Liberation Is a Falsehood: Fallism at the University of Cape Town." in Langa, Malose (ed). *#Hashtag: An Analysis of the #FeesMustFall Movement at South African Universities*. Johannesburg: Centre for the Study of Violence and Reconciliation, 2017. Ndelu claims that campuses were a 'microcosm' of South African society more generally (58 – 60).

[54] Maringira, Godfrey and Gukurume, Simbarashe. "Being Black in #FeesMustFall and #FreeDecolonisedEducation: Student Protests at the University of the Western Cape." in Langa, Malose (ed). *#Hashtag: An Analysis of the #FeesMustFall movement at South African Universities*. Johannesburg: Centre for the Study of Violence and Reconciliation, 2017, 40 – 42; Xaba, 'Challenging Fanon', 96 – 104.

[55] Metz, Thaddeus. "The South African Student/Worker Uprisings in Light of Just War Theory." in Booysen, Susan (ed.) *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Wits University Press, 2016. Metz cites students who claim that violence was a form of self-defence against the structural violence to which they are subject (298). Habib, *Rebels and Rage: Reflecting on #FeesMustFall*: 326 – 8. Habib addresses apologists of violence, including Ndlozi, who cite institutional violence to legitimate their resort to violence.

[56] "UCT students in Poo Protest Against White Imperialism." *News24*, 10 March 2015. Available at https://www.news24.com/News24/UCT-students-in-poo-protest-against-white-imperialism-20150310-2

[57] Hodes, Rebecca. "Questioning 'Fees Must Fall'." *African Affairs* 116, no. 462, 2017: 146 – 7.

[58] Jansen, Jonathan. "Charged Fees Must Fall Students Must Atone So We Can Move On." *Business Day Live*, 13 September 2018. Available at https://www.businesslive.co.za/rdm/politics/2018-09-13-jonathan-jansen-charged-fees-must-fall-students-must-atone-so-we-can-move-on/ [Last accessed 15 February 2022].

were 'political' insofar as they involved the welfare interests of Black South Africans, but these interests are not of the sort to warrant violent defence when undermined. The implication then is that Fallist violence was impermissible because it was not grounded by sufficiently morally serious interests (or at least not the *right kind* of interests).

In this chapter, I take on this charge with the intention of showing that certain institutional injustices do provide just cause for defensive violence, even if one takes a conservative view of 'violence' and the appropriate conditions for defensive violence. My strategy here is to demonstrate that a subset of injustices shares the salient moral properties of 'ordinary violence'—those acts that do provide just cause for violence. If injustice (or, at least, *some* injustice) shares the moral properties of ordinary violence, then one must either accept that both provide just cause for defensive violence or deny that both do (a position that I imagine few are willing to accept with regards to defence against murder, assault, or torture).

The chapter proceeds as follows. First, I consider competing views of 'violence.' Theorists have recently attempted to redefine 'violence' in such a way that would capture a broad sweep of structural and institutional configurations (section 1.2). Next, I explain the relevant upshot of this definitional debate to questions of resistance (section 1.3). I then return to the Fallist case, explaining why their definition of 'violence' widened the conceptual boundaries of the term in specific ways, and how it influenced their political praxis (section 1.4.). However, these reinterpretations of 'violence' are open to criticism: they omit certain properties of ordinary violence that we might think are normatively salient. To protect against this concern, I argue that there is a subset of injustices that contain the most normatively salient properties of violence; in these cases, I argue that even a conservative reading should conclude that injustice provides a just cause for violence (section 1.5.).

1.2. Violence: Narrow and Wide

I begin this chapter by surveying the debate concerning the definition of 'violence.' How 'violence' is defined is not simply a semantic question: the debate is about what is normatively salient about violence—and whether these properties obtain in cases outside the remit of our ordinary language use of the word. For this reason, the debate is a useful point of departure for my investigation here, because it gets to the normative core of violence.

Recent philosophical discussions of violence have centered around the distinction between—broadly-speaking—two approaches to the ontology of violence.[59] The first approach is positivist: it seeks to provide an analytic account of the ordinary language use of the term 'violence'.[60] Positivist definitions typically coalesce around key features of ordinary cases of violence, most importantly the use of physical force and the intention to cause injury to a (natural) person.[61] A successful narrow approach therefore captures those paradigm cases of 'violence' that most self-evidently merit the term, including murder, torture, assault, and rape. Violence, on this account, is typically kinetic, committed by an agent (or group of agents acting in concert) using physical instruments, invading its victim's bodily integrity.

The second approach is expansive, seeking to expand the remit of what counts as 'violence' rather than to clarify the boundaries implicit in existing use of the term. On this approach, 'violence' is conceived in terms of rights-deficits: whether someone is the victim of violence depends predominantly upon whether they suffer deprivation of particular entitlements.[62] Johan Galtung, perhaps the most famous proponent of such a view, suggests that violence occurs whenever an individual cannot realize one of their basic needs due to any impediment.[63] Part of the intended innovation of this approach is to include social phenomena—including poverty, racial inequalities, gender hierarchies, and other societal injustices—within the category of 'violence'.[64]

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[59] I use 'approaches' here instead of 'definitions' since there are various definitions that cluster around two broader tendencies. For present purposes, the precise differences between definitions within the same approach are not important.

[60] Bufacchi, Vittorio. "Two Concepts of Violence." *Political Studies Review*, 3 (2), 2005: 193 – 204; Bufacchi, Vittorio. *Violence and Social Justice*. London: Palgrave Macmillan, 2007: chs 1 and 2. Bufacchi refers to these conceptions as 'violence as force' and 'violence as violation'. See also Coady, Cecil Anthony John. "The Idea of Violence." *Philosophical Papers* 14, no. 1, 1985: 1 – 19.

[61] See Coady, "The Idea of Violence". Dewey, John. "Force and Coercion." *The International Journal of Ethics* 26, no. 3, 1916: 359 – 367. Although Hannah Arendt ultimately dismisses the usefulness of conceiving of violence in terms of force, she also uses its definition in terms of force as her point of departure in Arendt, Hannah. *On Violence*. Houghton Mifflin Harcourt, 1970.

[62] Newton Garver explicitly defines violence in terms of violation rather than force in Garver, Newton. 'What Violence Is', in A. K. Bierman and J. A. Gould (eds.). *Philosophy for a New Generation* (Second Edition). New York: Macmillan, 1971: 256 – 66; and Garver, Newton. "Violence and Social Order." *Philosophy of Law, Politics, and Society*, 1988: 218 - 223. This exemplifies what Bufacchi calls the 'violence as violation' conception in "Two Concepts of Violence".

[63] Galtung, Johan. "Violence, Peace, and Peace Research." *Journal of Peace Research* 6, no. 3, 1969: 167-191; Galtung, Johan. "Cultural Violence." *Journal of Peace Research*, 27 (3), 1990: 291 – 305.

[64] Galtung's project is explicitly aimed at crafting a conception of 'positive peace' free of poverty and injustice (see Galtung, Johan, and Dietrich Fischer. "Positive and Negative Peace." In *Johan Galtung*: 173 – 178). See also Lee, Steven. "Poverty and Violence." *Social Theory and Practice* 22, no. 1, 1996: 67 – 82.

The wider definition undoes the boundaries of its narrow predecessor in at least two significant, interrelated ways. The first shift concerns the rights or interests that are subject to violence. Paradigm cases of violence, per the narrow approach, are limited to violations of those rights that attach to our physical integrity and security—for present purposes, call these 'security rights'.[65] These rights demarcate a sphere of non-interference around each person's body that can only be transgressed under exceptional circumstances (most saliently, defensive action can transgress them when the rights-holder threatens to violate an innocent's rights).[66] By shifting focus away from physical aggression, the wide approach to violence captures deficits to a larger range of rights.

The primary target of proponents of the approach is poverty: John Harris, for instance, insists that deaths that would have been avoided but for societal 'indifference and neglect' are no less violent than armed conflict: poverty, like kinetic violence, causes physical deprivation, stunts childhood development, induces psychological suffering, and ends its victims' lives prematurely.[67] In terms of its effect on these individuals' interests in their lives and physical well-being, poverty is in many ways commensurate to violence. Proponents of the wide view go even further, suggesting that a focus on life and physical well-being is myopic, because an individual might be alive and maintain their bodily integrity but still be bereft of a life befitting the dignity of a human.[68]

In recent philosophical discussion, the Capabilities Approach has suggested that an individual requires a wider range of opportunities and goods (than simply non-interference with their body) to live a minimally decent or flourishing life.[69] The capabilities extend far beyond the security rights typical to the narrow definition: in her seminal exposition, Martha

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[65] The idea of security rights and welfare rights I use here is deliberately simplified. I use here the conventional conception of security rights as denoting only those negative rights against interference and welfare rights as only those positive rights to provision or service. However, this conception has come under serious scrutiny by philosophers. See for example Shue, Henry. *Basic Rights: Subsistence, Affluence, and US Foreign Policy*. Princeton, NJ: Princeton University Press, 1980; Ashford, Elizabeth. "The Duties Imposed by the Human Right to Basic Necessities." *Freedom From Poverty as a Human Right: Who Owes What to the Very Poor,* 2007: 183-218; Pogge, Thomas. "World Poverty and Human Rights." *Ethics & International Affairs* 19, no. 1, 2005: 1-7.

[66] Compare Isaiah Berlin's conception of negative liberty as demarcating a sphere of non-interference, in Berlin, Isaiah. 'Two Concepts of Liberty', *Four Essays on Liberty*, London: Oxford University Press, 1969.

[67] Harris, Johan. "The Marxist Conception of Violence." *Philosophy & Public Affairs*, 1974: 192 – 220.

[68] Galtung, "Violence, Peace, and Peace Research": 168.

[69] Nussbaum, Martha. *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press, 2003. Nussbaum, Martha. "Capabilities as Fundamental Entitlements: Sen and Social Justice." *Feminist Economics* 9(2-3): 33 – 59; Sen, Amatya. "Well-Being, Agency and Freedom: The Dewey lectures 1984." *The Journal of Philosophy*, *82*(4), 1985: 169 – 221.

Nussbaum lists ten central capabilities: life; bodily health; bodily integrity; sense, imagination, and thought; emotions; practical reason; play; living in harmony with other species; affiliation, including the social conditions for self-respect; and control over one's political and material environment.[70] Without these capabilities, theorists argue that one is unable to frame and pursue a meaningful life, and therefore suffer an infraction of one's fundamental human nature, even if one is able to continue biological survival. Since we are persons—vested with our own teleological ends—and not simply biological automata, we are fundamentally entitled to meaningful lives, rather than lives that are only free of forceful physical interference. For these theorists, it is the denial of such a life that is 'violent': violence cannot be limited to invasions of bodily integrity, since those are only component parts of what sustains our welfare and meaning.[71] The absence of violence, then, is a state in which individuals are unimpeded in their pursuit of a meaningful life.[72]

Fulfilment of your capabilities depends upon whether you have meaningful opportunities to realize certain states of well-being; your capabilities are therefore negated not only when others interfere with you, but also when your choices are impoverished by the state of your circumstances.[73] This brings us to the second shift in this approach to violence, concerning agency: whereas the narrow approach requires individuals acting intentionally to cause some harm—let us call this the 'interpersonal' property of narrow violence—the wider approach more or less jettisons this requirement. Galtung's view, for instance, focuses entirely on unfulfilled needs as the marker of violence, adding no agential requirement to his claim that 'violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations.'[74] A standard characterization of violence in the narrow sense is that it is concerned with a subset of 'negative' rights—rights against others interfering with the rights-holder. By contrast, welfare rights, like the rights to socioeconomic goods, are typically understood as 'positive'

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[70] Nussbaum, *Women and Human Development*, ch 1.

[71] Galtung, "Violence, Peace, and Peace Research": 168.

[72] This is Galtung's definition of a 'positive peace', as opposed to 'negative peace' that requires simply the absence of violence in the narrow sense. See Galtung and Fischer. "Positive and Negative Peace".

[73] Nussbaum defines capabilities in terms of 'what people are actually able to do and to be,' (*Women and Human Development,* 5). See also section 2.2 on 'Capabilities as Real Freedoms' in Robeyns, Ingrid and Morten Fibieger Byskov, "The Capability Approach", *The Stanford Encyclopedia of Philosophy* (Fall 2021 Edition), Edward N. Zalta (ed.), Available at https://plato.stanford.edu/archives/fall2021/entries/capability-approach.

[74] Galtung, "Violence, Peace, and Peace Research": 168.

rights in that they are rights to the provision of some good or performance of some service.[75] Negative rights are more morally stringent than positive rights, because they impose perfect duties on others not to impose themselves upon the rightsholder, whereas positive rights impose imperfect duties on others that can be laborious and costly to fulfil.[76]

Importantly, loosening this agential restriction allows theorists to diagnose the workings of social, political, and economic institutions and systems as 'quiet violence,' to use Newton Garver's terminology.[77] If violence depends simply upon a deficit in an individual's capabilities, then it need not be attributable to any individual's intentional agency. Violence in its structural form, for instance, can persist through the culmination of many individuals acting according to the accepted norms and processes of the institution or system in question. This is the phenomenon that Iris Marion Young describes as 'structural injustice'—a wrong for which Young argues no person is responsible in the backward-looking sense, since each individual contribution to the structure is too causally insignificant and unintentional to hold any agent to account.[78] Like Young's agentless injustice, the wide view suggests that violence does not need a physical aggressor, or indeed an agent committing it at all, since social, political, and economic arrangements can diminish individuals' capabilities without any individual intervention.

1.3. Resisting All Forms of Violence

The wide reinterpretation of violence lends itself to the justification of and apologia for political violence, particularly when committed by members of oppressed or marginalized groups. Several authors have suggested that, once one accepts that there is a moral equivalence between injustice and violence, then it takes very little inference to conclude that

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[75] See Wenar, Leif, "Rights." in Zalta, Edwar (ed.). *The Stanford Encyclopedia of Philosophy*. Spring 2021 Edition. Available at https://plato.stanford.edu/archives/spr2021/entries/rights. See Ashford, Elizabeth. "The Alleged Dichotomy Between Positive and Negative Rights and Duties." In *Absolute Poverty and Global Justice*. London: Routledge, 2016: 167 – 178; Pogge, Thomas. "Severe Poverty as a Violation of Negative Duties." *Ethics & International Affairs* 19, no. 1, 2005: 55 – 83.

[76] This explains, in part, the eagerness of theorists like Thomas Pogge and Elizabeth Ashford to problematize the characterization of poverty as a positive rights issue (see citations in previous footnote). Their task is in part to urge wealthy countries and their citizens to act more decisively according to their duties.

[77] Garver, Newton. 'What Violence Is.' *The Nation*, 209 (24), 1968: 822. Garver's terminology evokes the unnoticed, background work of institutions. A similar term, 'slow violence', captures a similar theme, but with greater focus on the less dramatic or instant nature of institutional injustice. See Nixon, Rob. *Slow Violence and the Environmentalism of the Poor*. Cambridge, MA: Harvard University Press, 2011.

[78] Young, Iris Marion. *Responsibility for Justice*. Oxford: Oxford University Press, 2010.

the violence of revolutionaries and protestors is a natural response to the injustices they resist, since they are only meeting violence with violence.[79] If the operations of institutions are violent, there is a presumptive case for the proposition that they should incur the same defensive and punitive responses typical to interpersonal violence. In chapter 2, I discuss more fully the possibility of applying the defensive framework to political resistance; for now, it should be clear that, if one accepts that institutions are responsible for violence, then there is a case to answer for why they should not be subject to defensive violence.

Jean-Paul Sartre makes a similar point in his notorious preface to *The Wretched of the Earth*, addressing his French compatriots concerning the anticolonial violence of the FLN in their Algerian colony: 'it is not first of all *their* violence, it is ours, on the rebound.'[80] This formulation, as well as Fanon's reference to the spasms of violence in response to colonialism, suggest a reading of violence that is not necessarily defensive or punitive, but rather an inevitable outcome of the institutional violence of colonialism—either because it is the Hegelian antithesis of colonialism's violence or, more simply, because it is a natural and instinctive reaction to oppression to lash out. In this case, violence is not necessarily justified, since this explanation does not offer positive moral reason for violence, but it is partially excused if it is hard to resist acting in ways that are impulsive.

Even if one does not think that violence is unnecessary in resolving a particular instance institutional violence, it remains useful for apologists nonetheless to point out that those who criticize violent resistance by the oppressed also remain silent about (or even complicit in) the violence of the institutions that elicit violent responses.[81] This does not provide a persuasive philosophical argument for violence, but it is of political value nonetheless for the apologists of violent groups to retort that their critics—many of whom might be members of the institutional 'establishment'—lack the moral standing to criticize the violent resistance of marginalized people, since those critics are complicit in another kind of violence against the oppressed or because they apply their criticism selectively in a manner that reveals their bias against the oppressed (and in favour of the *status quo*). In short, in lieu

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[79] Coady, C. A. J. *Morality and Political Violence*. Cambridge: Cambridge University Press, 2008: 22; Harris, John. "The Marxist Conception of Violence." *Philosophy & Public Affairs*, 1974: 192-220; Harris, John. *Violence and responsibility*. London: Routledge, 1980.
[80] Sartre, Jean-Paul. 'Preface' in Fanon, Frantz. *The Wretched of the Earth*. Translated by Richard Philcox. New York: Grove Press, 2004 [1961].
[81] See, for instance, Honderich, Ted. *Violence for Equality (Routledge Revivals): Inquiries in Political Philosophy*. Oxford: Routledge, 2014.

of justification or excuse then, the comparison of institutional injustice to violence at least offers the disarming accusations of hypocrisy.

1.4. Fallism and Violence

As I have already suggested, the members of the Fallist movement relied, in part, upon a wide approach to 'violence' in framing the ills of the university system, which acted as a synecdoche for the unjust structure of South African society more generally. According to the Fallists, the institutional legacy of colonialism, perpetuated under democracy, subjected Black South Africans to the 'dehumanizing' conditions of abject poverty, compounded by effective systematic exclusion from institutions like universities.[82] Fallists sought to justify their uncivil and confrontational tactics as a response to the institutional violence that poor Black students suffered at the university. The Fallist contingent at the University of the Witwatersrand claimed, for example, that their tactics constituted 'equal forms of violence as the system subjects us to.'[83]

The Fallists paired this description of the institutions as 'violent' with a particular interpretation of Frantz Fanon's anticolonial writing. The Fallist interpretation of Fanon homed in on his description of violent anticolonial resistance as a reflexive 'spasm'—casting it as the colonized subjects' natural reaction to their oppression.[84] Per Fanon, colonialism uses brute force to destroy indigenous communities towards creating a dehumanizing colonial society.[85] Colonial society is bifurcated into two spheres: one wealthy white settler sphere and another poor and Black. Whilst white settlers are afforded the privileges of human dignity, indigenous Blacks are 'dehumanized,' because they are treated as an undifferentiated mass without individual rights or worth.[86]

Violence in the narrow sense features prominently in three forms in this exposition. First, violence is causally prior to the existence of the colonial edifice, which requires a subjugated populace subdued by violence: colonists use violence to 'tear apart' indigenous

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[82] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement", *Agenda*, no 31., 2017: 99.

[83] University of the Witwatersrand #FeesMustFall, quoted Nicolson, Greg. (2016) 'Fees Must Fall: Reloaded'. Daily Maverick, 12 January Available at www.dailymaverick.co.za/article/2016-01-12-fees-must-fall-reloaded

[84] Fanon, Frantz (1961). *The Wretched of the Earth*. Translated by Richard Philcox. New York: Grove Press, 2004 [1961]: 63 – 91. In the translation, Fanon describes violence as 'rippling under the skin' of the colonized subject, like a somatic response to oppression.

[85] Ibid.

[86] Ibid, 67 – 69. Fanon claims that dehumanization of Black people is the 'logical conclusion' of colonialism, because it is premised upon dividing society into two 'species'.

society to reorder it according to their own schema.[87] Second, violence maintains the partition between the two spheres of colonial society, ensuring that colonized subjects stay in their place.[88] The colonial police, per Fanon, man the barricades as it were, keeping the colonized both physically restricted and politically immobilized. Third, the sphere inhabited by the colonized is suffused with violence, since their poverty renders colonial subjects both physically vulnerable and socially unworthy of protection. Colonialism presupposes the inferiority of the colonized (Fanon describes at length how they are the 'quintessence of evil' in the colonial ontology, described in the same terminology as animals).[89]

On this reading, the colonial edifice has a particular historically proximate relationship to violence. But the Fallist reading seems to go one step further: an institution can be called 'violent' not only if it has a very close relationship to ordinary violence; institutions can themselves become a form of violence when they perpetuate the dehumanizing project of social bifurcation.[90] My reading of this claim is that the essential element of both violence and of institutionalised colonialism is the dehumanization of colonized subjects and their subjugation to colonists.[91] The politics of colonialism, then, become violence by other means. The difference is chiefly that violence transitions from being interpersonal and haphazard to being formalised and systematic. As its ends become subsumed by the institutions that organise society, violence in its brute form becomes increasingly obsolete.

Since violence is a property of the institutions of colonial society, it does not dissipate with the end of colonialism. Moreover, the violence of colonial institutions does not depend on the 'bayonet' and 'cannon fire' that enforce colonial rule.[92] Since dehumanization is embedded in the structure and norms of colonial institutions, their continued operation is itself violent. In cases like post-apartheid South Africa, Fallists claim that violence persists because the institutions of the state, by virtue of their structure, persistently dehumanize Black people after colonialism's formal end. The logical conclusion then is that, even in a democratic state, violent resistance can constitute the same spasmic response to institutional

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87 Ibid, 67 .
88 Ibid, 66.
89 Ibid, 69 – 71.
90 Xaba, "Challenging Fanon," 99; Nyamnjoh, Anye. 'The Phenomenology of Rhodes Must Fall: Student Activism and the Experience of Alienation at the University of Cape Town.' *The Strategic Review for Southern Africa*, *39*(1), 2017: 261. Nyamnjoh cites a claim by activists of Rhodes Must Fall that "Our existence as black people is defined by a violent system of power."
91 Ibid.
92 Fanon, *The Wretched of the Earth*, 64.

violence that Fanon envisions in the anticolonial context. Public intellectuals, including the erstwhile Vice Chancellor of the University of the Witwatersrand, Adam Habib, protested the transposition of Fanon from the colonial context to democratic politics, the students nonetheless defended their use of the term 'violence' and argued that their aggressive tactics were a form of 'self-defence' against the institutional violence that lingered in South Africa.[93]

The Fallist interpretation of 'violence' is fundamentally wide in its approach to violence, since it conceives of institutions as being violent in themselves (although, it is not so wide as to include *all* injustices in its scope). That said, it is not clear that this category neatly describes their interpretation of violence, since their analysis oscillates between describing injustice as violence and describing the historical connections between injustice and violence. The former is a conceptual claim about the nature of violence that is a subtype of the wide approach The latter, by contrast, does not reconceive the definition of violence, but makes an empirical claim about the proximate relationship between injustice and violence.

The Fallists' claim can be interpreted in a different way: although institutional injustice is conceptually distinct from violence and constitutes a separate wrong, the structure of a particular institutions inextricably combines violence and injustice in a dynamic and mutually supportive relationship. The historical reality of South Africa is that the material deprivation of poor Black people is part of the same complex of injustices that renders them vulnerable to physical violence. This is suggested too in Fanon's analysis of the imperative of redistributing land, which he sees as a guarantor of individual security from violence, without which the individual is free to be 'arrested, beaten, and starved with impunity.'[94] This relationship is borne out by empirical data: poor and Black South Africans (especially women) are still disproportionately victim to criminal assault, rape, arbitrary arrest, and torture by the police.[95]

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[93] Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019: 327 – 9. Habib cites Hannah Arendt's criticism of Fanon and Sartre that suggests that political means should prefigure their ends, suggesting that democratic politics requires democratic means of participation (see Arendt, Hannah. *On Violence*. Houghton Mifflin Harcourt, 1970.)

[94] Fanon. *The Wretched of the Earth*, 71.

[95] Zikalala, Nomsa Ingrid, Jacob T. Mofokeng, and Hendrick P. Motlalekgosi. "'Black like Me': A Critical Analysis of Arrest Practices Based on Skin Color in the Gauteng Province, South Africa." *International Journal of Criminology and Sociology* 10, 2021: 652 – 66; Louw, Antoinette, and Mark Shaw. *Stolen Opportunities: The Impact of Crime on South Africa's Poor*. No. 14. Johannesburg: Institute for Security Studies, 1997.

In the following section, I consider both the conceptual and empirical claims to consider whether either might provide sufficient cause for defensive violence. I offer a limited defence of the Fallist claim, arguing that some injustice does indeed have the moral properties of violence.

1.5. Reinterpreting and Unbundling Violence

How we use the term 'violence' clearly matters: the contestation to claim its conceptual space is evidence of its normative and political significance. Whereas the purpose of the narrower approach is to render a precise and coherent description of how we deploy the term by looking inward to clarify its own boundaries, the purpose of the wide approach is more obviously normative and political. By classifying social phenomena as 'violence' contrary to ordinary linguistic use, proponents of this view mount an implicit critique of the injustices of their societies, and the relative moral importance we place on them (the subtext of these critiques seems to ask, 'why does life-threatening poverty not elicit a similar moral outrage as murder?'). This conceptual move mirrors similar efforts by activists and academics of the political Left who have sought to reinterpret concepts like 'injustice' and 'oppression' as structural phenomena, rather than simply products of interpersonal agency.[96] What unites these reinterpretations is the assertion that institutions and systems can frustrate the interests of the vulnerable even when no agent intends the outcome.[97]

Although the wide view is premised upon explicit political motivations, the narrow account imports its own political values: using ordinary language as one's frame of reference means that one risks importing the biases of those who speak and shape it—as Miranda Fricker suggests, the hermeneutical construction of a loaded term like 'violence' is not a value-neutral enterprise, but rather one that is imbued with the same power imbalances that mar society.[98] Proponents of the wide view can plausibly argue that the narrow view's reliance on ordinary use perpetuates a conservatism that absolves institutions of power and

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[96] Young, Iris Marion. *Five Faces of Oppression*. Princeton, NJ: Princeton University Press, 2011: 4. Young attributes this move to the growing influence of activist movements in the 1960s in the United States.

[97] This distinction maps onto the difference between 'agential' and 'institutional' oppression, as defined by Sally Haslanger in See Haslanger, Sally. *Resisting Reality: Social Construction and Social Critique*. Oxford University Press, 2012. See also See also Frye, Marilyn. *The Politics of Reality: Essays in Feminist Theory*. Berkeley: Crossing Press, 1983.

[98] Fricker, Miranda. *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford University Press, 2007: ch 2. Fricker suggests that the victims of injustice suffer a form of 'hermeneutical injustice' when their experiences (particularly those of injustice and suffering) are not recognizable, because social hermeneutical structures are shaped according to the experiences of socially powerful groups.

occludes the experiences of the victims of injustice by failing to recognize their suffering as aberrant (whilst ordinary violence is an aberration from the norm, structural and institutional injustices often comprise part of the assumed background conditions against which individuals act). Proponents of the wide view can also claim that applying the language of violence to injustice is corrective because it lifts the specious shroud of ordinary language.

In this section, I argue that we need not realign our semantics and our politics to recognize that some injustices are normatively equivalent to violence. My strategy here begins by surveying the normative properties of ordinary violence that the wide view omits. I then proceed to show why some injustices—including those salient to Fallism—contain these properties. The upshot of this is that, even if we remain sceptical about the conceptual shift of the wide view and take a conservative view of what constitutes 'violence,' we must nonetheless admit that some injustices have the same moral valence as ordinary violence.

1.5.1. The Properties of Ordinary Violence Omitted by the Wide Approach

Redefining the term 'violence' makes for a blunt conceptual tool with which to understand injustice. There are good reasons to be sceptical of its normative usefulness: a wide approach that focuses on welfare deficits as the defining element of 'violence' is going to capture a wider range of cases than is plausible, many of which lack important normative features of ordinary violence. First, we would have an impoverished view of the wrongness of violence if we focused solely on the ways in which individuals' interests are set back and ignore the relational quality of violence in the narrow sense—the fact that it is another person interfering with you and doing so intentionally, contrary to your moral status. Paradigm cases of violence are not simply cases of harm to individuals' interests; violent acts like assault, murder, torture and rape also instantiate relationships between violator and victim that are themselves wrong, because they are affronts to victims' autonomy.[99] Each person has the

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[99] Jeff McMahan, for instance, argues that killing affects not only our welfare interests, but also violates the respect we are owed as rational and autonomous beings, because the killer claims a 'spurious authority' over that which rightly belongs to their victim (i.e. control over their life). See McMahan, Jeff. *The Ethics of Killing: Problems at the Margins of Life.* Oxford: Oxford University Press, 2002: 241. Bufacchi makes a similar point, arguing that it is the vulnerability to another agent that constitutes part of the insult of violence. Bufacchi, Vittorio. "Why is Violence Bad?" In *Violence and Social Justice.* Palgrave Macmillan, London, 2007: 110 – 127. Similarly, Victor Tadros argues that doing harm is worse than allowing harm, because it is a matter of imposing plans on individuals who should be permitted to plan for themselves what they do. It is therefore incongruous with our duties to others *qua* rational agents. Tadros does not suggest that this is an essential feature of 'violence' as such, but insofar as we associate violence with such imposition, I suggest that it is an important normative feature of the term. See Tadros, Victor. *To Do, To Die, To Reason Why:*

right to choose for themselves what they do with their bodies; when another person imposes their will upon them, it is inconsistent with being an autonomous end in themselves capable of deciding what to do with their body.

Although circumstances outside of agential intervention can limit our choices (for example, if a congenital disorder disables your limbs), such limitations lack this relational quality of subjection to another and treatment incommensurate with one's status. By focusing simply on the ways in which individuals' interests are diminished, the wide approach risks missing this relational aspect of violence.[100] There are two possibilities open to proponents of the wide approach. The first is to argue that there is no difference in the badness to the victim between agential and non-agential losses to their capabilities. This would require serious bullet-biting: we would have to give up the judgment that it is worse for the victim to be poisoned by a murderer than it is to die of natural causes, even if their physical suffering is equivalent.[101] Alternately, proponents of the wide view can argue that there is a difference, but that one can account for this within their view: that there is an additional harm in cases of ordinary violence, because it also involves an expressive harm to their status, whereas being treated with respect by others is a necessary component of living a minimally decent life. To maintain the distinction, one could distinguish agential violence and non-agential violence— where the former is morally worse than the latter, all other things being equal, because it contains the additional wrong of instantiating the insulting relationship—but this would simply be a cumbersome semantic shift that no longer draws a useful normative equivalence between injustice and violence. If the whole point of the wide approach is to draw an equivalence between the two, then this move does not seem to get us very far towards that end.

Individual Ethics in War. Oxford: Oxford University Press, 2020: ch 5. See also Lazar, Seth. "The Nature and Disvalue of Injury." *Res Publica* 15, no. 3, 2009: 289.

[100] In this sense, the focus on 'violations' in the wide approach captures only the Time-Relative Interests that individuals have in their welfare, rather than capturing the requirement of respect owed to autonomous agents [see McMahan, *The Ethics of Killing*: ch 2].

[101] It is also not clear that 'violence' and its related concepts can, on this view, explain the Equal Wrongness Thesis that killing is equally wrong regardless of the victim's age, mental capacity, physical ability, etc. These factors limit the time-relative interests of the victim; if the victim is older, they have fewer time-relative interests than a younger person, for example. However, we regard killing an old person and a young person as equally wrong and would be loath to give up this thesis. The wide approach would therefore have to explain why acts of violence with differential effects on individuals' interests are nonetheless equally bad. It is possible that proponents of the wide approach could find a way out of this problem, but it seems likely to be cumbersome and to miss an easy explanation for the wrongness of violence. For a fuller discussion of the thesis see McMahan, *The Ethics of Killing*: ch 2.

Relatedly, there are important distinctions between the different ways in which others might be derelict in their duties towards the victims of violence and injustice. The wide view stresses the ways in which individuals might suffer deficits in their rights, and it is one of the virtues of this approach that it highlights human suffering that might otherwise elude our attention because it lacks a particular agential form. But this does not negate the fact that it matters morally whether others are derelict in their negative not to interfere or their positive rights not to aid in relation to the rights-deficit. It matters, most pressingly, in determining what the victims of injustice are permitted to do to those who fail in their duties—whether they are appropriate objects of defensive or punitive action, for instance. Those who endanger the lives and well-being of others by violating their negative rights clearly open themselves up to liability to defensive action, but one can plausibly remain sceptical about saying the same of those who fail to aid others, even if it is at trivial cost.[102] This notion is firmly rooted in normative theory and underpins in part the (more or less axiomatic) tenets that killing is worse than letting someone die, why doing harm is worse than allowing harm, and so on. To let go of this distinction would have seriously revisionary consequences and so require justification if it is to be relinquished—more so than proponents of the wide approach have offered.

Defenders of the wide approach will want to say that we ought to distinguish between the badness of a person's suffering and others' responsibility for it, and that only the former is salient to what we call 'violence' (whereas the narrow approach's focus on intentional force implicitly smuggles in notions of responsibility too). That would be conceptually coherent, but not very useful. 'Violence' as a term, under these circumstances, would then fail to have much action-guiding use or normative force: it would not, by itself, give us much sense of what we owe to the victims of violence, what rights they have against others, and so on.

Although the wide approach is right to suggest that one's rights can be undermined by means other than physical aggression, the view that violence is defined by rights-violation is need of further clarification: which rights-violations constitute violence? One could, in principle, define the remit of rights relevant to violence so narrowly that the wide approach is not substantively different to the narrow approach. But, of course, since one of the aims of its

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[102] Cécile Fabre controversially argues that states that fail to aid the poor can be liable to military action because they are derelict in their positive rights [Fabre, Cécile. *Cosmopolitan War*. Oxford University Press, 2012: 110 – 112]. Fabre recognizes though that those who fail to fulfil their positive rights are not as liable as those who are derelict in their negative rights.

proponents is often to criticize structural arrangements that permit poverty, it is common for the wide approach to draw an equivalence between welfare rights and security rights against intentional injury. Again, it is not clear that grouping all such violations under the normative umbrella of 'violence' is helpful. Even if one adopts a capability approach, there is clearly some lexical ordering to these rights protecting one's capabilities—interference with someone's body, although hard to compare, is surely worse than interference with their ability to play.[103] Importantly, violence ordinarily does long-term or permanent damage to its victims' well-being; by contrast, someone's welfare can be temporarily diminished without long-term repercussions (if, for example, they go hungry for a day or are forced to squat for a night). Even if we admit welfare deficits into the ambit of violence, we would have a line-drawing problem lest we concede to absurd conclusions (suppose I go hungry for an evening because my hosts do not cook a vegetarian meal—am I a victim of violence? Admitting such a claim surely dilutes the currency of the term beyond what is plausible). One can easily imagine a sceptic of the wide approach saying that 'violence' in its narrow sense offers us a useful heuristic term for violations of those most personal and important rights—to our lives, bodies, and liberty—that we can permissibly protect with force, and that violations of those rights included in the expanded scope of the wide approach should not properly be called 'violence' because they lack the same normative force.

The above normative properties of violence are key to normative judgments about its most paradigmatic manifestation, but they are conspicuously absent in many cases of injustice. If we think that these are indeed the properties that make murder, torture, and assault morally bad—and that constitute the just cause for defensive and punitive violence—then the wide approach is going to capture a large set of cases that do not have much in common normatively with paradigm cases of violence. Proponents of the wide approach would want to accept that cost and insist that we should expand the definition of 'violence' nonetheless, and simply differentiate (as we already do to some extent) between different degrees and types of violence. That is an internally coherent view to have, but the conception

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[103] Whilst Amartya Sen prioritizes liberty over other capabilities, Nussbaum claims that all capabilities are 'equally fundamental' (*Women and Human Development*: 12). However, Nussbaum's admission that economic welfare should not come at the cost of liberty does seem to suggest that there is some asymmetry between the capabilities—perhaps Nussbaum has in mind negative interference with liberty rights in particular (in which case this point is similar to the previous paragraph), or perhaps the asymmetry is in part a function of the more long-term effects of interference with liberty and security rights. In any event, this admission seems to recognize that there is some asymmetry between the capabilities—if not conceptually, then at least in practice.

of violence with which it leaves us would be so enfeebled without these properties that it would lose much of its normative force.

1.5.2. Injustices With the Normative Properties of Ordinary Violence

If we accept the above arguments—which would not be unreasonable—we need only dismiss the possibility that *all* injustices are morally equivalent to ordinary violence. Importantly, this leaves open the possibility that *some* injustices do contain all the morally relevant properties. In this section, I argue that there is such a subset of injustices. Regardless of whether we want to call these cases 'violence,' we must nonetheless conclude that they are not categorically distinct from violence. Absent such a distinction, they must then bear the same normative implications. Although identifying rights deficits as a sufficient property of 'violence' is problematic for the reasons I canvass above, we need not accept such a view to accept one of the principal claims underpinning the wide approach: that structural arrangements can (at least sometimes) be just as morally wrong as ordinary violence.

Insofar as the narrow approach understands violence as an intentional use of excessive force, it only partially tracks the salient moral properties that make ordinary violence bad: intentional excessive force is usually sufficient for these properties, but it is not a necessary condition. Phenomena besides kinetic force can establish insulting relationships of domination between people, those complicit in institutional injustice can be derelict in their negative duties towards the victims, and injustice can cause rights violations equivalent in force to violence. Whether we call these instances 'violence' is beside the point, normatively speaking, because they will have the same moral upshot as violence.

Consider first the dignity-negating property of violence—that agents of violence undermine the autonomy of their victims by imposing themselves upon them. In cases of injustice, even when we do not individually impose ourselves directly upon others, we do nonetheless often contribute to institutions that do limit the autonomy of their subjects.[104] Institutions have the capacity to impose themselves on their subjects, curtailing their possibilities, and limiting their access to the resources they need to live autonomous, decent lives. The state is an obvious such example: its laws and policies are underpinned by coercive

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[104] This is largely the same argument that Pogge makes in the context of global poverty. Pogge argues that global institutions impose poverty conditions on the world's poor, and that the affluent are complicit in maintaining those institutions. See Pogge, *World Poverty and Human Rights*: ch 2. See also Shue, Henry. "Mediating Duties." *Ethics* 98, no. 4, 1988: 687 – 704; Ashford, Elizabeth. "The Alleged Dichotomy between Positive and Negative Duties of Justice." *Global Basic Rights*, 2009: 85 – 115.

force; if the state lacks effective democratic recourse through which individuals can control its coercive force, it limits its subjects' autonomy over how they live their lives, treating them as objects to be compelled. When they are even partially unjust, state institutions like the police force regularly curtail the autonomy of those they are meant to serve. This is true not only in individual interactions between institutional agents and subjects (for example, when an officer unjustifiably arrests a young Black man), but also at an institutional level: the imposing influence of an unjust and unresponsive police force, for example, can exercise a dominating power over communities that are subject to unjust and excessive policing.

The same is true on a smaller scale of other institutions: Michael Walzer suggests, for instance, that certain institutions, like factories, can exercise such control over the lives of their members that, when exercised without sufficient democratic responsiveness to their workers' autonomy, they can constitute a form of tyranny.[105] In Walzer's example, the workers of auto-factories were subject to the unresponsive whims of their managers, who controlled important aspects of the workers lives with little regard for their autonomy.[106] The managers in Walzer's illustrating example are ruthless and cruel, intentionally using violent enforcement to keep workers in line. Here is where I think the principles of the wide approach are useful: it is not necessary for an institution to use violent force to establish a dominating relationship with its subjects; it is possible for institutions to be structured in such a way that they dominate their subjects by exercising arbitrary control over some aspect of their lives without the use of violent force.[107] This is particularly true when the barriers to leaving the institution's sphere of control is unreasonably costly for its subjects: for instance, if it is their source of subsistence and they would not meet their basic needs without it (as in the case of the auto-workers). I contend then that to be dependent upon an institution that subjects one to arbitrary control can be 'immobilizing and diminishing' in much the same way as violence, and it is inconsistent with the individual's status as an autonomous agent.[108]

Similarly, consider the negative/positive distinction that tracks how individuals are derelict in their duties to the victims of injustice. Although we often fail to assist deprived and marginalised members of our society in dereliction of our positive duties, we as

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[105] Walzer, Michael. 'Civil Disobedience and Corporate Authority', *Obligations: Essays on Disobedience, War, and Citizenship*. Harvard University Press, 1970: 26 – 27.

[106] Walzer describes a strike at General Motors in 1937. Ibid: 34 – 38.

[107] Walzer recognizes the importance of managerial control over welfare goods though, highlighting the fact that the plant managers had 'absolute authority over hiring and firing'—the managers therefore had power that was itself a potent source of tyranny (Ibid: 37).

[108] Frye, Marilyn. *The Politics of Reality: Essays in Feminist Theory*. Crossing Press, 1983: 11. Cited in Young, 'Five Faces of Oppression': 5.

individuals typically do not interfere with their autonomy in such a way, for example, as to prevent their access to decent housing or actively stifle their effective political participation. It seems then as though we oblige each other's negative rights, even if we fail to fulfil our positive duties. However, this is a misperception, caused largely by the complex causal chains that lead to injustice that occlude the negative rights violations they involve.[109] Although we might not, as individuals, interfere directly with each other's rights, we do nonetheless often contribute to institutions and systemic patterns that violate the negative rights of the vulnerable.[110] Contributions to such institutions violate the negative rights of their subjects (because they impose unjust conditions upon them), but those who are complicit are also in dereliction of their negative duties, because they actively contribute to the injustice rather than simply failing to aid.

Next, consider the priority of rights. Although we might admit that liberty and security rights are more important than welfare rights, this does not preclude the possibility that welfare rights-violations might in some instances aggregate to be as serious as some liberty or security rights-violations—and might therefore be sufficiently weighty to justify punitive or defensive action. As Just War theorists have argued, rights and interests can aggregate in moral significance—for instance, one person's political rights would not be worth killing for, but the political rights of an entire community might be.[111] This is true in a straightforwardly additive sense: the moral significance of a violation increases as the number of rights-holders affected increases.[112] But it is also true in a compounding sense:

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[109] Elizabeth Ashford argues that it is the complex causal chains involved in welfare violations that make us think that they do not involve human rights violations, because our conception of human rights violations is that they are typically caused by an easily identifiable 'perpetrator'. See Ashford, Elizabeth. "The Duties Imposed by the Human Right to Basic Necessities." In *Freedom From Poverty as a Human Right: Who Owes What to the Very Poor,* 2007: 190 – 1. Similarly, Pogge argues that violations of welfare rights are rendered less 'visible' because they are mediated by institutions (Pogge, "Severe Poverty as a Human Rights Violation": 16).

[110] This is largely the same argument that Pogge makes in the context of global poverty. Pogge argues that global institutions impose poverty conditions on the world's poor, and that the affluent are complicit in maintaining those institutions. See Pogge, *World Poverty and Human Rights*, ch 2.

[111] Frowe, Helen. "Can Reductive Individualists Allow Defense Against Political Aggression?" *Oxford Studies in Political Philosophy* 1, 2015: 187. Frowe is interested here in defending reductive individualists against the charge that they are incapable of explaining wars of national independence, since political rights are considered 'lesser' interests, rather than the 'vital' interests that typically warrant lethal defence.

[112] For more arguments on aggregation, see Tadros, Victor. "Localized Restricted Aggregation." *Oxford Studies in Political Philosophy* 5, 2019: 171 – 204; Tadros, Victor. "Killing and Aggregation." In *To Do, To Die, To Reason Why*: 160 – 181. Tadros's view does not suggest that all interests can be aggregated in this way; whether it is appropriate to aggregate harm X depends upon whether X has permission-grounding force in those circumstances. Permission-grounding facts are those that facts that give us moral permission to perform a particular action. For example, if saving

what is bad about depriving a community of their political rights, to continue the example, is not just that a number of individuals are bereft of their rights, but that the community also becomes unable to express group claims and become vulnerable to injustices aimed at them *qua* group members.[113] For instance, the badness of voter suppression of African Americans is not reducible to the individual badness for each person who is unable to exercise their political rights; it bears the risk too that issues affecting the African American community, including police brutality and redlining, become deprioritized.

Injustices and disadvantage—particularly concerning welfare interests—tend also to cluster. Empirically, capability deficits are not spread evenly or randomly across unjust societies; rather, they gather disproportionately around members of structurally marginalized and oppressed groups.[114] This is largely because they often share the same underlying causes (e.g. structural or widespread racism) and because they interact causally with each other (those who are denied access to education suffer economic immobility and are thereby consigned to informal settlements with inadequate services). To take the Fallist example: students who were at risk of financial exclusion from the university were also disproportionately affected by endemic homelessness precipitated by the university's housing

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your life will cost me the use of my legs, then the fact of my possible paralysis is a permission-grounding fact. That such a fact obtains does not mean that one has permission all-things-considered: the fact can either be defeated or disabled. If a permission-grounding fact is defeated, this means there is a weightier countervailing fact: if saving you will break my arm, the permission-grounding fact about my arm is outweighed by the duty-grounding fact that I can save your life. If saving your life were to break both my arms and both my legs, then the permission-grounding fact about the broken limbs can potentially outweigh the duty-grounding fact. Compare this to the case in which I can save your life at the cost of *x*-number of chipped nails. It does not seem to matter how great *x* is—there is simply no number of chipped nails that can have any permission-grounding force against the duty to save your life. The task then is to figure out which welfare rights can aggregate to justify acts of violence. However, as I suggest later, the costs to individual welfare are often sufficient to bring individual lives below the threshold of decency, in which case I argue that the harms to their interests can plausibly ground permission to commit violence.

[113] As Helen Frowe puts it, there is a compounding effect that causes a 'step-change' in what is at stake for each individual whose right is violated. One therefore need not accept any notion of group or collective rights to accept this claim—it is coherent within the framework of reductive individualism to think that individuals suffer more when the rights of members of their group are undermined. See Frowe, Helen. "Can Reductive Individualists Allow Defense Against Political Aggression?" *Oxford Studies in Political Philosophy* 1, 2015: 187 – 8.

[114] Jonathan Wolff and Avner De-Shalit coin this term in their argument that social, economic, and political 'disadvantages' cluster around particular members of society. Wolff, Jonathan, and Avner De-Shalit. *Disadvantage*. Oxford University Press on Demand, 2007: 119 – 128. More generally, the claim that oppression and injustice compounds at the interstices of marginalized identities is a familiar one in the realm of intersectional critical race theory. For a seminal exposition of this view, see Crenshaw, Kimberlé. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." *University of Chicago Legal Journal,* 1989: 139.

policy, because they were dependent upon the university for accommodation; they were more likely to go hungry or without adequate supplies, because the lack of financial support was more likely to leave them financially precarious; and they were more likely to be alienated by the racist culture of the university because they were the Black minority in a historically White institution.[115] Moreover, these injustices that made university education so inaccessible to poor Black students also locked them into a cycle of poverty in which, without a university degree, they would be financially precarious, more vulnerable to crime, disproportionately affected by treatable illness, and have many of their other capabilities unfulfilled.

Although any individual welfare right might be less stringent than security or liberty rights, there is a dynamic causal relationship between different welfare capabilities that renders sensible to treat them as composite empirical phenomena, even if they constitute conceptually distinct injustices. Even if we are loath to treat these rights and interests on par with those concerned in ordinary violence in many real-world cases of injustice, the accumulation of welfare deficits will be so overwhelming as to be morally commensurate with the badness of ordinary violence. Framing injustice in this composite way aligns with how political movements like Fallism think about and address injustice. Evidence of this can be found in Fallists' ubiquitous references to 'Black pain' as the r*aison d'être* of Fallism.[116] Black pain is meant to describe not a single injustice to a Black person, but rather denotes the confluence of material deprivation and cultural alienation that Black people suffer in institutions and societies that do not afford them the dignity their moral status requires.[117] The term is, in this sense, a catch-all meant to encompass a large number of interrelated social, political, and economic phenomena to coalesce to undermine Black people's ability to live minimally decent lives. This is a persistent harm that locks Black people into grinding cycles of poverty and alienation.[118] In both the severity and persistence of its effects, Black pain is

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[115] See, for instance, the report following Fallism by the University of Cape Town's internal commission. See *The Final Report by the Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*. Cape Town: University of Cape Town, 2016.

[116] Ndelu, Sandile. "Liberation is a Falsehood: Fallism at the University of Cape Town." *Hashtag-Analysis of the #FeesMustFall Movement at South African Universities*, 2017: 58 – 82; Matandela, Mbali. "Redefining Black Consciousness and Resistance: The Intersection of Black Consciousness and Black Feminist Thought." *Agenda*, 31 (3-4), 2017: 10 – 28. Metz, Thaddeus. "The South African Student/Worker Uprisings in Light of Just War Theory." in Booysen, Susan (ed) *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Wits University Press, 2016.

[117] Ibid.

[118] Nyamnjoh, Anye. 'The Phenomenology of Rhodes Must Fall: Student Activism and the Experience of Alienation at the University of Cape Town.' *The Strategic Review for Southern Africa*, 39 (1), 2017.

commensurate to the harms of ordinary violence. Per the Fallists, this is not incidental: the causes of black pain are rooted in the implicit assumption that Black people's lives are not deserving of a replete sense of dignity.

To recap, neither the wide nor the narrow approach captures what is normatively important about violence. Whilst the wide approach risks being too wide, capturing many cases we would not want to call 'violence,' there are forms of injustice that fall outside the bounds of the narrow approach that are nevertheless morally commensurate to paradigmatic violence. This is particularly true of the injustices identified by the Fallists: the confluence of injustices that cause Black pain, when considered together as a unitary phenomenon, are as morally bad as many serious acts of violence.

1.5.2. The Empirical Relationship Between Injustice and Violence

Lastly, suppose that the Fallists are correct in their analysis that there is a proximate and dynamic relationship between violence and institutional injustice: that institutional injustice renders its victims vulnerable to higher rates of violent crime, and mistreatment by the police. This is a plausible empirical claim: crime rates are exponentially higher in poor Black townships, where gangs control large turfs; the state has notoriously enacted ruthless eviction orders against informal Black settlers, replete with police harassment; and the army enforced COVID-19 lockdowns in townships with undue brutality.[119] If injustice and violence are inextricably causally related, then it is plausible to conceive of injustice in composite terms, where welfare deprivation and vulnerability to violence are empirically necessary components of the particular subtype of institutional injustice that Black people suffer in South Africa. To speak of the institutional injustice as 'violence' can then be a short-hand way of describing the causally proximate and necessary role it plays in subjecting individuals to ordinary violence.

If the underlying cause of Black South Africans' victimization and vulnerability to violence is their poverty and institutional exclusion, then violent resistance to injustice can serve as a means of defence against the brutality meted out almost indiscriminately against the poor—many of whom are too vulnerable to defend themselves against physical threats,

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[119] Maringira and Gukurume claim that 'to return to where the students come from, as noted, the townships are viewed as spaces where violence is produced and enacted,' in "Being Black in #FeesMustFall and #FreeDecolonisedEducation: Student Protests at the University of the Western Cape": 44. See also 'Security Forces Use Violent Tactics to Enforce Africa's Coronavirus Shutdowns', *France24*, 1 April 2020. Available at https://www.france24.com/en/20200401-security-forces-use-violent-tactics-to-enforce-africa-s-coronavirus-shutdowns.

and who receive little to no assistance from the police. If we accept the proximate relationship between injustice and violence, then the right to resist injustice can be derivate of the right to defence against violence—it is simply an intervention higher upstream in the causal chain. This kind of upstream intervention is plausibly a permissible form of defence in other cases: for instance, it would be permissible to kill another soldier attempting to take your place in the bunker to protect yourself from enemy fire. The soldier, like those responsible for institutional injustice, wrongfully renders their victim vulnerable to violence by others. All other things being equal, this is clearly not as bad as perpetrating the wrongful harm oneself (wrongness is diminished by the intervening agency of others and their less blameworthy intentions), but the possibility of permissible defence against agents that render someone vulnerable persists, nevertheless.

The inextricable empirical relationship between violence and injustice can make it useful to speak of certain institutions as 'violent,' even if the senses in which they are unjust—abstracted from their relationship to violence—are not themselves 'violence.' Moreover, given this empirical connection, it can be appropriate to hold contributors to injustice at least partially responsible for the violence that it occasions. By rendering others vulnerable, and limiting their ability to avoid violence, contributors to injustice might indirectly form part of the threat that victims of injustice face.[120]

1.6. Defence against Injustice

So far, I have argued that some institutional injustices—including those that cause black pain—are normatively equivalent to violence. This argument dovetails with recent developments in Just War Theory. Theorists have increasingly shifted away from an 'aggression-centred' view of what constitutes a just cause for war, which limits wars to defence against military aggression and intervention against a narrow set of human rights abuses.[121] A growing number of theorists have argued that the traditional conception of just

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[120] Helen Frowe argues, for instance, that obstructors that prevent a person from evading attack are themselves indirect threats. Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Press, 2014: 24 – 41.

[121] Valentini, Laura. "Just War and Global Distributive Justice." in David Held and Pietro Maffettone (eds), *International Political Theory Today*. Cambridge: Polity Press, 2016. Daniel Statman suggests a challenge to this justice-centred view: that there is a moral division of labour in society such that the responsibility to effect justice is limited by role. According to this challenge, then, it is not incumbent upon everyone to commit acts of violence cause more just distributions of goods, for example. However, even if we accept Statman's argument, this clearly applies to societies with well-functioning divisions of labour that closely approximate justice. It is not clear why, in non-ideal states like South Africa, this constraint applies. I pick up this point again in the next chapter. See Statman,

cause in Just War Theory is too limited in that it fails to capture a number of rights that are worth defending by means of war, but which are not necessarily violated by military aggression alone.[122] Most pertinently, theorists have argued that there is just cause for war when there is persistent and intense resource-deprivation that undermines individual's abilities to live minimally decent lives.[123] This violation, revisionists argue, is sufficient to warrant military action, since no individual should be forced to forego their ability to live a decent life, even if its defence requires lethal action.[124] Theorists have applied this principle to interstate war, arguing that poor states can, in principle, wage subsistence wars intended to defend the welfare rights of their members when they are resource-deprived by wealthier states—for instance, by annexing land and resources, or, more controversially, by subjecting them to unfair and exploitative trade relationships.

These views pivot away from the aggression-centred view of just cause towards a justice-centred view.[125] Rather than limiting military action to defence against military aggression, the justice-centred view regards military action as a permissible defence against any serious violation of those rights that individuals are owed as a matter of justice. For cosmopolitans like Fabre and McMahan, this permission is not unique to war—it is simply an extension of the rights all individuals have to defend their basic entitlements. If we think, then, that individuals are entitled to live minimally decent lives (particularly lives free of black pain), then the defensive right on which accounts like McMahan and Fabre rely should

Daniel. "Fabre's Crusade for Justice: Why We Should Not Join." *Law and Philosophy* 33, no. 3, 2014: 337 – 360.

[122] See McMahan, Jeff. *Killing in War*. Oxford University Press, 2009; McMahan, Jeff. "Just Cause for War." *Ethics & International Affairs* 19, no. 3, 2005: 1 – 21; and Fabre, Cécile. *Cosmopolitan War*. Oxford University Press, 2012. McMahan and Fabre argue that the right to wage war is reducible to individuals' rights to commit lethal violence—a set of rights that both Fabre and McMahan think include subsistence rights when deprivation brings individuals below a particular threshold point.

[123] Fabre, Cécile."Subsistence Wars." *Cosmopolitan War*. Oxford: Oxford University Press, 2012; Lippert-Rasmussen, Kasper. "Global Injustice and Redistributive Wars." *Law, Ethics and Philosophy* 1 (1), 2013: 65 – 86; Luban, David. "Just War and Human Rights." *Philosophy & Public Affairs* 9 (2), 1980: 160 – 81.

[124] Ibid. This claim is not entirely novel: natural law theorists like Hugo Grotius and Emer de Vattel contend that individuals can defend their subsistence using lethal means. Grotius, *The Rights of War and Peace Book* II, ch.II; Vattel, *Le Droit des Gens, ou, Principes de la Loi Naturelle Appliques á la Conduite et aux Affaires des Nations et des Souverains*. Washington, DC: Carnegie Institute, 1916. For critical discussion of these views see. Fabre, *Cosmpolitan War*, 104 – 5.

[125] See Valentini, "Just War and Global Distributive Justice," which builds on the conceptual insight of Nardin, Terry. "International Political Theory and the Question of Justice." *International Affairs* 82 (3), 2006: 449 – 65.

apply equally to intrastate resistance to injustice, regardless of whether one conceives of such injustice as 'violence' or not.[126]

1.7. Conclusion

There are good reasons against a sweeping redefining of 'violence' to include injustice: the current definition captures several normative properties beyond the wrongful limitation of individuals' rights. But, even if we resist redefinition, there is a subset of real-world injustices that do more closely resemble the moral properties of paradigmatic cases of violence. If we accept the Fallists' empirical claims (which I assume to be true for present purposes), then the 'black pain' central to their campaign falls in this category. Regardless of whether one wants to call this a case of 'violence,' the injustice of black pain provided sufficient grounds for violent response. In the next chapter, I explore an implication of this conclusion by considering what it means to conceive of political violence as a form of defensive action.

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[126] Fabre argues specifically that states are permitted to commit 'resource wars' when their members' lives are brought below the threshold of decency, whereas McMahan argues that war is permitted on a similar basis.

Chapter 2: Why Not Violence? The Contingent Moral Reasons for Political Non-Violence

2.1. Introduction: Violence in a Nascent Democracy

On the 9th of March 2015, Chumani Maxwele, then a student at the University of Cape Town (UCT) in South Africa, showered buckets of human feces over a bronze statue of the notorious prospector, champion of British imperial ambition, and benefactor of the University, Cecil John Rhodes, sitting in an armchair imperiously gazing out over the city. The incendiary moment—a protest against the colonial structure of the university—kindled the political powder keg that had accreted around several long-standing complaints by predominantly Black, left-leaning students at the country's historically white institutions.

Over the next year, a broad coalition of political movements united under the auspices of Fallism. Their basic claim was that South Africa was still an essentially colonial state. Despite the end of apartheid, Fallism captured the prevailing sense that the advent of democracy in 1994 had been a superficial veneer that had done nothing to help these members of the poor Black majority, only concealing the machinations of neocolonialism: as one student placard aptly put it, 'our parents were sold a dream in 1994. We are here for the refund.'[127]

The movement's ultimate *raison d'être* was the exclusion of Black students from higher education. The continuities with apartheid are stark in this regard, particularly at historically white institutions (HWI) like UCT. Although HWIs had become nominally non-racial, they nevertheless reproduced the inequalities of the past: higher learning remained virtually impenetrable for the vast majority of Black South Africans, and the social and economic structures of the university frustrated the success of those young Black students that managed to scale the ivory tower.[128] Maxwele claimed the buckets of excrement were symbolic of 'black pain'—a confluence of financial hardship and cultural alienation—inflicted upon Black students by 'colonial' institutions—the suggestion being that institutions like UCT were complicit in the perpetuation of colonialism's evils.[129]

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[127] Stolley, Giordano. "Our Parents Were Sold a Dream in 1994." *The Independent*, 23 October 2015. Accessible at https://www.iol.co.za/news/south-africa/kwazulu-natal/our-parents-were-sold-a-dream-in-1994-1934973; Fairbanks, Eve. "The Birth of Rhodes Must Fall." *The Guardian*, 18 November 2015. Accessible at https://www.theguardian.com/news/2015/nov/18/why-south-african-students-have-turned-on-their-parents-generation.

[128] Godsell, Gilian, & Chikane, Rekgotsefetse. "The Roots of the Revolution." in Susan Booysen (ed.), *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016: 54 – 73.

[129] Maxwele, Chumani. "Black Pain Led Me to Throw Rhodes Poo." *Business Day*, 16 March 2016. Available at https://www.pressreader.com/south-africa/business-day/20160316/281883002451263. Chowdhury, R. "From Black Pain to Rhodes Must Fall: A Rejectionist Perspective". *Journal of Business Ethics* 170, 2021: 287 – 311.

The advent of Fallism was remarkable not only for its victories—including the successful removal of the Rhodes statue, the insourcing of workers, the freezing of fees, and the establishment of a governmental inquiry into free education—but also for the confrontational tone it took.[130] Describing itself as 'radical and uncompromising', the movement eschewed the norms of civility and nonviolence, which it regarded as constraints on its liberatory project.[131] This stemmed in part from a resentment towards the strategy of compromise and reconciliation that had been the hallmark of the democratic transition under the leadership of Nelson Mandela—the Fallists blamed Mandela's negotiated settlement for the structural ills that plagued the country,[132] and framed the politics of civility as a form of policing legitimate Black anger.[133] campaign was aggressive from the offset and embraced the use of uncivil and even violent means: Fallists used violent force to eject fellow students and academics from university buildings to halt the operations of the university and occupy its buildings, engaged in violent confrontations with the police during protests, invaded university executive and council meetings to intimidate its members, and even resorted to petrol-bombing university offices and detonating a nail-bomb on campus.[134]

Fallism's resort to violence still mars its reputation: public support for Fallism waned as its violence escalated, and critics of the movement—even those who were sympathetic to its aims—took exception to the use of violence and incivility, arguing that these resorts were 'illegitimate' and inappropriate in a democratic state.[135] The Fallists had an obligation to

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[130] Steinberg, Jonny. 'Violence and its Rehearsals are Signs of a New Era', *BDLive*, 29 May 2015, http://www.bdlive.co.za/opinion/columnists/2015/05/29/violence-and-its-rehearsalsare-signs-of-new-era; Msimang, Sisonke. "The Burning." *Africa Is A Country*, 18 February 2016. Available at https://africasacountry.com/2016/02/the-burning/

[131] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall movement." *Agenda* 31, no. 3 – 4, 2017: 96.

[132] See Chikane, Rekgotsofetse. "Young People and the #Hashtags that Broke the Rainbow Nation." In *Young People Re-Generating Politics in Times of Crises*. Palgrave Macmillan, 2018: 19 – 39; Ndelu, Sandile. "Liberation is a Falsehood: Fallism at the University of Cape Town." *Hashtag-Analysis of the #FeesMustFall Movement at South African Universities*. Johannesburg: The Centre for Violence and Reconciliation, 2017.

[133] Msimang, Sisonke. "End of the Rainbow." *Overland* 223, 2016: 3 – 11. Msimang describes the Fallists' rejection of 'respectability politics'—an set of norms regulating the civility of political discourse and interaction, which critics regard as constrictive, conservative, and a Western import.

[134] Hodes, Rebecca. "Questioning 'Fees Must Fall'." *African Affairs*, 116 (462), 2017: 140 – 150; see also Metz, "The South African Student/Worker Uprisings in Light of Just War Theory."

[135] Hodes, Rebecca . 'Op-Ed: How Rhodes Must Fall Squandered Public Sympathy', *Daily Maverick,* 20 August 2015. Accessible at https://www.dailymaverick.co.za/article/2015-08-20-op-ed-how-rhodes-must-fall-squandered-public-sympathy; Benatar, David. 'University of Capitulation: SA Paying the Price as Thugs Trample Ordinary Rights.' *News24*, 23 September 2016. Available at https://www.news24.com/fin24/biznews/university-of-capitulation-sa-paying-the-price-as-thugs-trample-ordinary-rights.

engage in civil dialogue, to persuade their political equals, to build peaceful democratic coalitions towards change, and to protect the peace that made democratic politics possible, rather than making demands on threat of violence, so the criticism went. [136] On the contrary, students argued that the system—although ostensibly committed to the principles of democracy and political equality—was bent against them, and that violence was a just form of resistance against what was still a colonial constellation of institutions.[137]

In this chapter, I argue that these criticisms of Fallism are misplaced. Theorists, including Avia Pasternak and Candice Delmas, have argued recently that political obligations to remain civil and nonviolent do not apply in circumstances of serious injustice.[138] Apartheid was clearly such a case in which members of the state were exempt from an obligation to remain nonviolent: when Nelson Mandela and the ANC founded their paramilitary wing, they did not violate any obligation to the state. However, as the Fallists suggest, I argue that there are important moral continuities between apartheid and democratic South Africa that cast doubt on the claim that there is now a stringent duty that precluded Fallist violence. This case study extends Pasternak and Delmas's claims to democratic South Africa, and it counters the insistence by critics that their political obligations strictly limited the Fallists to civil disobedience.

Next, I develop a claim that both the Fallists and Pasternak make that we can conceive of resistance to oppression as a form of defensive action (or at least subject it to the regulative norms of defence). This claim builds on my argument from Chapter 1 that institutional injustice can be normatively equivalent to ordinary violence. Conceiving of violence in this way, I argue,

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[136] Adam Habib, for instance, argues that the transposition of Frantz Fanon and Steve Biko was inappropriate in democratic South Africa, and that democracy offered alternate recourse for vulnerable groups. See Habib, Adam. "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests." *Daily Maverick*, 26 January 2016. Available at https://www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/. Habib repeats the argument in Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019: 364 – 8.

[137] There are two arguments that students made to this effect. The first, which is the focus of this chapter, employs the language of self-defence to claim that students were defending themselves against institutional injustice. The second appeals to interpretations of Frantz Fanon that suggest that violence is necessary in dislodging of colonial apparatus. This is the argument that Chumani Maxwele makes when he suggests, '"How do you decolonise Africa? Fanon made it clear decolonisation must happen through violence. I think it is highly unlikely South Africa can avoid this." ('Newsmaker – Chumani Maxwele: No Regrets For Throwing Faeces at Rhodes Statue'. *City Press*, 29 March 2015. Available at https://www.news24.com/news24/Archives/City-Press/Newsmaker-Chumani-Maxwele-No-regrets-for-throwing-faeces-at-Rhodes-statue-20150429).

[138] Pasternak, Avia, "Political Rioting: A Moral Assessment." Philosophy & Public Affairs 46, no. 4, 2018: 384 – 418; Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil*. Oxford: Oxford University Press, 2018.

is congruent both with the defensive rights of the Fallists and with how the Fallists regarded their political interventions.

Conceiving of violence in terms of the regulative norms of defence casts new light on several objections to the use of violence in democracies: that violence is unnecessary in democracies, that it harms the fabric of democracy, that it is counterproductive, and that we should abide by a norm that limits political action to civil disobedience. Viewed through the defensive lens, I argue that these criticisms fail to offer categorical reasons against violence, but instead only suggest that violence is less likely to meet the regulative norms of *Proportionality* and *Necessity* in democracies.

The upshot of these arguments is that there is no general prohibition of political violence in South Africa. Democratic institutions cause less harm to their subjects and offer more non-violent opportunities for peaceable relief, and so there is generally less reason for violence. But when they do cause harm (which they do) and there is no viable alternative, then its subjects are sometimes (to paraphrase Mandela's speech from the dock) left with 'no choice but to hit back.'[139]

This chapter proceeds as follows. Section 2.2 introduces a standard explanation for the prohibition of violence: that members of democratic states have political obligations to respect the law, which limit their political resistance to civil disobedience. This section then introduces recent philosophical work delineating the limits of this obligation in conditions of pervasive injustice. Section 2.3 then draws the moral comparisons between apartheid and democratic South Africa, to argue that there has been no sharp moral discontinuity, and that the Fallists were not bound by a stringent political obligation that had not existed during apartheid. Section 2.4 argues that we should not conceive of the Fallists' actions through the lens of civil disobedience, but rather as a form of defence. Section 2.5 uses the regulative norms of defence to assess further objections against the use of violence in democracies. Section 2.6 concludes.

2.2. Political Obligation and Civil Disobedience in Unjust States

A standard explanation for why violence is impermissible in democratic South Africa (and other unjust democracies) appeals to the orthodoxy in political theory—with its seminal exposition in John Rawls's *A Theory of Justice*—that civil disobedience demarcates the moral

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[139] Mandela, Nelson. "I Am Prepared To Die." 20 April 1964. Available at http://db.nelsonmandela.org/speeches/pub_view.asp?pg=item&ItemID=NMS010 [Accessed 10 June 2021].

limit of political participation in a liberal democracy.[140] According to Rawls, civil disobedience is 'a public, nonviolent, conscientious yet political act contrary to law, usually done with the aim of bringing about a change in the law or policies of the government.'[141]

The purpose of civil disobedience is to make a moral appeal to the 'sense of justice' of the fellow members of one's political community that convinces them to desist in some unjust policy or practice.[142] This moral appeal is modelled on the conventional archetype of civil disobedience, the Civil Rights Movement: the strategy of leaders like Martin Luther King Jr. and Bayard Rustin was to 'dramatize' injustice in the hopes of causing a crisis of conscience for Whites.[143] The practice is dialogic: the disobedient citizen engages in open and civil communication with the rest of their democratic community as a means of making their plea.[144]

In the kind of liberal democracy Rawls has in mind, citizens have political obligations to support the institutions of the state, as longs as those institutions satisfy the criteria of fairness that Rawls thinks should shape the basic structure of a just society. By supporting these institutions, individuals discharge their natural duty of justice. It is then only when there is some friction in the mechanisms of the basic structure that citizens can step outside the law to help fix it. Rawls's narrow exception for civil disobedience is framed in such a way that it expresses not only the disobeyer's protest of injustice, but also their more general respect for the authority of the state.

It is obvious enough that members of very oppressive regimes are not under such a duty. Although he affirms the Rawlsian view of political obligation, Michael Walzer argues that the subjects of oppressive states and institutions can resort to violence.[145] Violence,

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[140] Rawls, John. *A Theory of Justice* (Revised Edition). Cambridge, MA: Harvard University Press, 1999 [1971]. See also Cohen, Carl, "Civil Disobedience and the Law," *Rutgers Law Review*, 21 (1), 1966: 1 – 17; Bedau, Hugo. "On Civil Disobedience," *The Journal of Philosophy*, 58 (21), 1961: 653 – 147.

[141] Rawls, *Theory of Justice,* 320.

[142] Ibid. Habermas, Jürgen. "Civil Disobedience: Litmus Test for the Democratic Constitutional State," J. Torpey, trans. *Berkeley Journal of Sociology* no 30, 1985: 99. See also Sabl, Andrew. "Looking Forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons," *The Journal of Political Philosophy*, 9 (3), 2001: 307 – 330.

[143] King Jr., Martin Luther, "Letter from Birmingham Jail," in H. A. Bedau (ed.), *Civil Disobedience in Focus*, London: Routledge, 1991.

[144] Rawls, *Theory of Justice,* 321 – 22.

[145] Walzer offers two compatible accounts in Walzer, Michael. "Civil Disobedience and Corporate Authority." *Obligations: Essays on Disobedience, War, and Citizenship.* Harvard University Press, Cambridge, MA, 1970. And in chapter 12 on "Terrorism" in Walzer, Michael. *Just and Unjust Wars*. New York: Basic Books, 1977. In the latter, Walzer suggests that political violence can be just (and distinguishable from terrorism) if it is aimed at the agents of state oppression. Walzer has national liberation movements in mind here, discussing examples like the FLN in Algeria. In the former contribution, Walzer considers the possibility of violence against corporate authorities, such as the

therefore, can become a necessary means to creating the democratic conditions that would enable nonviolent participation. Walzer's conditions are strict: where individuals are permitted civil and political liberties, Walzer thinks that they are obligated to seek out nonviolent forms of politics and to preserve the 'civil order' of their society.[146] It is therefore only in conditions of repressive tyranny that the victims of oppression are permitted to resist using force, and then only in response to violent enforcement.[147] I suspect many proponents of nonviolence would want to draw the line here: violence is permissible when it resists a truly oppressive state, but not a merely unjust one.

As Robert Jubb and Pasternak have noted, Rawls's account of civil disobedience is limited to the ideal conditions that he sets out for a state that is 'nearly just'.[148] Rawls does not describe the moral limits of political participation in all cases, or even all liberal democracies; rather, Rawls's project is to discern the norms that should regulate political participation in a state that almost entirely realises the principle of fairness.[149] Citizens of a Rawlsian state have a full complement of civil and political liberties and enjoy a fair distribution of welfare goods— or at least something closely approximating it.[150] *Ex hypothesi*, injustices in this society are minimal and citizens' opportunities to correct injustice within the bounds of the law are replete. It is under these very particular conditions that members are under an obligation to support the institutions that give each member their fair share of the burdens and benefits of cooperation. It is not clear that any state meets the standards that Rawls sets out: Rawls's near-perfectly just state is so idealized that any systemic injustice would place a state outside its remit.

This is a problem that extends beyond the Rawlsian account. The question of political obligation is a matter of long-standing dispute in political theory—philosophical attempts to

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management of a factory. Walzer suggests here that corporate authorities can exercise control over a sphere of individuals' lives to such a degree that those subjects are oppressed by corporate tyranny. Bracketing the interesting extension of his argument to non-state entities, the essential point here is that Walzer limits violent resistance to oppressive authorities in the sense I describe here.

[146] Walzer, "Civil Disobedience and Corporate Authority": 24.

[147] Ibid, 31.

[148] Pasternak, Avia, "Political Rioting: A Moral Assessment." Philosophy & Public Affairs 46, no. 4, 2018: 384 – 418; Jubb, Robert, "Disaggregating Political Authority: What's Wrong with Rawlsian Civil Disobedience?" *Political Studies*, 67 (4), 2017: 955 – 971.

[149] Jubb, "Disaggregating Political Authority: What's Wrong with Rawlsian Civil Disobedience?": 955 – 971. Jubb responds here to critiques of Rawls by Kimberley Brownlee and Robin Celikates, who suggest that his restrictions on civil disobedience are too onerous. Jubb argues that Rawls' formulation is much more permissive than Brownlee and Celikates give credit, because Rawls's restrictions are limited to the the conditions of near justice. Avia Pasternak cites this argument approvingly in justifying the right to riot in Pasternak, "Political Rioting: A Moral Assessment": 395, fn 47.

[150] Rawls, John. *Justice as Fairness: A Restatement*. Harvard University Press, 2001: 41 – 44.

ground a duty to obey the state go back at least as far as Socrates' insistence on drinking his state-ordered hemlock out of duty to Athens. As Jason Brennan notes, two and a half centuries of attempted normative explanations are yet to generate any consensus view supporting the moral authority of the state;[151] instead, scepticism about the state's normative authority (exemplified by A. John Simmons and Robert Paul Wolff's seminal explications of philosophical anarchism) has achieved mainstream status in political theory.[152] This philosophical anarchism is distinct from political anarchism: its claim is not that there should be no state, but rather that the state does not have any special normative claim over its subjects. This does not negate the value of having a legitimate state that can solve collective action problems and enforce morally just laws, but individuals are only morally bound to follow its commands insofar as they have independent moral reason for doing so (and not because it is the state that commands them). From this perspective, the transition to democracy does not mark a categorical shift in obligation, although it does increase the contingent probability that individuals will have independent reasons to respect the state.

What the analysis of Rawls illustrates is that, even if we concede that individuals have an obligation to the state, it seems unlikely to capture many real-world cases. Authors have grounded our political obligations in several sources, including our duties of justice,[153] Samaritan duties,[154] associative duties,[155] and duties of fairness.[156] The point in each case is that living together in a political community can generate duties towards our fellow members that we would not otherwise have, which limit the possibility of political violence. Bare membership of a political community alone does not support an obligation to obey the state: during apartheid, for instance, obedience to the state did not serve the ends of justice, fairness, Samaritanism, or dignity. Our obligation only obtains when obedience to the state serves these

[151] Brennan, Jason. "When May We Kill Government Agents? In Defense of Moral Parity." *Social Philosophy and Policy* 32, no. 2, 2016: 48. Brennan cites Michael Huemer's claim that philosophical anarchism is the 'dominant view' in political philosophy [Huemer, Michael. *The Problem of Political Authority.* New York: Palgrave MacMillan, 2012: 19].
[152] Simmons, A. John. "Philosophical Anarchism," in John T. Sanders and A. John Simmons (eds.). *For and Against the State: New Philosophical Readings*. Boulder, CO: Rowman and Littlefield, 1996: 19 – 30; Wolff, Robert. *In Defence of Anarchism*. New York: Harper Torchbooks, 1970.
[153] Christiano, Thomas. *The Constitution of Equality: Democratic Authority and Its Limits*. Oxford: Oxford University Press, 2008; Stilz, Anna. *Liberal Loyalty: Freedom, Obligation, and the State*. Princeton, NJ: Princeton University Press, 2009.
[154] Wellman, Christopher. "Liberalism, Samaritanism, and Political Legitimacy." *Philosophy and Public Affairs* 25, 3, 1996: 211 – 237.
[155] Dworkin, Ronald. *Law's Empire*. Cambridge, MA: Harvard University Press, 1986; Dworkin, Ronald. *Justice for Hedgehogs*. Cambridge, MA: Harvard University Press, 2011.
[156] In addition to Rawls, see Klosko, George. *The Principle of Fairness and Political Obligation*. Lanham, MD: Rowman & Littlefield, 1992.

ends. A state must therefore meet certain substantive normative conditions for its subjects to be obligated. Candice Delmas has demonstrated with clarity and precision how the suggested sources of political obligation—including Rawlsian fairness, Samaritan duties, democracy, and association—not only fail to constrain individuals to civil disobedience in conditions of injustice, but even support the resort to uncivil disobedience (including sabotage, whistleblowing, and even violence) when injustice becomes severe and pervasive.[157] When endemic injustice negates the rights of its victims, requiring that disobeyers remain civil might entrench the *status quo* that denies them the realisation of their democratic abilities, maintain deep-set unfairness, and erodes the individual dignity on which associative duties might be grounded. By contrast, incivility might act as an aptly corrective measure to injustice.

2.3. The Continuities Between Apartheid and Democratic South Africa

It should be obvious from the analysis above that members of the South African state under apartheid were not under the kind of duty that Rawls and Walzer described. Firstly, their capacity for civil disobedience was severely limited: the repression of apartheid denied Black South Africans (and left-leaning Whites) the right to express themselves politically, rendering much of the kind of dialogic political engagement envisioned impossible.[158] Moreover, any of the values that might ground political obligation were wholly absent under apartheid: the state was not fair, nor just, nor premised on communal association.

It is with this in mind that one must consider the ANC's turn to armed resistance in 1961. Inspired by the *satyagraha* of Gandhi's resistance to colonial rule, the ANC had initially committed itself to nonviolent resistance against white minority rule.[159] organising peaceful protests, boycotts, and demonstrations, including the unlawful disposal and burning of apartheid pass-books (internal passports for Black South Africans), which Chief Albert Luthuli requested ANC members burn in an 'orderly manner'.[160] But the state remained obstinate to compromise and increasingly repressive in its resistance. The turn to armed resistance followed

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[157] Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil*. Oxford: Oxford University Press, 2018.

[158] Ibid: 28 – 31.

[159] Nelson Mandela claimed: 'the Gandhian influence dominated freedom struggles on the African continent right up to the 1960s because of the power it generated and the unity it forged among the apparently powerless. Nonviolence was the official stance of all major African coalitions, and the South African ANC remained implacably opposed to violence for most of its existence.' [Mandela, Nelson. 'The Sacred Warrior'. *Time Magazine,* 31 December 1999: 124 – 126.].

[160] "Africans Urged to Burn Pass Books," *The Guardian*, 28 April 1960. Available at: https://www.theguardian.com/century/1960-1969/Story/0,,105518,00.html [Accessed 2 June 2021].

the first apotheosis of state repression under apartheid: protestors in Sharpeville had gathered peacefully on the 21st of March 1960 to demonstrate against compulsory passbooks, when police opened fire, killing at least sixty-nine demonstrators.[161] The ANC felt it had no choice but to establish an armed wing, *uMkhonto weSizwe* (MK), under the leadership of Nelson Mandela. Its purpose was the 'defence of our people, our future, and our freedom.'[162]

The justness of MK's armed struggle has become uncontroversial in the last two decades: guerilla fighters-turned-politicians regularly rest on their 'struggle credentials', ethicists have defended the formation of MK,[163] and critics suggest that Mandela's moral failure—far from taking up arms—was ending the armed struggle prematurely and reaching a compromised agreement with the apartheid regime that left too much of the country's economic structure in place.[164] This public appraisal also confirms Walzer's view: apartheid is a paradigm case of oppression by a state that actively subordinated Black South Africans, thus rendering violence permissible.

However, as Fallists have suggested, the transition to democracy did not represent a sharp break from the past for South Africa. Consider the Fallist claim that their black pain was a vestige of colonialism and apartheid. This claim is particularly resonant in universities: the majority of financially precarious students were the first in their families to go to university— typically because their parents had been denied the right during apartheid. As recently as 2021, the University of the Witwatersrand (Wits) in Johannesburg estimated that 8000 students were at risk of exclusion from the university for financial reasons—sadly, but unsurprisingly, a

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[161] Mandela, Nelson. "I Am Prepared to Die," 20 April 1964. Available at http://db.nelsonmandela.org/speeches/pub_view.asp?pg=item&ItemID=NMS010 [Accessed 10 June 2021].

[162] Ibid.

[163] For a philosophical defence see Metz, Thaddeus. 'A Life of Struggle as Ubuntu' in Sabelo Ndlovu-Gatsheni & Busani Ngcaweni (eds.), Nelson Rolihlahla Mandela: Decolonial Ethics of Liberation and Servant Leadership. Johannesburg: Africa World Press. 2018: 97 – 111. Metz examines Mandela's life and the turn to armed revolution through the lens of ubuntu—a communitarian philosophy that emphasizes mutual recognition of human dignity. Metz argues from this perspective that the armed struggle was consistent with *ubuntu*.

[164] Chumani Maxwele espoused a view of this sort, claiming that the transition to democracy was a failure because 'we didn't experience violence then due to the failure of our political elite while negotiating.' See 'Newsmaker – Chumani Maxwele: No regrets for throwing faeces at Rhodes statue'. *City Press*, 29 March 2015. Available at https://www.news24.com/news24/Archives/City-Press/Newsmaker-Chumani-Maxwele-No-regrets-for-throwing-faeces-at-Rhodes-statue-20150429. These comments trace a popular narrative amongst the Black intelligentsia of the country that Mandela (and the ANC of the time) 'sold out' to White interests. For a summary of this view, see Bundy, Colin. 'Editorial: The Challenge of Rethinking Mandela', *Journal of Southern African Studies*, 45: 6, 2019: 997 – 1012.

disproportionate majority of these students were Black.[165] University debt would debar many of these students from registering for the following year; many others would fail their course requirements after going homeless, hungry, and unsupported.[166] Although *de jure* exclusion had ended, Fallists argued that the financial barriers to university education established *de facto* exclusion, predominantly of poor Black students.[167] Although they had the legal right to go to university, to achieve social mobility, to lift themselves from grinding poverty, and to frame and execute meaningful lives, the conditions of the state nevertheless kept these goods beyond their reach.

Under these circumstances, what is the moral fact that could make violence against apartheid permissible but renders violence in a democratic dispensation impermissible? Was there some kind of moral magic that happened in 1994 with the first election (or perhaps in 1996 with the adoption of the Constitution) that suddenly made violence an illegitimate resort for the victims of oppression?[168] Despite the burgeoning Black elite that has increasingly populated top government posts and corporate boardrooms, the material conditions of the Black majority have remained too low to support flourishing lives.[169] Particularly jarring is the persistence of 'chronic poverty': the mutually reinforcing circumstances that lock individuals in life-long and intergenerational poverty.[170] Whilst apartheid used the law to consign Blacks to a permanent economic underclass, the confluence of poverty, lack of education, unemployment, and limited state support has created inescapable 'poverty traps' that have the same effect.[171]

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[165] Baloyi, Thabo. 'Over 8000 Wits Students Facing Academic Exclusion – SRC'. Wits Vuvuzela. 17 February 2021. Access at: https://www.thesouthafrican.com/news/over-8-000-wits-students-facing-academic-exclusion-src/. Accessed on 2 March 2021.

[166] Homelessness became the flashpoint of Shackville, one of the events in the later stages of Fallism. Students erected a shack on campus to protest the university's failure to house poor incoming students from rural areas, instead choosing to use accommodation to house exchange students from the United States. See the report following Fallism by the University of Cape Town's internal commission. IRTC (2019). *The final report by the Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*. Cape Town: University of Cape Town.

[167] Metz, Thaddeus. "The South African Student/Worker Uprisings in Light of Just War Theory." in Booysen, Susan, Gillian Godsell, Rekgotsofetse Chikane, Sizwe Mpofu-Walsh, Omhle Ntshingila, and Refiloe Lepere. *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Wits University Press, 2016): 298.

[168] *The Constitution of The Republic of South Africa*, 1996. Available at https://www.gov.za/documents/constitution-republic-south-africa-1996.

[169] For analyses of the persistence of chronic poverty in democratic SA, see Seekings, Jeremy, and Nicoli Nattrass. *Policy, Politics and Poverty in South Africa*. Johannesburg: Springer, 2015.

[170] Aliber, Michael. "Chronic Poverty in South Africa: Incidence, Causes and Policies." *World Development* 31, no. 3, 2003: 473 – 490.

[171] Ibid.

Although there are no direct analogues to apartheid's Suppression of Communism Act or its police hit squads that silenced political opposition,[172] the nominal democracy has not extended meaningful political participation to all its members, and South Africa continues to keep many Black South Africans at the political margins. In some cases, the victims of injustice are rendered mute by indifferent institutions; in more jarring cases, the police force—an institution revealed by successive commissions to be untransformed since apartheid—has responded to nonviolent protest with barbarism, including the deployment of militarized riot officers that corral protestors with barbed wire, stun-grenades, and rubber bullets.[173]

The Marikana massacre was perhaps the loudest echo of apartheid policing: intervening on behalf of Lonmin mine management, police shot dead thirty-four striking miners at the in Marikana (many of whom were shot in the back whilst fleeing police gunfire).[174] Critics argued that this was not an aberration in the new democratic dispensation: the police, state, and capital had colluded once more to repress liberatory politics—the vulnerable still lack safe and meaningful forms of political resistance to these forces.[175] Although the Constitution adopted in 1996 guarantees every South African a life of dignity and political equality, the Fallists could claim without contention that the new dispensation fell drastically short of these commitments, and that democracy for them was a mirage.[176]

In light of these continuities, it is not clear that Walzer's distinction—between 'oppressive' conditions that permit violence and those merely unjust conditions that warrant restraint—constitutes a meaningful disjuncture. The difference between oppressive and non-

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[172] *The Suppression of Communism Act* no. 44 of 1950. Available at https://www.sahistory.org.za/sites/default/files/DC/leg19500717.028.020.044/leg19500717.028.020.044.pdf.

[173] Oxlund, Bjarke. "#EverythingMustFall: The Use of Social Media and Violent Protests in the Current Wave of Student Riots in South Africa." *Anthropology Now* 8, no. 2, 2016: 1 – 13.

[174] For the official report into the incidents of Marikana, see Farlam, Ian. *Marikana Commission of Inquiry: Report on Matters of Public, National and International Concern Arising out of the Tragic Incidents at the Lonmin Mine in Marikana, in the North West Province.* Pretoria: Marikana Commission of Inquiry, 2015. Available at http://www.thepresidency.gov.za/medialib/downloads/downloads/Full%20Report%20of%20the%20Marikana%20Commision%20of%20Inquiry.pdf. For a critical analysis of the role of the police in the killings, see Alexander, Peter. *Marikana: A View from the Mountain and a Case to Answer.* Johannesburg: Jacana Media, 2012.

[175] 'Toxic Collusion Between State and Capital Caused Massacre – Dali Mpofu: Points to be made in the Opening Address on Behalf of the Injured and Arrested Protestors', *PoliticsWeb*, 24 October 2012. Available at https://www.politicsweb.co.za/politics/toxic-collusion-between-state-and-capital-caused-m. See also Alexander, Peter. *Marikana: A View from the Mountain and a Case to Answer.* Jacana Media, 2012, 140 – 2.

[176] Mpofu-Walsh, Sizwe. *Democracy and Delusion: 10 Myths in South African Politics.* Cape Town: Tafelberg, 2017.

oppressive states does not represent a categorical distinction, but rather a continuum of injustices.[177] Walzer's argument rests on an understanding of 'oppression' that limits it to the tyrannical exercise of power by culpable oppressors.[178] Left movements and thinkers have sought to expand the definitional boundaries of 'oppression' to describe the ways in which institutional and systemic arrangements, even in liberal democracies, can result in oppressive conditions for vulnerable individuals, in effect depriving them of the opportunities to realise the rights they formally enjoy.[179] First, this view moves away from the notion that oppression is limited to the wrongdoing of individual culpable perpetrators: institutions, by virtue of their design, norms, and processes, can have oppressive consequences, even when their participants are well-intentioned.

Second, this view recognises that oppression need not involve direct violations of individuals' civil or security rights: although institutions might formally recognise their members' rights, institutional injustices might nevertheless leave their subjects 'immobilized and diminished' by withholding from them the opportunities to realise their rights.[180] Despite formal recognition of their rights of political participation, members of institutionally oppressed groups may nevertheless be sufficiently dominated that they cannot meaningfully engage in civil disobedience.[181] This expanded definition of oppression centres the experience of the oppressed, prioritizing their experiences of domination and rights-deprivations, rather than demarcating oppression according to the oppressor's agency. If the point is either that the vulnerable in liberal democracies do not suffer sufficient oppression to justify violence, or that they have reasonable alternatives, then neither of these reasons preclude violence in democratic South Africa.

If the underpinning of political obligation is fairness, or justice, or civic association, then it does not seem that South Africans came under a stringent obligation when the state transitioned to democracy. Despite its democratic commitments to legality and reciprocity,

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[177] I follow Iris Marion Young's definition of the two conceptions of 'oppression, *Five Faces of Oppression*. Princeton University Press, 2011. Young specifically cites apartheid South Africa as a paradigmatic case of the narrower view of oppression (43 – 44).

[178] In this sense, the expanded definition of 'oppression' shifts away from what Sally Haslanger calls 'agent oppression', which denotes the intentional exercise of oppressive power by an identifiable individual. See Haslanger, Sally. *Resisting Reality: Social Construction and Social Critique*. Oxford: Oxford University Press, 2012. See also the discussion in Delmas, *A Duty to Resist*, ch 7.

[179] Ibid.

[180] Frye, Marilyn. *The Politics of Reality: Essays in Feminist Theory*. New York: Crossing Press, 1983: 11. Cited in Young, 'Five Faces of Oppression': 5.

[181] Brownlee, Kimberley. *Conscience and Conviction: The Case for Civil Disobedience*. Oxford: Oxford University Press, 2012: 21 – 24.

South Africa does has not become substantially fairer or more just for the many victims of injustice since apartheid. The basic structure of the South African state—far from distributing to each citizen roughly an equitable share—is organised in service of a narrow set of class and racial interests. If the victims of injustice are perpetually denied their fair share, then it is not clear why any appeal to fairness should oblige them to support the institutions of the state.

This continuity suggests, as Delmas and Pasternak claim, that the victims of injustice in South Africa did not have a strict duty to remain civil. Critics that suggest that the Fallists had a strict political obligation to obey the state must resolve the following dilemma: they must explain why the partially just democratic state is sufficient to generate stringent obligations that preclude violence, but the apartheid state was not. This would require a theory of political obligation that is thick enough to exclude obligation to the apartheid state, but thin enough that democratic South Africa's formal commitments to democracy and reciprocity, despite its deep-set injustices, are sufficient to generate very prohibitive obligations. The onus of such a theory is to posit a plausible threshold for states, past which members of a state have political obligations to obey the law and uphold the civil peace.[182] Such a theory, I argue, would have worrisome conclusions: it would impose stringent duties on individuals to obey states that meet very minimal criteria. Insofar as theories of political obligation are plausible, it is typically because they are concerned with states that are, if not ideal states (as in the Rawlsian analysis), at least much closer approximations of the ideal than South Africa. It would be a difficult task to justify duties of fairness in such an unfair society, or duties of association in one so deeply segregated, and so on.

Critics like the vice-chancellor of Wits, Professor Adam Habib, might respond by admitting that South Africa is far from perfect, but still claim that its aspirational commitment to democracy obliges its members to engage in the democratic project.[183] One might argue that they should limit themselves to civil disobedience in the prospective hope that it will help build

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[182] A more plausible solution is to conceive of obligation to the state in disaggregated terms: one might have an obligation not to overthrow a state with a basic commitment to justice, but this does not entail that one has an obligation never to break the law or never to use violence to resist the state. If we accept that obligation to the state is more likely to be composite, rather than binary, then it stands to reason that members of democratic South Africa have *more* reason not to commit violence than they did under apartheid, but that the transition did not rule out the possibility of violence altogether. Jubb suggests that our duties towards 'responsive' states differ from our duties towards more wholly democratic states. See Jubb, Robert. "Disaggregating Political Authority: What's Wrong with Rawlsian Civil Disobedience?" *Political Studies* 67, no. 4, 2019: 955 – 971.

[183] Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019: 326 – 8.

a more just and democratically robust system.[184] It is empirically true that nonviolence is often effective at building democratic coalitions that make political communities more just.[185] This is relevant only insofar as it is instructive in determining the strategic value of different forms of resistance: if peaceful means are more effective than violent means in achieving the same ends, then this is a good moral reason to prefer nonviolence. This is only contingently true—it posits the empirical premise that nonviolence is in fact more effective to the legitimate goals of a particular movement. Similarly, obedience to democratic norms might encourage others to act similarly, whilst disobedience might erode these norms; but this, again, is a contingent question about the best means of achieving this end.[186] But, where protestors reasonably judge that violence is necessary for their legitimate ends, this consideration falls away, because it is a question about the strategic value of different tactics, rather than a matter of obligations that members have *ceteris paribus*.

Despite South Africa's commitment to democracy and reciprocity, we cannot judge what individuals are permitted to do according to the standards of an idealized (or even properly functioning) just and democratic state, since the conditions that would generate an obligation do not obtain. It would therefore be unfair and nonsensical to hold the members of vulnerable groups to idealized standards, whilst they live under very non-ideal conditions.

2.4. Civil Disobedience and the Defensive Right to Violence

Theorists working on civil disobedience have noticed this shortcoming in the traditional (mostly Rawlsian) conception: that it assumes certain idealized conditions and does not take account of the real-world need often to go beyond Rawls's limitations. In response, theorists have sought to craft correspondingly inclusive views of civil disobedience. The aim of these accounts is partly to capture real-world liberatory acts against institutional oppression and domination, thereby expanding the boundaries suggested by authors like Rawls and Walzer. Kimberley Brownlee, for example, argues that limited violence can be necessary when

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[184] This is roughly the argument that Andrew Sabl makes in Sabl, Andrew. "Looking Forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons." *Journal of Political Philosophy* 9, no. 3, 2001: 307 – 330. Sabl suggests that the civil disobedience can kindle the moral conscience of others in unjust states and produce a more just state.

[185] See Chenoweth, Erica, Maria J. Stephan, and Maria J. Stephan. *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. New York: Columbia University Press, 2011. I discuss Chenoweth and Stephan's findings in greater detail in chapter 5.

[186] For a similar discussion on the value of following idealized norms and conventions in non-ideal circumstances in the context of war, see Tadros, Victor. *To Do, To Die, To Reason Why: Individual Ethics in War*. Oxford: Oxford University Press, 2020: 18 – 20.

marginalised groups are sufficiently politically dominated that only violence can get their issue 'on the table'.[187] Violence can fall within the remit of civil disobedience, according to Brownlee, if the intention of the agent is to engage in dialogue with their political community.[188] Similarly, Robin Celikates has suggested a radically democratic conception of civil disobedience, expanding its remit to include any principled, communicative act aimed at political change.[189] This casts off the constraint of nonviolence and withers the civility condition: Celikates contrasts 'civil' to 'military' action—a conceptual disjunction that widens the scope of what might count as 'civil' disobedience.[190]

I am sympathetic to these accounts. 'Civil disobedience' has unique social cachet: it immediately calls to mind the widely venerated campaigns of Gandhi and Martin Luther King Jr. Expanding the definition of 'civil disobedience' to include movements like Black Lives Matter and Fallism might then serve to validate by association the more controversial forms of activism that these movements employ. Nevertheless, I think understanding a movement like Fallism using this frame is misconstrued. Fallism rejected appeals to 'civility' as a form of policing Black anger: Chumani Maxwele's faecal protest, for instance, was explicitly designed to treat the institution with contempt and incivility—the apt response to the indignity suffered by Black South Africans.[191] Fallism, moreover, was not interested in appealing to the consciences of their compatriots as the leaders of the Civil Rights movement were when they used nonviolence to 'dramatize' injustice; rather, Fallism sought to present a strong, uncompromising front against a 'colonial' and oppressive system.[192] Broadening the definition of 'civil disobedience' to include both the Selma March and Maxwele's faecal protest does a disservice to both by eliding their purposes.[193]

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[187] Brownlee, Kimberley. *Conscience and Conviction: The Case for Civil Disobedience*. Oxford: Oxford University Press, 2012: 21 – 24.

[188] Ibid.

[189] Celikates, Robin. "Rethinking Civil Disobedience as a Practice of Contestation—Beyond the Liberal Paradigm." *Constellations* 23, no. 1, 2016: 37 – 45; Celikates, Robin. "Democratizing Civil Disobedience." *Philosophy & Social Criticism* 42, no. 10, 2016.

[190] Celikates, "Democratizing Civil Disobedience": 985.

[191] Msimang, Sisonke. "End of the Rainbow." *Overland* 223, 2016: 3 – 11; Kasembeli, Serah Namulisa. "The South African Student #Fallist Movements: Xenophobia and the Impossibility of Including the African 'Other'." *Journal of African Cultural Studies* 32, no. 3, 2020: 316 – 331.

[192] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." *Agenda* 31, no. 3 – 4, 2017: 95 – 6.

[193] As Candice Delmas suggests, inclusive models of civil disobedience stretch the concept beyond recognition. Civil disobedience has an important place in our political lexicon and signals a principled commitment to nonviolent and communicative action. To stretch its meaning to include violence would erode this use. See Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil.* Oxford: Oxford University Press, 2018: ch 1.

Rather than using the lens of civil disobedience to assess a movement like Fallism, it is useful to take a cue from the movement's own claims about its purpose: Fallists sought to justify their resort to violence as a defensive response to the institutional violence that poor Black students suffered at the university. The Fallist contingent at the University of the Witwatersrand claimed, for example, that the violent responses by Fallists constituted 'equal forms of violence as the system subjects us to;' violence was a means of defending themselves against black pain.[194] Justifying the resort to violence, Zinhle Manzini argued that 'we could view this form of violence as self-defence' aimed at protecting the 'colonised' students from the university, which she described as 'the colonizer'.[195] Employing the language of defence is a better fit for the ends of Fallism, which conceived of itself as a vanguard against oppressive forces. It did not seek to appeal to the consciences of oppressors, but rather to defend the vulnerable: it recalled Malcolm X's invocation to defence 'by any means necessary' more than it reflected King's civil disobedience.

The comparison between political violence and defence is a common political tactic, but the comparison is not strictly rhetorical: theorists have increasingly argued, contrary to the orthodox view, that members of institutionally oppressed groups in liberal democracies have a limited permission to resort to violent resistance grounded in the right of defence.[196] Theorists have appealed to the regulative norms of defence to justify physical defence against law

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[194] Ibid.

[195] Manzini, Zinhle. "Violence is a Necessary Process of Decolonisation." *Mail & Guardian*. 2 March 2016. Accessible at: https://thoughtleader.co.za/violence-is-a-necessary-process-of-decolonisation/. Accessed on 4 March 2021; University of the Witwatersrand #FeesMustFall, quoted Nicolson, Greg. "Fees Must Fall: Reloaded". Daily Maverick, 12 January. http://www.dailymaverick.co.za/article/2016-01-12-fees-must-fall-reloaded/

[196] For a summary and critique of these views, see also Flanigan, Edmund Tweedy. "From Self-Defense to Violent Protest." *Critical Review of International Social and Political Philosophy*, 2021: 1 – 25.

enforcement,[197] rioting as a response pervasive injustice,[198] and refusal to comply with unjust laws and institutions,[199] and more generally to resist political domination.[200]

There are also good conceptual reasons that recommend this framework. In the previous chapter, I argue that the feature of paradigm cases of *Defence* that does the normative work is not that defenders face violence as such, but that their basic rights are under threat. Following Avia Pasternak, we can then argue that individuals are entitled by a moral right of defence when they take action meant to avert, ameliorate, or rectify the threat.[201] If institutional injustice shares violence's key normative properties and we accept the normative claim that violence warrants defensive action, then individuals should be permitted a similar defensive right against injustice, on pain of inconsistency.

One might object that political resistance, unlike defence, is an essentially collective activity and therefore subject to distinct norms from those that regulate interpersonal defence. On this issue, it is instructive to consider the central insight of the dominant view in defensive ethics: reductive individualism (RI).[202] Per RI, individuals are the 'proper focus' of normative evaluation: there is only one set of normative principles that regulates individuals' actions, regardless of context.[203] RI has mainly focused on the application of this principle to war, acting as a counterweight to the traditionalist view that conceives of war as an essentially collective

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[197] Jason Brennan uses the defensive framework in considering resistance to state officials, but much of his analysis is focused on what we might call 'ordinary defence', except that it is defence against state officials physically enforcing unjust laws. See Brennan, Jason. *When All Else Fails: The Ethics of Resistance to State Injustice*. Princeton University Press, 2018.

[198] Avia Pasternak uses the defensive framework to assess political rioting in "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 384 – 418. Pasternak suggests that political riots can be justified as a form of defence if they are directed 'against serious, pervasive social injustice which blocks alternative routes of effective political participation, and which occurs in political circumstances where it has a reasonable chance of success of generating a positive policy change' (414). Riots, in these circumstances, satisfy the criteria of the defensive framework since they are the most viable means of opposing the harms of injustice.

[199] Simon Caney uses the defensive framework to assess resistance to global injustice in Caney, Simon. "Responding to Global Injustice: On The Right of Resistance." *Social Philosophy and Policy* 32, no. 1, 2015: 51 – 73.

[200] Candice Delmas briefly considers the possibility of political violence as a form of defence in *A Duty to Resist: When Disobedience Should Be Uncivil*. Oxford: Oxford University Press: ch 2.

[201] Valentini, Laura. "Just War and Global Distributive Justice." in David Held and Pietro Maffettone (eds.), *International Political Theory Today*. Cambridge: Cambridge: Polity Press, 2016.

[202] The seminal proponent of this view is Jeff McMahan. See McMahan, Jeff. "The Ethics of Killing in War." *Ethics* 114, no. 4, 2004: 693 – 733; McMahan, Jeff. "War as Self-Defense." *Ethics & International Affairs* 18, no. 1, 2004: 75 – 80; McMahan, Jeff. "The Morality of War and the Law of War." *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* 19, 2008: 19 – 22.

[203] Frowe, Helen. *Defensive Killing*. OUP Oxford, 2014: 123 – 5. For a comparison of reductive and non-reductive views, see Lazar, Seth, and Laura Valentini. "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints." In *Oxford Studies in Political Philosophy*. Oxford: Oxford University Press, 2016: 166 – 196.

effort, subject to a distinct set of rules that are unique to warfare. The most salient difference between war and cases of ordinary defence, for individualists, is that war involves a greater number of individuals and a greater scale of conflict.[204] But according to RI, these differences only alter the nonmoral facts to which individuals must apply the principles of interpersonal morality, rather than cordoning off a separate moral sphere.[205]

This view departs from the traditionalist view that treats warfare as an essentially collective enterprise between states regulated by a separate moral sphere in which the ordinary norms of interpersonal morality are supplanted by the institutional rules and conventions of war.[206] Traditionalists use the principles of justice to determine the *in bello* laws of combatant conduct.[207] Individual combatants are morally obligated to abide by these laws and are permitted to act freely within their parameters, even where these permissions and duties might otherwise conflict with the dictates of ordinary interpersonal morality. But individualists resist this argument, suggesting that it would be arbitrary for individuals' rights and duties to depend on their membership to a particular institution; rather, each person has inalienable rights and duties by virtue of their moral status.[208] The institutional framework of war cannot therefore usurp ordinary morality; rather, it adds to the set of nonmoral facts to which the principles of ordinary morality apply.[209]

My contention is that we can (and should) conceive of political violence using the defensive framework because, like other defensive uses of violence, it exists within the same moral sphere, and is subject to the same moral norms when it is used to avert wrongful harm. One might nevertheless argue that political violence is excluded from this sphere, because political violence occurs between co-members of the same institutional framework (i.e., the state), whereas paradigmatic cases of defence and war occur in a relative state of nature; whereas defence and war are regulated by our natural duties to each other, political violence is therefore regulated by distinct rules. In the previous section, I suggest that we have grounds for scepticism about this kind of distinction, particularly as it applies to non-ideal states. Especially

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[204] McMahan, Jeff. 'Killing in War: Reply to Walzer', *Philosophia*, Vol. 34, 2006: 47.
[205] Tadros, *To Do To Die To Reason Why*: 16 – 8.
[206] The seminal traditionalist account can be found in Walzer, Michael. *Just and Unjust Wars: A Moral Argument With Historical Illustrations*. New York: Basic Books, 1977. For a comparison of reductive and non-reductive views, see Lazar, Seth, and Laura Valentini. "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints": 166 – 196.
[207] See Lazar and Valentini on the 'political approach' in "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints": 166 – 196.
[208] See Fabre, Cécile. *Cosmopolitan War*. Oxford: Oxford University Press, 2012: ch 1.
[209] Tadros, *To Do To Die To Reason Why*: 16 – 8.

when political institutions have failed to protect (or even actively jeopardise) individuals' basic entitlements—those that allow them to live minimally decent lives—it is unclear why their members should be bound by any special obligations besides their natural duties.

To recap, I have argued so far that we should be sceptical of claims about political obligation that prohibit the use of violence in partially just states. Instead, I argue that, when individuals' basic entitlements are under threat, their rights and duties concerning political violence are the same as those that apply in paradigm cases of violence, specified by the regulative norms of the defensive framework. In the following section, I consider further reasons we might have for ruling out the possibility of political violence and, in light of the defensive norms, I argue that these reasons present only contingent and *prima facie* reasons against political violence.

2.5. Contingent Reasons Against Violence and the Defensive Framework

Critics of Fallism—and of political violence more generally—do not rely solely on political obligation to the state to make the case against violence in democracies. In this section, I consider arguments to the effect that violence is always unnecessary in democracies, that it is counterproductive towards the ends of justice, and that it is harmful to the fabric of democracy. These objections are typically framed as categorical objections against *any* use of violence in democracies, which would of course preclude the violence of Fallism. However, in this section, I argue that these objections are defeasible—not categorical—once we consider them in light of the regulative norms of the defensive framework.

It is useful first to provide a brief summary of the regulative norms of defence. The defensive framework suggests two grounds of justification for harming someone who has not consensually waived their right.[210] The first ground is liability. If someone is liable, they have forfeited part of their right against being harmed, typically because they are implicated in the threat being averted. In a paradigm case of ordinary defence, a murderer renders himself liable by culpably posing a lethal threat to an innocent. Importantly, to be liable does not mean that one deserves to be harmed. As McMahan notes, to deserve harm implies that it is good in itself that one is harmed.[211] Liability, by contrast, means only that the right that ordinarily provides stringent moral reason against harming someone is suspended, but it does not in itself provide

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[210] For a full exposition of the two grounds of justification and the connection between the two, see Rodin, David. "Justifying Harm." *Ethics* 122, no. 1, 2011: 74 – 110.
[211] McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing." *Philosophical Issues*, *15*, 2005: 386 – 405. See also McMahan, Jeff. *Killing in War*. Oxford: Oxford University Press, 2009: 9 – 12.

positive moral reason for harm. Harming a liable person is therefore in need of instrumental purpose, such as the defence of an innocent.

The second ground for defence is the so-called 'lesser-evil' justifications: even if someone is innocent of any implication in the harm being averted, harming him can nevertheless be all-things-considered justified if the moral cost of not acting outweighs the cost of acting.[212] Rights provide a moral 'breakwater' that set a high threshold of protection, but which can be overcome by a preponderance of justificatory reasons.[213] The evil being averted must be significantly greater than the cost of the rights infringement to be justified.

In both cases, the use of force must comply with the principles of *Necessity* and *Proportionality*. *Proportionality* requires that there must be an appropriate 'fit' or 'balance' that renders the defensive action proportionate to its end. This is not simply a matter of measuring the magnitude of the defensive harm and of the wrong it averts—*Proportionality* is sensitive to a number of deontological considerations. The most salient such consideration is liability: harm to liable targets need only comply with the standard of narrow proportionality, which discounts the harm according to their liability.[214] This sets a lower justificatory threshold than the standard of wide proportionality that applies in lesser evil cases, which measures harms against innocents, who retain their rights against being harmed and are therefore wronged by defensive action. That said, it is possible for defensive action against innocent and liable agents avert enough harm to outweigh the costs to their rights.

Necessity, conventionally understood, stipulates that defensive force is only permitted if there is a no less harmful option with the same prospect of achieving the intended end. Lethal self-defence against an attacker, for instance, is necessary when it is not possible for the police to intervene and arrest the wrongdoer (which would be both less costly to the attacker and to the rule of law). For this reason, *Necessity* is sometimes elided in the law with imminence since one is likely to have less harmful means than violence to avert non-imminent threats. If imminence is a component of *Necessity*, this would rule out much political violence, especially in South Africa since it typically does not respond to imminent threats by the state. But imminence is not an essential element of *Necessity*: violence might be the least harmful means of averting a threat realized over an extended period of time. Rather, imminence is a useful heuristic for determining *Necessity*, but it is not a precondition for it.

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[212] See Rodin, "Justifying Harm".
[213] Rodin, David. *War and Self-Defense*. Oxford: Oxford University Press, 2002: 25 – 26.
[214] McMahan, *Killing in War*, 20 – 22.

What it means for violence to be the 'least harmful' option available is also in need of further unpacking: it would be a problematic principle if, for instance, it precluded violence in any case in which there was even a slight chance of non-violent resolution (suppose that there is a 90% chance of stopping a killer by shooting him, and a 2% chance of stopping him by offering him tea and crumpets—only an absurd necessity condition would rule out violence). *Necessity* must therefore be sensitive to the effectiveness of different courses of action.[215] The condition must also be sensitive to the distribution of harm between innocents and non-innocents (non-violence might cause less harm overall but might cause more harm to innocents, and so it is necessary to morally-weight these costs).[216]

If we consider political violence in light of these constraints, many of the reasons that critics of violent resistance in liberal democracies adduce appear to be reducible to the defeasible constraints of the defensive framework. In this sense, I argue that they fail to offer categorical reasons against violence; instead, they offer contingent and defeasible reasons against it.

First, consider the criticism of Fallism that Professor Habib offers: that members of a democratic state like South Africa have the possibility of alternate means of protest—a criticism intimated by Walzer too in his suggestion that those whose civil and political rights are protected should limit themselves to nonviolence.[217] It is true that South Africans generally have greater opportunities for political participation now than under apartheid: they have the right, at least nominally, vote out corrupt leaders; they have the right to pursue legal action through a (more or less) fair and independent judiciary that has consistently advanced the realisation of socioeconomic rights; they have the right to protest, petition, picket, and engage in civil disobedience.

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[215] To see why this is so, consider McMahan's example of selecting between two means of defending 100 innocent civilians against a threat: 'the first of these means would be certain to save 100 innocent civilians but would also be certain to kill one innocent bystander as a side effect,' whereas 'the other would have an 80 percent probability of successfully defending the 100 civilians but would not kill any innocent bystander.' The expected outcome of the first course of action is that one bystander will be killed, whereas the expected outcome in the second case is that twenty will be killed. Therefore, although the first means is more harmful, its higher prospect of success makes the trade-off worthwhile. See McMahan, Jeff. 'Proportionality and Necessity in Jus in Bello'. *The Oxford Handbook of Ethics of War*. Oxford: Oxford University Press, 2018: 439 – 40.

[216] Lazar, Seth. "Necessity in Self-Defense and War". *Philosophy & Public Affairs*, 40 (1), 2012: 11. McMahan, "The Limits of Self-Defense": 187 – 8.

[217] Habib, Adam. "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests." *Daily Maverick*, 26 January 2016. Available at www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/ [Last accessed 13 June 2021].

However, if we accept that vulnerable South Africans face threats to their enforceable rights, then the possibility of less harmful recourse does not debar resort to violence; rather, these facts are relevant only insofar as they determine whether violence might satisfy the necessity condition.[218] If the Fallists could achieve the same results through boycotting the university, then clearly the forceful ejection of students and staff from campus would cease to be necessary, because it would not minimize overall harm. Similarly, individuals in states with functioning criminal justice systems should ordinarily defer to the police to prevent threats of criminal harm, since this minimizes overall harm; but, where deference to the police does not minimize harm (such as in cases of imminent threat), individuals are still permitted to defend themselves. If we judge political violence by the same standard, we should conclude that there is good reason for deference to democratic infrastructure when it is functioning (or even semi-functioning, as in South Africa), but that this does not suggest that individuals lose the right to defend themselves (or others) when deference no longer minimizes harm.

Similarly, critics often argue that violence is counterproductive in achieving its ends. Indeed, empirical evidence suggests that nonviolence is generally more effective at the kind of political coalition-building and public persuasion that leads to democratic policy changes.[219] If so, political violence would again struggle to satisfy *Necessity* and *Proportionality*, since it would be less likely than nonviolent means to achieve the same ends, and the ends it would achieve would be less likely to offset its costs. This challenge, too, does not establish a general prohibition of violence.

Consider the self-defence example I canvass above: even if it is generally true that deference to the police is effective and self-help is not, this does not preclude the possibility that—under exceptional circumstances—self-help might be the more reasonable course of action. This possibility is all the more present in the case of Fallism: as I will argue in Chapter 5, the empirical surveys of political violence describe cases that are typically quite different to

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[218] Brennan frames this constraint in terms of *Necessity* in *When All Else Fails*: 56.

[219] Erica Chenoweth and Maria Stephan have conducted extensive empirical research to establish the effectiveness of nonviolence, arguing that violent political movements impose higher moral, physical, and informational barriers to entry for potential participants in political coalitions. See Chenoweth, Erica & Stephan, Maria. *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. New York: Columbia University Press, 2018; Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013: 271 – 276. Similarly, Omar Wasow argues that nonviolence is more effective at persuading dominant groups to desist in injustice, arguing that violence increases reactionary attitudes towards social movements. See Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review*, 2020: 638 – 659.

Fallism. In particular, the evidence suggests that violent movements are much less successful than nonviolent movements, but the statistical difference is far less decisive when one compares completely nonviolent movements against nonviolent movements with violent flanks (which more aptly describes Fallism).[220] Although the empirical evidence might suggest a general presumption against the necessity of violence, it does not provide decisive reason to preclude a violent flank in any specific case.

Lastly, critics argue that the resort to political violence is inappropriate in democracies, because there is an imperative for political means to 'prefigure' their ends.[221] Take, for instance, Judith Butler's recent claim that the use of violence 'builds or rebuilds a specific kind of world.'[222] I think the most plausible ways of understanding this claim is that the use of violence (a) encourages others not to adhere to the constraints of democratic politics, thereby proliferating the use of violence, and (b) causes animosity and breaks down bonds of civic friendship and mutual trust, thereby also increasing the likelihood of violence and diminishing the prospect of civil cooperation.[223]

However, the fact that violence might cause more violence is not in itself a reason to preclude it as a possibility. This would only be a reason to preclude violence if one endorses the stronger claim that the deleterious consequences of violence are highly likely to be so great that they will outweigh any defensive value that violence might have. But this is an empirical contingency: it is conceivable too that violence might not beget more violence, or that it prevents enough harm to offset the ensuing violence it causes. This is a problem again for *Proportionality* and *Necessity because* the foreseeable effects of violence should figure in these calculations. But both conditions allow the possibility that the consequences of violence will adequately offset its material and immaterial costs.

I will explore these considerations in far more detail in the chapters ahead. The point, for now, is simply that political violence resisting social injustice can be fruitfully analysed

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[220] Chenoweth and Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. My response here draws from Candice Delmas's response to Chenoweth and Stephan; see Delmas, *A Duty to Resist: When Disobedience Should be Uncivil*: 58 – 9.

[221] See the critical discussion in Delmas, *A Duty to Resist*, 60 – 61. Delmas argues that it is not necessary for means to prefigure their ends, because it is possible to deny that acts of resistance need to be strictly bound by the values it seeks to promote.

[222] Butler, Judith. "Protest, Violent and Nonviolent." In *Antidemocracy in America*: 233 – 240. New York: Columbia University Press, 2019. Also cited in Butler, Judith. *The Force of Nonviolence: An Ethico-Political Bind*. London: Verso, 2021: 19.

[223] See, for instance, Andrew Sabl's argument for nonviolence, on the basis that it has forward-looking value in fostering civil cooperation [Sabl, Andrew. "Looking Forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons." *Journal of Political Philosophy* 9, no. 3, 2001: 307 – 330].

within a defensive framework; any argument for preferring non-violence is necessarily defeasible. Depending on the circumstances in which a political movement finds itself, political violence can satisfy *Necessity* and *Proportionality* despite these considerations. If, for example, injustice renders the possibility of nonviolent means of political participation ineffective, then it can be reasonable for members of vulnerable groups to judge the resort to violence to be necessary. Fallism, for instance, was preceded by the process of 'tempered discussions' between university management and various stakeholders, which students felt frustrated the political ends of transformation.[224] Despite the availability of alternate means of political action, it is at least possible that the students could have fulfilled *Necessity*. Similarly, although the problem of proliferating violence affects increases the sum of harm involved and so tips the scale against the use of violence, it does not rule out the possibility that violence nonetheless satisfies the conditions of justified defence when these harms are outweighed by the moral cost of persistent injustice. None of these reasons suggests any categorical reason against violence that cannot be factored into the defensive framework.

The view I am canvassing here is one in which the justness of any instance of political violence depends on the preponderance of reasons for and against it on that occasion. It is, in any instance, up to the individual to assess whether violence is both necessary and proportionate to avert some rights violation; if so, they are permitted to act. One might want to resist this view on the basis that it is not in the interests of justice for the morality of political violence to depend on a case-by-case assessment and that we have reason to limit the resort to violence as a matter of principle. To put it differently, one might think that it is preferable for there to be a rule to guide political action, such as 'do not commit political violence in a democratic state,' or 'only commit political violence in response to direct oppression'—and that individuals' rights and obligations are limited by the rule, rather than by the deep moral principles of *Proportionality* and *Necessity*.[225]

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[224] Godsell, Gillian, & Chikane, Rekgotsefetse. "The Roots of the Revolution." *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

[225] Compare the distinction between what Laura Valentini and Seth Lazar call the 'political' and non-political' approaches to Just War. According to Lazar and Valentini, the political approach applies the principles of justice to the institutional rules governing warfare, whereas the non-political (or reductivist) approach applies the principles of interpersonal justice to the conduct of soldiers. Lazar, Seth, and Laura Valentini. "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints." In *Oxford Studies in Political Philosophy*. Oxford: Oxford University Press, 2016: 166 – 196.

Universal adherence to such a rule would likely yield net positive results. Although agents of political violence sometimes act justly and achieve valuable political goals, they very often engage in political thuggery and jeopardise—rather than advance—social progress. This suggests a rule consequentialist reason to have a well-defined norm or convention prohibiting (or stringently limiting) the use of political violence, because the value of curtailing the spurious use of violence would outweigh the disvalue of debarring potentially productive uses of violence. Since there is already something of a consensus in favour of civil disobedience, one might think it is preferable not to tamper with a principle that 'already commands a high degree of allegiance' by suggesting that individuals are permitted—or perhaps even required—to resort to violence for a broadly-defined set of defensive reasons.[226] If, by contrast, every person in a state like South Africa—where injustice is rife and political change is painfully slow—sought to defend themselves or others against injustice by means of violence, the consequences would likely be disastrous, even if each of them tried earnestly to abide by *Necessity* and *Proportionality*.[227]

These considerations suggest a weighty presumption against political violence. Agents of political violence not only risk the high likelihood of causing counterproductive harm, they also risk diminishing the conventions of civil politics that protect innocents against more needless violence. It is possible nevertheless, in exceptional cases, that the positive moral reasons for committing violence are still sufficient to offset these foreseeable but unintended effects it has on civil order.[228] In other words, the cost of not acting might still outweigh the cost of acting, even once one has factored in the cost of diminishing the consensus against violence.

Given that the effects of political violence—by virtue of its *political* nature—are so much more unpredictable and far-reaching, we might think that this is a stringent presumption and that agents ought to satisfy a particularly high justificatory threshold to overcome the presumption. It is nevertheless a presumption that can be overturned. When members of

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[226] McMahan, Jeff. "The Ethics of Killing in War." *Ethics* 114, no. 4, 2004: 731. McMahan's concern here is the disparity between the widely accepted rules and conventions of warfare, and the implications of the deep morality of war.
[227] Statman, Daniel. "Fabre's Crusade for Justice: Why We Should Not Join." *Law and Philosophy* 33, no. 3, 2014: 348 – 354. Statman argues against Cecile Fabre's suggestion that poor countries can wage 'subsistence wars' against affluent states when they threaten their welfare rights. Statman argues that individuals are not permitted to mete out justice in this way, because their rights and duties are limited by role, and that adherence to Fabre's purism would be disastrous in an analogous way to the description above. For Fabre's argument see Fabre, Cécile. *Cosmopolitan War*. Oxford University Press, 2012: ch 3.
[228] See McMahan, "The Ethics of Killing in War": 732 – 3.

vulnerable groups face chronic and serious threats to their ability to live decent lives, it seems at least plausible to think that the presumption is outweighed.

2.6. Conclusion

The foregoing discussion suggests that there is no reason in principle to think that political violence in defence against institutional injustice cannot be justified sometimes despite the categorical objections against its use—even if exceptions remain rare.

In the case of Fallism, there were acts of violence that were constrained and purposive, that were needed to disable campus operations and disrupt the business of government, and which lead to the government's announcement to halt fee increases and establish an inquiry into the possibility of free education. These measures protected vulnerable students from unfair exclusion and homelessness, thereby defending their basic rights. In this case, the use of violence likely encouraged more reckless violence: indiscriminate acts of arson towards the tail-end Fallism seemed mostly likely spurred on by the atmosphere of uncivil confrontation. However, this does not deny the defensive value of the earlier, more measured acts.

The purpose of the remainder of this dissertation is to use the regulative norms of the defensive framework to discern the defensive value of such acts. Following this case-by-case approach, I use the next chapter to delineate the key considerations that we should use to judge any particular instance of violence. This should further clarify how we can draw normative distinctions between better and worse (or permissible and impermissible) instances of political violence.

Chapter 3: Political Violence and the Rights of Others

3.1. Fallism and 'Trampling' Rights

Members of the Fallist movement committed a broad range of violent and coercive acts that put at risk the rights of other members of their political community. In their effort to immobilize university operations, the Fallists had forcefully ejected staff and students from campuses and occupied university buildings, interrupting their fellow students' rights to education and staff members' rights to discharge their official duties unmolested—not to mention the rights against physical interference of those whom the Fallists rough-handled and intimidated.[229] The Fallists' later resort to shock tactics[230]—including petrol-bombing the offices of the University of Cape Town (UCT) executive, setting fire to university and state property, and detonating a nail bomb on campus—risked the 'life and limb' rights of those who were targeted by the attacks,[231] as well as anyone caught in the crossfire.[232] As with other political movements, the Fallists also incited violent confrontations with the police on numerous occasions, including a melee in the grounds of parliament in Cape Town—an act that arguably had an intangible cost to the norms and culture of democracy.[233] On other occasions, police intervention turned peaceful—albeit uncivil—protest violent, as when they attempted to disperse and arrest students occupying university buildings.[234]

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[229] Benatar, David. 'University of Capitulation: SA Paying the Price as Thugs Trample Ordinary Rights.' *News24*, 23 September 2016. Available at https://www.news24.com/fin24/biznews/university-of-capitulation-sa-paying-the-price-as-thugs-trample-ordinary-rights; Habib, Adam. 'Goals and Means: Some reflections on the 2015 #FeesMustFall Protests.' *Daily Maverick*, 26 January 2016. Available at https://www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/.

[230] This phrase is originally from Humphrey, Mathew. and Stears, Marc. "Animal Rights Protest and the Challenge to Deliberative Democracy," *Economy and Society* 35, 2006: 411. It is used in the context of political violence in Pasternak, Avia. "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 393.

[231] The phrase 'life and limb' comes from David Rodin in his discussion of the distinction between vital interests (in our lives, long-term well-being, and most basic liberties) and lesser interests. See Rodin, David. "The Myth of National Self-Defence." in Fabre, Cécile, and Seth Lazar, (eds). *The Morality of Defensive War*. Oxford: Oxford University Press, 2014.

[232] Evans, Jenni. 'Max Price's Office Fire-Bombed at UCT', *Politicsweb*, 17 February 2016. Available at https://www.politicsweb.co.za/news-and-analysis/max-prices-office-firebombed-at-uct. See also Hodes, Rebecca. "Questioning 'Fees Must Fall'." *African Affairs* 116, no. 462, 2017: 145 – 7.

[233] Davis, Rebecca; Swingler, Shaun; and van der Merwe, Marelise. "#FeesMustFall: The Day Parliament Became a War Zone". *Daily Maverick*, 22 October 2015. Available at https://www.dailymaverick.co.za/article/2015-10-22-feesmustfall-the-day-parliament-became-a-war-zone/.

[234] Fallist Kgotsi Chikane, for instance, claims that the Fallists themselves 'never dared throw the first stone,' suggesting that their violence was simply a response to violence by police and private security.

The turn to violence and confrontation had further downstream effects that, although not the intention of the Fallists, were nevertheless reasonably foreseeable: critics argued that Fallism's tactics created a chilling atmosphere on campus, stifling academic freedom and debate;[235] the destruction of property and arson passed on immense pecuniary costs to the universities that were already under financial strain;[236] the hostile environment that ensued compounded individuals' emotional distress—in one case allegedly contributing to the suicide of a senior academic.[237]

In the previous chapter, I argue against any categorical objection to the use of political violence. Instead, I suggest that the resort to violence should be judged on a case-by-case basis, subject to the regulative norms of the defensive framework. In the final calculation, whether these any instance of violence qualifies as permissible defence will depend on their compliance with the two norms in particular: *Proportionality*, which requires that defensive means be fitting to the ends, and *Necessity*, which limits defence to the least harmful feasible means. These requirements are partly concerned with measuring the consequences of defensive action, i.e., whether the positive consequences outweigh the negative consequences, and whether defensive action minimizes the potential negative consequences.

However, both requirements are also subject to deontological constraints: those who suffer harm as a result of defensive action have rights that should not be violated simply because doing so will prevent greater injustice. Even if the Fallists had just cause for violence, one might nevertheless agree with those critics of Fallism who claimed that the resort to

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Quoted in Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019: 326.

[235] Berger, Mike. "Fallism and the Intellectuals." *PoliticsWeb,* 20 October 2016. Available at https://www.politicsweb.co.za/opinion/fallism-and-the-intellectuals.

[236] Estimates put the cost of the destruction alone (excluding downstream opportunity costs) between £20 – 40 million. See Govendar, Pregar. "#FeesMustFall Cost 18 Varsities More Than R460m in Damage to Property Alone." *Mail & Guardian*, 29 September 2016. Available at https://mg.co.za/article/2016-09-29-00-feesmustfall-cost-18-varsities-more-than-r460m-in-damage-to-property-alone/; Dentlinger, Lindsay. '#FeesMustFall Damage Costs Soar To Nearly R800M.' *Eye Witness News*, 8 August 2018. Available at https://ewn.co.za/2018/08/08/feesmustfall-damage-costs-soar-to-nearly-r800m.

[237] Professor Bongani Mayosi, Dean of the Medical Faculty at the University of Cape Town committed suicide in 2018. Students had occupied his office for two weeks during the campaign in 2016 and had allegedly called him a 'coconut' (a Black person serving the interests of Whites). Both the Vice Chancellor of the university Professor Mamokgethi Phakeng and Democratic Alliance leader Helen Zille implied that the Fallists were responsible. See Friedman, Daniel. "Zille Blasts 'Fallists' for Alleged Role in Mayosi's Suicide." *The Citizen*, 31 July 2018. Available at https://www.citizen.co.za/news/south-africa/1988918/zille-blasts-fallists-for-alleged-role-in-mayosis-suicide/.

violence 'trampled' the rights of innocents.[238] Those students, academic staff, university administrators, government officials, and police officers who were confronted, assaulted, and denied entry to campus by the Fallists might well have claims against the Fallists for violating their rights. These targets of violence differ markedly from those in paradigm cases of *Defence* and *Resistance*: they were, for the most part, neither culpable aggressors, nor agents of an oppressive state using military force to repress the victims of injustice.

Moreover, those who suffered the downstream consequences of Fallism—including its effects on democracy and on academia—might similarly have claims against the. Fallists. They have rights to participate in their political environment, to pursue their educations without interference, and to express themselves freely—all of which seem to be undermined by Fallism's violence.

Did Fallism's use of violence violate these individuals' rights? In this chapter, I argue that there is no uniform answer to this question, despite what the Fallism's critics might suggest. This chapter makes three arguments to this end. First, I argue—contrary to Fallism's critics and theorists like Michael Walzer—that students, academics, university administrators, and government officials can be liable to harm—thereby forfeiting their 'innocence,' as well as their rights against harm. Second, I argue that we should not overstate the Fallists' responsibility for downstream harms to innocents, including harms to immaterial goods. Third, I argue that it is not necessarily a violation of others' rights to *use* them for political ends—in other words, defensive force need not be limited to fending off threats.

Accordingly, this chapter proceeds as follows. Section 3.2 considers the distinction between liable and innocent sufferers of violence. Here, I refute the suggestion that political violence be limited to the agents of the state's oppression, arguing instead that a wide range of contributors to injustice can be liable. Next, Section 3.3 considers the moral difference between intended and incidental harm, arguing that campaigns like Fallism that unintentionally (albeit foreseeably) harm innocents and collective goods do not necessarily violate their rights. Lastly, section 3.4 considers whether it is impermissible harmfully to use others for political ends when they do present an imminent threat. Here, I conclude that it is permissible, albeit under limited circumstances.

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[238] Benatar, David, "UCT: Capitulation isn't Working". *PoliticsWeb*, 21 September 2016. Available at https://www.politicsweb.co.za/opinion/uct-capitulation-isnt-working [Last accessed 15 February 2022]; See also Habib, Adam. "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests." *Daily Maverick*, 26 January 2016. Available at www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/ [Last accessed 13 June 2021].

In the course of this chapter, I use the three considerations I canvass (liable/innocent; intentional/incidental; eliminative/manipulative) to categorise different acts committed in the course of Fallism, grading them according to their moral cost.[239] I return to this taxonomy in the conclusion to support my argument that some acts were permissible whilst others were not.

3.2. Are All Civilians Innocent?

Prominent South African academics, including those sympathetic to Fallism like Vice-Chancellor Adam Habib, and those more generally sceptical like Professor David Benatar, were united in their criticism of the tactics that the movement adopted: they argued that the resort to violence was 'illegitimate' because it 'violated the rights of others,' particularly innocent students who were deprived of their ability to study and harassed for going onto campus.[240] This criticism suggests that we can distinguish between 'legitimate' and 'illegitimate' targets of violence, and that violence is impermissible when it targets the latter. Individuals typically have stringent rights not to be harmed; absent overwhelming moral reasons to the contrary, targeting illegitimate individuals would impermissibly violate these rights.

Michael Walzer places this concern at the heart of his distinction between terrorism (a denotation he uses in moralised terms) and those acts of political violence that are potentially justified (or, at the very least, are deserving of some respect for differentiating between targets).[241] According to Walzer, political violence ought to abide by a 'political code' that picks out only those agents of the state's oppression for targeted violence.[242] Whilst ordinary

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[239] These considerations do not constitute an exhaustive list of the factors that determine the moral cost of an action. David Rodin, for instance, lists fourteen such considerations in "Justifying Harm." *Ethics* 122, no. 1, 2011: 74 – 110. However, I have limited my discussion to these three because they (a) map onto common criticisms of political violence; (b) are, to my mind, the most salient; and (c) have received the most attention in Just War literature. See, for instance, McMahan, Jeff. *Killing in War*. Oxford: Oxford University Press, 2009; Tadros, Victor. *To Do, To Die, To Reason Why: Individual Ethics In War*. Oxford: Oxford University Press, 2020; Quong, Jonathan. *The Morality of Defensive Force*. Oxford: Oxford University Press, 2020.

[240] Benatar, David. "University of Capitulation: SA Paying the Price as Thugs Trample Ordinary Rights." *News24*, 23 September 2016. Available at
https://www.news24.com/fin24/biznews/university-of-capitulation-sa-paying-the-price-as-thugs-trample-ordinary-rights; Habib, Adam. "Goals and Means: Some reflections on the 2015 #FeesMustFall Protests."

[241] Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books, 1977: ch 12. Walzer is concerned here mainly with campaigns of national liberation, but his arguments should apply equally here.

[242] Ibid: 198 – 204. It is not clear whether Walzer thinks that the code is identical to liability: Walzer seems to think that agents of political violence act honourably when they abide by the code, but they

civilians might inadvertently be subject to the pressures that accompany civil unrest or war, principled resisters refrain from targeting civilians, whereas the terrorists ignores the political code and targets others indiscriminately. Walzer argues that the FLN in Algeria—contrary to Frantz Fanon and Jean-Paul Sartre's defences of the FLN—fell short of this moral imperative when it bombed nightclubs full of innocent French teenagers, rather than limiting their offensives to the enforcers of colonial rule.[243]

Walzer's political code is conceptually similar—but not identical—to the distinction he draws between liable and innocent targets in warfare.[244] Liability here is a 'term of art' that is unique to the rules of *jus in bello*.[245] Per the traditionalist account, individual liability depends on the rules of warfare that would generate the most just overall results.[246] According to proponents of this approach, the ends of justice would be best-served by general compliance to *in bello* rules that immunized civilians from deliberate attack and held combatants liable.[247] By joining the military, individual combatants submit to these rules, thereby becoming liable to attack by virtue of their status as combatants, whereas non-combatants are immune from targeted attack, but may be harmed as a foreseeable but unintended consequence of military action.[248] Walzer's hesitance about political violence is in part due to the hazier divisions between possible targets: since the threats they pose are political, rather than military, it is a greater matter of interpretation distinguishing between the agents of state oppression that are

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might still act wrongfully if their ultimate political aims are misplaced. However, the inverse is not true for Walzer: one cannot disregard the code if one's political aims are just. In any event, Walzer's analysis precludes directly harming civilians.

[243] Ibid, 201 – 3. Walzer is responding here to the arguments in Sartre, Jean-Paul. 'Preface' in Fanon, Frantz. *The Wretched of the Earth*. Translated by Richard Philcox. New York: Grove Press, 2004 [1961].

[244] Walzer, *Just and Unjust Wars*: 34, 41. *Jus in bello* are those rules that regulate the conduct of combatants in warfare, as opposed to *jus ad bellum*, which regulates states' permission to go to war.

[245] Ibid.

[246] See Lazar, Seth, and Laura Valentini "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints." In *Oxford Studies in Political Philosophy*. Oxford: Oxford University Press: 166 – 196. Lazar and Valentini compares this to the approach to the political approach to justice taken by theorists like Rawls, which takes the site of justice to be the design of the institutions regulating a political community, rather than the moral norms of regulating individual action.

[247] Ibid. Revisionists largely agree on this point: McMahan, for instance, argues that general adherence to the principle of civilian immunity would minimize wrongful harm. The difference though is that McMahan thinks that our reasons for promoting certain rules and conventions come apart from the deep moral principles that underpin the permissibility of action. McMahan, Jeff. See "The Ethics of Killing in War." *Ethics* 114, no. 4, 2004: 731.

[248] See Walzer, Michael. "Terrorism and Just War." *Philosophia* 34, no. 1, 2006: 3 – 12. Walzer suggests that members of states that commit injustices cannot be held liable for the wrongs of their state, because their lives are composed of a multitude of commitments; soldiers' commitment to the military, by contrast, is near total.

potentially liable and those government agents involved in the manifold state activities that do not warrant violent resistance.[249]

Walzer's critics—most prominently reductive individualists like Jeff McMahan, Cécile Fabre, Helen Frowe, and Victor Tadros—have rejected the *sui generis* status of liability in combat, arguing that liability in warfare is subject to the same normative principles as liability to defensive action.[250] Liability, on this view, does not depend on the special status of combatants. Rather, liability depends on the individual: a person becomes liable—in or out of warfare—if they are personally morally implicated in the right way in a wrongful threat.[251] To say that someone is liable, as the term is used in the literature on defensive ethics, means that that person's right not to be harmed in defence is suspended, typically because they have acted in such a way as to forfeit that right.[252] Since their right is suspended, defensive action does not violate a liable person and therefore does not *wrong* them (although, it does straightforwardly still harm them).[253]

The question of liability might seem moot in the context of political violence. After all, paradigmatic examples of liability—in warfare and self-defence—involve agents becoming liable by posing an imminent threat to innocents, either as part of a military campaign or in interpersonal assault.[254] However, the most prominent account of liability in Just War Theory, the Responsibility Account, does not require posing an imminent threat. On this view, what makes someone liable is that they are morally responsible for a wrongful threat, which entails that they act voluntarily, and that the harmful outcome of their action is reasonably foreseeable

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[249] Walzer, *Just and Unjust Wars*: 198 – 201.

[250] See McMahan, Jeff. *Killing in War*. Oxford: Oxford University Press, 2009; Tadros, Victor. "Duty and Liability." *Utilitas* 24, no. 2, 2012: 259 – 277; Fabre, Cécile. *Cosmopolitan War*. Oxford: Oxford University Press, 2012; Frowe, Helen. *Defensive Killing*. Oxford: Oxford Univrsity Press, 2014: ch 5; Frowe, Helen. "Can Reductive Individualists Allow Defense Against Political Aggression?" *Oxford Studies in Political Philosophy* 1, 2015: 173 – 93.

[251] The view I present here is specifically individualist. It is possible to accept reductivism about war without conceding that individuals are the only units of moral concern. See chapter 2 on 'The Morality of Harm' in Tadros, Victor. *To Do, To Die, To Reason Why: Individual Ethics in War*. Oxford: Oxford University Press, 2020.

[252] McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing." *Philosophical Issues* 15, 2005: 386 – 405. Theorists like Tadros take issue with framing liability as a matter of forfeiture, which he argues inclines interpretations of liability towards conceptions that depend on action, but Tadros claims that there are other sources of liability, including membership of a group. See Tadros, Victor. 'Causation, Culpability, and Liability.' In Coons, Christian, and Michael Weber, eds. *The Ethics of Self-Defense*. New York: Oxford University Press, 2016. See also Renzo, Massimo. "Rights Forfeiture and Liability to Harm." *Journal of Political Philosophy* 25, no. 3, 2017: 324 – 342.

[253] McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing": 386.

[254] English common law, for instance, limits defensive action to acts averting imminent threats of bodily harm. see LaFave, Wayne. *Criminal Law*. 4th ed. Washington, DC, Thomson-West, 2003: 569 – 74, also cited in Brennan, *When All Else Fails*: 29 – 31.

and unjustified.[255] The Responsibility Account has had revisionary consequences for the central tenets of Just War Theory. Revisionists who adopt the Responsibility Account suggest that civilians can, in principle, become liable, since they too are morally responsible for some of the wrongful threats that their military poses: for instance, civilians are responsible for the provision of supplies that make military combat possible.[256] Revisionists have typically argued that civilian contributions to war either fall below a salient causal threshold,[257] or that killing civilians would be militarily ineffective;[258] but these objections simply generalize about the contingent facts about killing civilians, rather than presenting any reason why civilians cannot to be liable in principle.

The debate concerning liability has important implications for political violence: the reductive view challenges Walzer's contention that individuals are liable only by virtue of their role as agents of state oppression; instead, the reductive view suggests individuals can be liable for injustices downstream of their actions, not simply when they pose immediate threats. Liability therefore potentially encompasses a broad range of actors that participate in the injustices wrought by institutions, since they too can fulfil the moral responsibility criterion by virtue of their institutional complicity and contributions.[259]

A number of those agents whom critics of Fallism describe as 'innocent' bear at least some. liability, even if they are nonculpable. Those government officials and university administrators who are responsible for the policies that exacerbated student exclusion, homelessness, and poverty, are at least partially morally responsible for the harm the students

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[255] McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing": 394 – 404; Otsuka, Michael. "Killing the Innocent in Self-Defense." *Philosophy & Public Affairs* 23, no. 1, 1994: 74 – 94; Otsuka, Michael. "The Moral Responsibility Account of Liability to Defensive Killing." Coons, Christian, and Michael Weber, eds. *The Ethics of Self-Defense*. New York: Oxford University Press, 2016: 51 – 68.

[256] Ibid, 203 – 231. Fabre, Cécile. "Guns, Food, and Liability to Attack in War." *Ethics* 120, no. 1, 2009: 36 – 63. For response and criticism of these views, see Lazar, Seth. *Sparing Civilians*. Oxford: Oxford University Press, 2015.

[257] Fabre and McMahan both argue that most civilians have a minimal causal capacity to affect the outcomes of a war, or of the state more generally (Fabre suggests, for instance, that voting in elections is not sufficient). See McMahan, *Killing in War,* 225 – 6; Fabre, "Guns, Food, and Liability to Attack in War"; Fabre, *Cosmopolitan War*, 75 – 77.

[258] McMahan argues, for instance, that British attacks against German civilians were wrong in part because they were counterproductive. This has the worrying implication that the permissibility of killing of civilians depends on strategic contingency. See McMahan, *Killing in War,* 225 – 6.

[259] I pick up this point concerning complicitous liability in the next chapter. The basic idea, though, is that members of institutions can become liable for the harms that their institutions cause because they share in the collective responsibility for their institution. For expositions of moral responsibility by virtue of complicity see Lepora, Chiara, and Robert E. Goodin. *On Complicity and Compromise*. Oxford: Oxford University Presss, 2013; Kutz, Christopher. *Complicity: Ethics and Law for a Collective Age*. Cambridge: Cambridge University Press, 2000.

suffer, and therefore potentially liable to some defensive force to prevent or correct the injustice. This is not to say they are *guilty*: the Moral Responsibility view does not require them to be blameworthy, since moral responsibility is a thin criterion. Therefore, 'innocence' does not mean the same as 'non-culpable' in this context, since 'innocent' means non-liable, whereas 'non-culpable' means one did not intend injustice.

That is not to say that the targets of Fallism were all liable to bear all of the harm they suffered. One can be liable to more or less harm, depending on the magnitude of the threat for which one is responsible, the degree of one's causal involvement in the threat,[260] and the blameworthiness of one's mental state (a culpable aggressor, for instance, is more liable than a negligent threat).[261] This is particularly salient in the Fallist case: institutional injustice is often effectuated by a large number of well-intentioned individuals acting according to the accepted norms of their roles; each person's blameworthiness and causal contribution is therefore relatively small, even if the cumulative effects of their actions are devastating to the victims of injustice.[262] Theorists like I.M. Young claim that some forms of structural injustice can occur without any individual meeting the causal or intentional threshold for backward-looking moral responsibility (and therefore liability) at all.[263] For this reason, individual's liability might be very small, and very hard for the Fallists to identify.

In the next chapter, I will develop and defend an account of liability based on this view and address the challenges above. For now, I want to suggest simply that it is misleading to refer to all the sufferers of Fallism's violence as innocent, because: (a) the relevant measure is not whether they are 'innocent' in the sense of being nonculpable, but rather whether they are liable; and (b) many of the sufferers identified by Fallism's critics might highly likely be liable.

Although I will argue that many individuals could—and did—meet the criteria for liability, there are other cases in which violence affected individuals that do not appear to have

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[260] This is, in part, the basis on which McMahan and Fabre argue that civilians are unlikely to be liable (see footnote 30 above). Whilst accepting the basic premise of this claim, some theorists have challenged how our understanding of scalar causal contributions. See Tadros, Victor. "Causal Contributions and Liability." *Ethics* 128, no. 2, 2018: 402 -431; Beebee, Helen, and Alex Kaiserman. "Causal Contribution in War." *Journal of Applied Philosophy* 37, no. 3, 2020: 364 – 377.

[261] McMahan, *Killing in War*, 155 – 75. Against the view that responsibility and culpability different points on the same spectrum, Tadros argues that they are distinct sources of liability. See Tadros, Victor. "Two Grounds of Liability." *Philosophical Studies* (2021): 1 – 20.

[262] For the seminal analysis of this problem, see IM Young's analysis of structural injustice. Young, Iris Marion. *Responsibility for Justice*. Oxford: Oxford University Press, 2010.

[263] Ibid, ch 2. See also Young, Iris Marion. *Political Responsibility and Structural Injustice*. University of Kansas, Department of Philosophy, 2003. For a critique of this view, see Sangiovanni, Andrea. "Structural Injustice and Individual Responsibility." *Journal of Social Philosophy* 49, 2018: 461 – 483.

been morally implicated in injustice. Three examples from the Fallist campaign are illustrative: first, students not involved in the protests were forced to remain off campus by the blockades constructed by the Fallists, and those attempting to enter campus or remain in their residential buildings on campus were forcefully ejected;[264] second, in attempting to apply pressure to the university during negotiations, Fallists at UCT threw a petrol bomb in a bus containing other students and detonated a nail bomb on campus;[265] third, businesses and residents surrounding major Fallist protests in Cape Town and Johannesburg suffered seemingly indiscriminate damage to their property, including arson.[266]

However, the fact that someone is innocent does not preclude the permissibility of harming them. According to the defensive framework, it is still permissible to harm someone that is not liable if there are weighty moral reasons for infringing an innocent person's rights and those reasons overwhelm the moral reasons in favour of respecting their rights.[267] In these cases, infringing the salient right is permissible because it constitutes the lesser evil. Judith Jarvis Thompson's trolley cases are paradigmatic examples of lesser evil rationales: if it is permissible to turn the trolley to save however many innocents are at risk, thereby killing one innocent person in the process, then it is because infringing on one innocent's right to life is less evil than letting a greater number of innocents die.[268]

Whether the victim of harm is liable or non-liable makes a significant difference to the justificatory standard for defensive action. The moral difference between liable and non-liable victims is reflected in the distinction in Just War Theory between wide and narrow proportionality.[269] Narrow proportionality applies to harms to liable individuals, whereas wide proportionality considers all of the foreseeable consequences of defensive action. Since harm to innocents wrongs them by infringing their rights, the standard of wide proportionality is stringent: the cost of not acting must be significantly greater than the cost of acting for

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[264] Benatar, David. "University of Capitulation: SA Paying the Price as Thugs Trample Ordinary Rights." *News24*, 23 September 2016. Available at https://www.news24.com/fin24/biznews/university-of-capitulation-sa-paying-the-price-as-thugs-trample-ordinary-rights.

[265] Hodes, Rebecca. "Questioning 'Fees Must Fall'." *African Affairs* 116, no. 462, 2017: 145 – 7.

[266] Mutekwe, Edmore. "Unmasking the Ramifications of the Fees-Must-Fall-Conundrum in Higher Education Institutions in South Africa: A Critical Perspective." *Perspectives in Education* 35, no. 2, 2017: 142 – 3.

[267] McMahan, *Killing in War*: 8; Frowe, Helen. "Lesser-Evil Justifications For Harming: Why We're Required To Turn The Trolley." *The Philosophical Quarterly* 68, no. 272, 2018: 460 – 480; Rodin, "Justifying Harm": 74 – 77.

[268] Thomson, Judith Jarvis, *Rights, Restitution, and Risk*. Cambridge, MA: Harvard University Press, 1986: chs. 6 and 7.

[269] McMahan, *Killing in War*: 19 – 21; Rodin, "Justifying Harm": 77 – 80.

infringement to be permissible. Wide proportionality therefore does not permit marginal tradeoffs in harm: it is impermissible, for example, to kill an innocent person to save one other innocent. By contrast, since harm to a liable person does not involve any rights-transgression, the standard of narrow proportionality is more permissive. Unlike lesser evil cases, paradigmatic cases of liability do indeed permit marginal tradeoffs in harm: for instance, it is permissible to kill a murderer to save an innocent's life, because the murderer is liable to the defensive harm. If political violence is permissible despite the harm it causes to innocents, it is because it is necessary in preventing significantly greater harm to the victims of institutional injustice.

Political violence, perhaps more so than ordinary violence, inflicts costs on innocents. In assessing political violence, we must assess not only the apparent, immediate harms that it causes, but also to the less visible harms it does to a political community. Proponents of nonviolence argue that political violence has ramifications for shared political goods, including civil peace, democracy, and the rule of law.[270] Political violence disrupts the civil peace between fellow citizens that allows them to cooperate and, crucially, to disagree whilst treating each other with civility—this was evident in the chilling effect that Fallism had on campuses, where the animosity it stoked long outlasted the movement itself.[271] Political violence, by prioritizing the demands of those willing to use violence, also diminishes the abilities of others to shape their political and social environment.[272] By violating the law, the agents of political violence risk creating an atmosphere of lawlessness that encourages others also to disobey—this again, was apparent in the recent civil unrest in South Africa, when relatively localized violent instigation by supporters of former president Jacob Zuma spiraled into a wave of looting and rioting that lead to over four hundred deaths and incapacitated the provinces of Gauteng and KwaZulu Natal.[273]

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[270] Candice Delmas pre-empts these complaints in *A Duty to Resist: When Disobedience Should be Uncivil.* Oxford: Oxford University Press, 2018: 52 – 8.

[271] Walzer suggests that all members of democratic communities have an obligation to uphold this civil peace; see 'Civil Disobedience and Corporate Authority', *Obligations: Essays on Disobedience, War, and Citizenship.* Cambridge, MA: Harvard University Press, 1970.

[272] A standard view of civil disobedience is that it is part of a deliberative democracy because individuals use it to communicate dissent. Violence, by contrast, has the potential to become coercive rather than communicative. See Brownlee, Kimberley. *Conscience and Conviction: The Case for Civil Disobedience*. OUP Oxford, 2012: 20 – 4. Avia Pasternak argues that political violence such as riots do not necessarily cause this democratic cost when they are a corrective to the inertias in the democratic system. See Pasternak, Avia. "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 395 – 6.

[273] Booysen, Susan. 'South Africa's July Riots and the Long Shadow of Jacob Zuma Fall Over Party and State.' *Daily Maverick*, 30 July 2021. Available at

Critics of civil disobedience have suggested that *uncivil* disobedience—and perhaps even violence—can function as a corrective measure when the values of democracy, civility, and the rule of law operate to oppress vulnerable members of unjust societies.[274] Even if we think, contrary to this view, that political violence does take a toll on a political community, this does not entail that we preclude political violence altogether, but rather that these harms be included in the wide proportionality calculation that informs violence's normative valence. As with other harms, these intangible harms are subject to the same discounting when they affect liable individuals, but part of what distinguishes them from immediate harms is their greater propensity to affect a community as a whole, including innocents.

Walzer acknowledges these intangible political 'pressures' as an inevitable, but acceptable, consequence of using violence in service of political change.[275] Part of what distinguishes a case like Fallism from the pro-Zuma instigation in this regard, though, is that the Fallism was ultimately a democratic movement, for which any harms to the values of democracy were incidental costs; the pro-Zuma instigation, by contrast, specifically intended the chaos and destabilization of the democratic state for the purposes of subverting legitimate democratic outcomes.[276] This points towards the second key distinction: the difference that intention makes.

3.3. Intentional and Foreseeable Harm

Critics of political violence rightly point out its potential ramifications for innocents, including the effects it has on those more intangible communal goods. However, it is important not to overstate the case here: many of the deleterious consequences of political violence are its unintended—albeit foreseeable—by-products. This is morally important: at least since Thomas Aquinas's formulation of the Doctrine of Double Effect, the notion that actions intended to cause harm are morally worse than actions that merely produce harm as a foreseeable

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https://www.dailymaverick.co.za/opinionista/2021-07-30-south-africas-july-riots-and-the-long-shadow-of-jacob-zuma-fall-over-party-and-state/.

[274] See Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil.* Oxford: Oxford University Press, 2018; Pasternak, "Political Rioting: A Moral Assessment": 384-418; Celikates, Robin. "Rethinking Civil Disobedience as a Practice of Contestation—Beyond the Liberal Paradigm." *Constellations* 23, no. 1, 2016: 37 – 45.

[275] Walzer, *Just and Unjust Wars*: 202.

[276] Steinhauser, Gabriele. 'South Africa President Says Rioting Following Predecessor's Arrest Was Attempted Insurrection.' *Wall Street Journal*, 16 July 2021. Available at https://www.wsj.com/articles/south-africa-president-says-rioting-following-predecessors-arrest-was-attempted-insurrection-11626468508.

consequence has been more or less an axiomatic tenet in the ethics of killing and harming.[277] Even if the consequences are held constant, harm that one intends to cause someone (including harming them intentionally as a means to some further end) is considered morally worse than causing them harm as a by-product of one's actions. This principle has been deployed in normative analyses of euthanasia,[278] abortion,[279] and, importantly, the foreseeable deaths of innocent civilians in war.[280] In traditionalist Just War Theory, this principle is reflected in the (admittedly controversial) conventional rule of *jus in bello* that prohibits intentionally targeting civilians but permits proportionate harm to civilians as a foreseeable consequence of pursuing legitimate war aims.[281]

This distinction is helpful in categorising diverse kinds of political violence. Some acts clearly involve deliberate harm: inciting melees with the police, and attacks like petrol-bombing university offices were self-evidently intended to harm their targets. In other cases, the harm is incidental to the act of resistance. For instance, in targeting government and the police, the Fallists' riots and violent melees caused additional harms to businesses and residents in the vicinity of riots and violent protests. Similarly, the costs of the shutdowns and protests were passed on to the members of different institutions and to the citizens of South Africa more generally including the pecuniary cost to universities of the loss of assets and the costs to the already-fragile investor confidence.[282]

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[277] For Aquinas's original formulation see his *Summa Theologica* II-II, Qu. 64, Art.7. For an overview of the literature see McIntyre, Alison. "Doctrine of Double Effect", *The Stanford Encyclopedia of Philosophy* (Spring 2019 Edition), Edward N. Zalta (ed.). Available at https://plato.stanford.edu/archives/spr2019/entries/double-effect/. For seminal contributions in the field, see Jeff McMahan. 'Intention, Permissibility, Terrorism, and War', *Philosophical Perspectives* 23, no. 1, 2009; Kamm, Frances M. *Intricate Ethics: Rights Responsibilities, and Permissible Harm*. Oxford: Oxford University Press, 2007: ch 5; Scanlon, Thomas. *Moral Dimensions*. Cambridge, MA: Harvard University Press, 2009: ch 1 and 2.

[278] McIntyre, Alison. "Doing Away with Double Effect", *Ethics*, 111, 2001: 219 – 255.

[279] McMahan, Jeff. *The Ethics of Killing: Problems at the Margins of Life*. Oxford: Oxford University Press, 2002.

[280] The use of a principle of this kind to explain harm to civilians in war dates back at least to natural law theorists like Hugo Grotius [see Hugo Grotius, *De Jure Belli Ac Pacis, Libri Tres*, vol. ii. Oxford: Clarendon Press, 1925: 593 (Bk. ii, ch 26, §vi, 1], but it features also in recent analyses by both traditionalists [see Walzer, *Just and Unjust Wars*: 153 – 5] and reductivist analyses [see McMahan, *Killing in War*: 16 – 21; Tadros, *To Do To Die To Reason Why:* ch 6].

[281] Walzer, *Just and Unjust Wars*: 153 – 5.

[282] South Africa has been downgraded from 'investment status' to 'junk status' by several ratings agencies, which has had a deleterious impact on the country's economy. Ratings agency like Fitch have cited the political instability, including the uncertainty caused by political riots, as a source of fiscal concern. See Fitch Ratings. 'South African Riots Show Link Between Political and Fiscal Risk'. *Fitch Wire*, 15 July 2021. https://www.fitchratings.com/research/sovereigns/south-african-riots-show-link-between-political-fiscal-risk-15-07-2021.

In other cases, the Fallists' tactics did not cause physical harm, but transgressed the rights of others as a by-product of pursuing their aims. For example, in shutting down university operations and keeping students and staff off campus, the Fallist campaign limited other students' ability to pursue their studies.[283] The shutdown disrupted class schedules for several weeks in the crucial period before final exams, hindering thousands of students' ability to go to class. Similarly, insofar as the Fallists disrupted the rule of law, or the values of democracy and civil peace, this was an unintended consequence of their campaign—assuming of course that the ideological aim of Fallism was ultimately democratic.[284]

Following the lead of Jeff McMahan's analysis of killing in war, we can usefully categorise acts of political violence by considering this distinction together with the liable/non-liable distinction.[285] The two distinctions I have canvassed so far produce four possible subcategories of harm resulting from political violence: (*a*) intentional harm to liable individuals, (*b*) unintentional harm to liable individuals, (*c*) intentional harm to innocents, and (*d*) unintentional harm to innocents.

Potential candidates for category *a* (depending of course on one's view of liability) include the deliberate incitement of melees with the police, targeting government and university property, and firebombing the offices of particular executives thought to be morally implicated in injustice. The protests, riots, and shutdowns also caused harms that were not their explicit ends and were, potentially (although I cannot say with certainty), unintentionally harmful to liable individuals (as in category *b*), including injuries to police officers during riots (besides those melees deliberately incited by protestors), the damage done to university property during lengthy occupations of campus facilities, and emotional distress suffered by university executive leaders during the movement, which has been cited as a precipitating factor of one prominent academic's tragic suicide. Category *c* includes incidents like the

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[283] These harms might blur the line between intentional and incidental. It was certainly the intention of the Fallists to shut down campus operations and halt classes, which of course entails disrupting individuals' educations. However, it is not clear that the cost to individual students is what is intended here, since the point of the shutdown was to exert pressure on the university as an institution. The Fallists were also alive to this cost and raised it internally as a reason to end the shutdown. See Adam Habib's criticism in 'Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests.' *Daily Maverick*, 26 January 2016. Available at https://www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/.

[284] Fallists claimed that democracy as it had been practiced in South Africa was inert and that it required new modes of democratic engagement. See Ndelu, Sandile. "Liberation is a Falsehood: Fallism at the University of Cape Town." *Hashtag-Analysis of the #FeesMustFall Movement at South African Universities*, 2017: 58 – 82.

[285] McMahan uses these distinctions to discern the same four categories in the context of warfare, in McMahan, *Killing in War*: 19 – 22.

bombing of the university bus, and the use of coercive force to keep students from participating in university operations, to eject students off campus, and to punish students that did not adhere to the shutdowns. Category *d* includes all of the incidental effects of the shutdowns and protests on the university students, residents, and businesses surrounding sites of protest, as well as those effects on the political community more generally.

Other things being equal, harms of type *c* entail the most stringent justificatory standards. Just War theorists—including those who do not endorse the strict distinction between liable combatants and non-liable civilians—generally agree that lethal harms of type *c* are not permissible in warfare and that intentional targeting in warfare should be limited to liable individuals, whereas harm to non-liable individuals should be limited to unintended collateral harm.[286] For reductive individualists, this is not true as a matter of principle, but it is instead a result of the demanding justificatory standards for killing innocents. In other words, it is conceptually possible that intentionally killing an innocent person will prevent such significant harm in the course of war that it is necessary to achieve the lesser evil, but generally killing innocents is not sufficiently effective in preventing harm for it to overcome the stringency of an innocent person's right not to be killed.

However, we should not be too quick to assume—as Fallism's critics do—that intentional harms to innocents are necessarily impermissible. Debates about the use of force in the context of warfare invariably concern *lethal* harm in particular, since war by definition is a mass lethal conflagration.[287] Applying the same standard to political violence would mean that intentionally inflicting potentially lethal harm on innocents, as in the case of firebombing the bus full of students, is impermissible.

One way to understand the injunction is that it applies specifically to intentional harm to the vital interests of innocents. This would leave open the possibility of intentionally causing non-lethal harm to innocents. Theorists suggests there is a moral distinction between the *vital* interests typically at stake in warfare—primarily one's interests in one's own life and in not experiencing severe suffering of the kind wrought by rape, torture, and maiming—and *lesser*

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[286] The Geneva Convention, for instance, stipulates that military attacks should be 'directed' at military targets, and allows only *incidental* lethal harm to civilians [International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977. Available at: https://www.refworld.org/docid/3ae6b36b4.html]. For a comprehensive philosophical analysis of the status of civilians, see Lazar, Seth. *Sparing Civilians*. Oxford: Oxford University Press, 2015.
[287] See, for instance, Fabre, *Cosmopolitan War*, ch 1.

interests.[288] Lesser interests include individuals' material interests beyond those necessary for subsistence, and so intentional damage to property and looting (particularly of institutions and businesses, rather than private individuals) do not obviously fall within the prohibition in Just War Theory.

Moreover, the use of (or threat of) physical force that does not endanger the 'life and limb' of the target also harms the lesser interests of its victims, since our vital interests do not include all components of our bodily integrity but only those most central to our sustained well-being. If the prohibition is specifically of intentional harms to innocents' vital interests, then the use of moderate physical force—for example, to coerce fellow students—plausibly remains within the bounds of possible lesser evil justification, even if it is intentionally directed at innocents.

Nevertheless, we ought to be circumspect about intentional harms to innocents, even if the harm concerns only their lesser interests. The point of lesser evil defence is that the wrong one commits is necessary to prevent much greater wrong. Since innocents' rights are at stake in these cases, it is important not only that defensive action is aimed at preventing significantly greater harm, but that defensive action is sufficiently effective in achieving this end.[289] Although political violence certainly addresses wrongs of sufficient magnitude to warrant lesser evil defensive action,[290] it is not clear that intentional harm to innocents is sufficiently *effective* to be justified on lesser evil grounds. Lesser evil justifications require not only that

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[288] Rodin, David. "The Myth of National Self-Defence." in Fabre, Cécile, and Seth Lazar, (eds). *The Morality of Defensive War*. Oxford: Oxford University Press, 2014. Helen Frowe problematizes this distinction in Frowe, Helen. "Can Reductive Individualists Allow Defense Against Political Aggression?" *Oxford Studies in Political Philosophy* 1. Oxford: Oxford University Press, 2015. Pasternak also argues that lesser harms (like turning over police cars) are more likely to meet the necessity standard. See Pasternak, "Political Rioting: A Moral Assessment": 405 – 6.

[289] Consider the Trolley case in which one pushes the innocent Fat Man off the bridge to stop a Trolley from killing more innocents further down the track. Given that you are infringing the Fat Man's right to life, you can only push him if there is a high likelihood (proportionate to the cost of not acting) that the defensive action will be successful. By contrast, if the Fat Man was liable for the imminent train collision, the requisite effectiveness would be lower. This is another expression of the trade-off limits of narrow and wide proportionality: narrow proportionality permits lower *expected* value than wide proportionality, where expected value is a function of the magnitude of harm at stake and the likelihood of harm occurring/being prevented. Similarly, Helen Frowe argues that effectiveness is a condition only of lesser evil judgments; if someone is liable, Frowe argues that they forfeit their right to any proportionate defensive action regardless of effectiveness.

[290] As Avia Pasternak argues, if one accepts that wars fought to 'defend a population's autonomy and flourishing lives' meets the standard of wide proportionality, then political violence with the same aims must also be justifiable.' [Pasternak, "Political Rioting: A Moral Assessment": 414]. Pasternak turns to the lesser-evil justification because she suggests that few if any agents are likely to be liable to be harmed in a riot [410 – 2]. This is partly because she adopts a particularly ecumenical (and therefore stringent) approach to liability, requiring individual culpability for harm. As I argue in the next chapter, liability can extend further than Pasternak suggests.

the harm to which violence responds is significant, but that violence is necessary and successful in averting it (it would clearly be impermissible, for example, to push the Fat Man off the bridge if doing so had only a slight prospect of stopping the trolley, or if there was in fact a clearly-marked lever that would divert the trolley onto a different track).

As I discuss in greater detail chapter 5, political violence has a mixed record of success at best: it is less effective than nonviolence in creating democratic coalitions towards political reform,[291] and often causes reactionary backlash that harm the ends of justice.[292] In chapter 5, I respond to these problems, arguing that the agents of political movements can still plausibly come to the reasonable assessment that violence is necessary to achieve certain political ends. Nevertheless, its achievements are typically modest, rather than overwhelming, and often come at the cost of tradeoffs with other goods. For example, Fallism's turn to confrontational and violent tactics forced a tradeoff for the movement between its uncompromising militancy and public sympathy.[293] Given these empirical constraints, I argue that intentional harm to innocents is unlikely to be justified as a lesser evil.

It is important then to differentiate clearly between the kinds of harm innocents suffer. Whilst I agree with Fallism's critics that intentional harm to innocents is unlikely to be justified, we need not condemn political action automatically if it causes incidental harm to innocents. This would be of little help to the Fallists if one does not think anyone is liable (or that the Fallists could not accurately identify liable targets), but the next chapter outlines an account of liability for political violence that addresses this concern.

Within the category of liable targets, there seems still to be an important difference between, for instance, melees with the riot police during protests, and assaulting university executive members—even if both categories of actors are liable members of unjust institutions. In the following section, I argue that there is a further deontological distinction in the mode of violence in these two cases, grounded in the difference between eliminative and manipulative harming.

[291] Chenoweth, Erica & Stephan, Maria. *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. New York: Columbia University Press, 2011; Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013: 271 – 276.

[292] Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review*, 2020: 638 – 659.

[293] Rebecca Hodes, 'Op-Ed: How Rhodes Must Fall squandered public sympathy'. *Daily Maverick*, 20 August 2015. Accessible at https://www.dailymaverick.co.za/article/2015-08-20-op-ed-how-rhodes-must-fall-squandered-public-sympathy/.

3.4. Using Others for Political Ends

Let us assume that some agents are indeed liable to be harmed intentionally in defence against injustice. Critics might nonetheless level following complaint: although they are liable to defensive harm, they are not liable to be used for political ends. In other words, if the Fallists could thwart them in the commission of some wrong, then that would be permissible, but the Fallists often infringed upon others' rights when they did not present an immediate threat: e.g., confronting government officials, university administrators, and police officers; firebombing campus buildings; and disrupting campus operations.

Violence might straightforwardly be a means of restraining someone from acting in a way that will wrongfully harm an innocent person's rights. For example, let us suppose that the Fallists were within their moral rights when they occupied university buildings, and when they protested outside of government buildings like the Houses of Parliament in Cape Town. Under the auspices of the unjust Gatherings Act, the police attempted to disperse and arrest students on several of these occasions. Insofar as the students were within their rights, police officers enforcing the Gatherings Act violated the students' rights to political participation. By resisting the police with violence, the students therefore sought simply to prevent the violation by stopping the police's crowd control.

In other cases, violence serves to prevent injustice less directly, by exploiting the coercive or communicative force: for example, by inciting violence with the police, burning university buildings, or harassing university staff, the Fallists were not intervening to eliminate an immediate threat, but instead used violence as a means towards some further. For instance, violence against the police could serve to communicate the students' anger,[294] or to signal their refusal to comply with unjust institutions,[295] or to elicit public sympathy by dramatizing their injustice.[296] Acts of violence like the firebombing of the buses and offices sought indirectly to

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[294] See Pasternak, "Political Rioting: A Moral Assessment": 397. Pasternak cites Amia Srinivasan's claim that the expression of anger can have intrinsic value for the victims of injustice. See Srinivasan, Amia. "The Aptness of Anger," *Journal of Political Philosophy* 26, 2018: 123 – 44.

[295] For an account of the expressive value of violence as refusal, see Flanigan, Edmund Tweedy. "From Self-Defense to Violent Protest." *Critical Review of International Social and Political Philosophy*, 2021: 1 – 25.

[296] I borrow this phrase from Martin Luther King Jr.'s description of the purpose of nonviolent action. King claims that the purpose of their direct action was to 'create such a crisis and establish such creative tension that a community that has constantly refused to negotiate is forced to confront the issue,' and so to 'dramatize the issue that it can no longer be ignored.' [King Jr, Martin Luther. "Letter From Birmingham City Jail." 1963. Available at https://philpapers.org/archive/LEVITE-3.pdf#page=23, 18]. Although King applies the notion to nonviolent action, there is no reason in principle why it cannot apply to violent action—even if violence might make communication less

undo injustice by coercing university and government decision-makers to appease the Fallists lest they incur more violence—this category captures both acts that seek to appeal to institutional actors' rational decision-making by levying costs on political non-compliance, as well as acts that seek to induce a state of terror.[297]

Paradigm cases of defence typically involve an act of violence directed at an aggressor, which frustrates the aggressor's imminent threat to an innocent: e.g., shooting a would-be assassin before they see out their murderous intention. Harming the aggressor is a means of eliminating their capacity to carry out the threat. Given this kind of exemplar, one might struggle to recognise certain acts of political violence as genuinely 'defensive,' because political violence is often directed not at obviating an imminent physical threat, but instead aims at setting off a more mediated chain of events. Consider, for instance, the case of inciting violence with the police. In the case of incitement, the purpose of violence might not be to forestall a threat by the police, but rather to communicate a message (to the police to be cautious, to others to pay attention to their anger, to other victims of injustice to be fearless, and so on). In this case, the individual officers who are harmed are used as props to communicate the protestors' message. Whether they are liable or not, the officers are *used* towards some further purpose, rather than simply stopped in the commission of some wrong.

This difference does not mean that these acts cannot sensibly be described as 'defensive': the ultimate purpose in each case is to protect the vulnerable from further injustice. Violence need not directly eliminate a threat to count as defensive. Suppose, for instance, that Mob Boss has hired Hitman to kill you.[298] You can save yourself either by killing Hitman before he kills you, or by killing Mob Boss as a warning to Hitman. Both courses of action here ultimately constitute self-defence, even if the latter is indirect in the sense I describe above. Nevertheless, even if both acts count as defensive, it still matters morally whether the defensive action is meant to eliminate the threat of injustice (as in resisting the police or killing Hitman) or whether it is meant to use others as a means towards the end of preventing injustice (as in the firebombing and the killing Mob Boss as a warning).

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effective as Rawls suggests [Rawls, John. *A Theory of Justice*, 2nd ed. Cambridge, MA: Harvard University Press, 1999 [1971]:. 326–31, 335–43.

[297] Although some laws classify both of these categories as 'terrorism', Jeremy Waldron argues that only the latter counts as terrorism properly construed; see Waldron, Jeremy. "Terrorism and the Uses of Terror." *The Journal of Ethics* 8, no. 1, 2004: 5 – 35.

[298] Cf Helen Frowe's *Mafia* example in *Defensive Killing*: 36. Frowe counts the Mafia Boss as an *indirect* threat.

The literature on defensive ethics refers to these categories as 'eliminative' and 'manipulative' harm, respectively.[299] Manipulative harm treats its victims as means by using them towards the agent's ends: the harm to them is intended instrumentally towards some further end —for instance, harming X as a means of coercing Y to comply. Eliminative harm, by contrast, harms individuals as a by-product of eliminating the threat they pose, and therefore does involve *using* its victims towards further ends in the same way as manipulative harm.

Theorists who argue for the moral salience of this distinction suggest that manipulative harm is morally worse than eliminative harm, other things being equal, because it fails to treat victims as ends in themselves, but instead treats them as means towards the agent's end. In his *Groundwork on the Metaphysics of Morals*, Immanuel Kant issues a famous dictum against treating others as 'mere means' since doing so treats them as objects, rather than recognising their status as autonomous rational beings who should form and pursue their own ends.[300]

Manipulative harm, in this sense, not only causes physical injury to its victim, but contravenes their status as an autonomous agent by seizing control of their bodies and compelling them to pursue ends they have not chosen.[301] In recent Just War Theory literature, theorists have shifted from Kant's absolute injunction against using others as means, arguing instead that it is consistent with the rights and status of other persons sometimes to use them. However, recent interpreters of the Means Principle—as it has come to be known in the literature on defensive ethics—argue that manipulative harm occasions a stricter justificatory standard than eliminative harm.

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[299] Tadros, Victor. *The Ends of Harm: The Moral Foundations of Criminal Law*. Oxford: Oxford University. Press Oxford, 2011: ch 6; Tadros, Victor. "The Moral Distinction Between Combatants and Noncombatants: Vulnerable and Defenceless." *Law and Philosophy* 37, no. 3, 2018: 289 – 312; Quong, Jonathan. *The Morality of Defensive Force*. Oxford: Oxford University Press, 2020: ch 7. Seth Lazar makes a similar distinction between 'opportunistic' and 'eliminative' killing in Lazar, Seth. *Sparing Civilians*. Oxford: Oxford University Press, 2015; Frowe, Helen. *Defensive Killing*: 66 – 71. It is worth noting that there is a further distinction between 'opportunistic' and 'manipulative' harming. The latter involves using the target, whereas the former involves using the target in a way that exploits an opportunity created by their presence. For the purposes of this paper, I will largely elide these two conceptions since the distinction is not salient to my argument here. For a discussion of the difference, see Tadros, Victor. "The Moral Distinction Between Combatants and Noncombatants: Vulnerable and Defenceless": 290 – 1.

[300] Kant, Immanuel. *Grundlegung zur Metaphysik der Sitten*. Translated as *Groundwork of the Metaphysics of Morals* in *Immanuel Kant: Practical Philosophy*, Mary Gregor (tr. and ed.), Cambridge: Cambridge University Press, 1996 [1785]: 429.

[301] Tadros argues that the means principle wrongfully compels individuals to act towards ends they have the right not to choose [Tadros, *Ends of Harm*: 127]. Quong, by contrast, argues that, as a matter of distributive justice, individuals should have a right to control their body and possessions, and that manipulative harm transgresses this right [Quong, *Morality of Defensive Force*: 180 – 191].

Although it is generally impermissible to use others for ends they do not choose, theorists argue it is permissible to use someone if they have an enforceable duty to act towards that end.[302] In other words, where someone has a duty to bear to pursue some end, manipulatively harming them to enforce such a duty does not undermine their autonomy, because they are not at liberty to pursue other ends. As Jonathan Quong puts it, although each person has autonomy over their body, this freedom is delimited by their duty to do their 'fair share'.[303] It is on a similar basis, for instance, that Victor Tadros justifies criminal punishment: Tadros argues that it is permissible to use convicted criminals to deter crime by incarcerating them, since their criminal guilt imposes on them a duty to save potential victims of crime.[304]

This debate in Just War Theory has important lessons for political violence. The first is that a broad range of acts might count as defensive if they are aimed—and have at least some prospects of success—at ameliorating, correcting, and deterring harm. The second implication of this debate is that adopting a Means Principle implies two distinct justificatory standards for political violence: one standard for eliminative violence, and a more stringent standard for manipulative violence.[305] This would mean holding actions like defence against the police to the lower eliminative standard. Importantly, we can expand the scope of what counts as eliminative beyond intercepting imminent physical threats.

If the continued operation of some institution threatens the protected interests of those subject to its power, then disrupting its operations might count as eliminative. Take for instance, the efforts of pro-immigration activists who occupied the offices of the US Immigration and Customs Enforcement Agency (ICE) in response to the Trump presidency's policy of family separations.[306] This case has elements of manipulative and eliminative ends.

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[302] Tadros, *Ends of Harm*: 127 – 30; Quong, *Morality of Killing*: 180 – 191.

[303] This flows from Quong's conception of the means principle as an extension of distributive justice [Quong, *Morality of Killing*: 180 – 191]. Tadros, consistently with his duty-based view of liability, argues that the right not to be used as a means is defeated when one has a sufficient duty to act—and suffer harm—towards the intended end [Tadros, *Ends of Harm*: 127 – 30].

[304] Tadros, *Ends of Harm*: ch 12 and 13.

[305] Frowe, Quong, and Tadros have all offered instructive analyses on this point. Quong and Tadros both suggest that the duty to suffer manipulative harm is commensurate in strength to the duty to rescue others at cost to oneself [Quong, *The Morality of Defensive Force*: 181 – 5; Tadros, *The Ends of Harm*: 128 – 34]. Where one would have an enforceable duty to suffer harm to rescue another person, Tadros argues that this duty can be enforced by manipulative harm [Tadros, *The Ends of Harm*: 131 – 32]. See also Frowe, *Defensive Killing*: 64 – 71.

[306] Van der Hart, Dirk. "ICE Temporarily Shutters Portland Facility Due To 'Occupy' Protest.' Oregon Public Broadcasting, 20 June 2018. Available at https://www.opb.org/news/article/portland-occupy-ice-building-closed/; Birnbaum, Emily. "'Occupy ICE' protests emerge across the country". *The Hill*, 23 June 2018 Available at https://thehill.com/business-a-lobbying/393790-occupy-ice-protests-emerge-across-the-country.

The goal of abolishing an agency or compelling government to cease some harmful activity is already more eliminative in form than the goal of compelling government to provide some good or service. Moreover, the occupations were aimed partly at the manipulative goal of gaining public attention and pressuring the government,[307] but the purpose was also to arrest or encumber the deportation of undocumented immigrants by temporarily shutting down ICE offices and barricading exits so that deportation vans could not leave for duty.[308] I argue that this case counts as eliminative harms, albeit of a more indirect kind, since their purpose is to intercept the commission of harm.

Importantly, the concern about manipulative harm need not be overstated. Many cases of political action seem to elide the distinction, since their goals can be interpreted as both eliminative and manipulative. For instance, the Fallist shutdown of university campuses across South Africa was precipitated by announcements from university executives of their fee increases for the upcoming 2016 academic year, a financial policy that the Fallists argued would endanger the rights of financially precarious students who would encumber more debt and, crucially, who would be unable to register for the new academic year without tuition debt payments.[309] The Fallists wanted to prevent universities continuing with their operations as per normal at the exclusion of poor students, and also implored them to change their policies to realise the rights of poor students. These ends blur the distinction between eliminative and manipulative harm: the Fallists committed both eliminative harm—insofar as they arrested the perpetuation of further institutional injustice—and manipulative harm—since the shutdown coerced or convinced the university to change its policy.[310]

The same is true of the 2017 occupation of the Tafelberg site in Cape Town by activists from Reclaim the City (RTC).[311] RTC had been campaigning for local and provincial

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[307] Gabbatt, Adam. "The Growing Occupy Ice Movement: 'We're Here for the Long Haul'." *The Guardian*. Retrieved 6 July 2018. Available at https://www.theguardian.com/us-news/2018/jul/06/occupy-ice-movement-new-york-louisville-portland.

[308] Wilson, Jason. "'Occupy Ice': Activists Blockade Portland Building Over Family Separations". *The Guardian*, 20 January 2018. Retrieved June 23, 2018. Available at https://www.theguardian.com/us-news/2018/jun/20/occupy-ice-portland-protest-immigration-family-separations.

[309] Godsell, Gilian, & Chikane, Rekgotsefetse. 'The Roots of the Revolution', in Susan Booysen (ed.), *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016: 54 – 73.

[310] Insofar as the university's operations contributed to a 'colonial' structure imposed upon Black South Africans, the shutdown also served to stop the further imposition of this structural harm—an intervention which seems again to elide eliminative and manipulative purposes.

[311] Pillay, Sarita. "Seven reasons why Reclaim The City Is occupying Helen Bowden and Woodstock Hospital." *GroundUp*, 4 April 2017. Available at https://www.groundup.org.za/article/seven-reasons-why-reclaim-city-occupying-helen-bowden-and-woodstock-hospital/. Reclaim The City's own

government to avail more urban land for affordable subsidized housing to prevent the spatial apartheid that had developed as property in Cape Town became increasingly unaffordable for its working-class residents. Although the provincial government had previously earmarked the site for affordable housing, government decided nevertheless to sell the site to private developers in 2015.[312] Activists from RTC began to occupy the site, aiming at both the eliminative goal of arresting the transfer and development of the property and the manipulative goal of forcing government to fulfil their duty to provide affordable housing.

If we accept that the Fallists were justified in shutting down campuses, it also seems plausible that the use of force to keep other students from obstructing the shutdown was eliminative rather than manipulative, since the purpose of using force was to prevent the obstruction of their non-violent defensive action. Although I suggest earlier that non-complying students are innocent, this is only partly true: they are innocent of the institutional decisions and policies that threatened the rights of vulnerable students (and outsourced workers). However, Helen Frowe suggests that a person that obstructs one's morally available defensive option also constitutes a threat.[313] In Frowe's motivating case, Victim can only escape Murderer by crossing a narrow bridge, but Pedestrian is already on the bridge and therefore blocks Victim's non-violent defensive course of action. Per Frowe, Pedestrian poses an indirect threat to Victim (compared to the direct threat that Murderer poses), because he reduces her defensive options.[314] Being a threat (whether direct or indirect) varies independently of one's liability: Pedestrian is liable for the indirect threat he poses to Victim only if he could reasonably have foreseen that standing on the bridge would obstruct Victim's escape route and had a reasonable opportunity to act otherwise.[315] Similarly, the students attempting to disobey the shutdown were liable for their obstruction only if they are morally responsible for the deleterious outcomes of their obstruction to the Fallists. Either way, the critical point here is that, regardless of the students' individual liability, harming them to keep them from foiling the shutdown counted as eliminative.

There is an important sense in which eliminative political violence is limited though: since institutional injustice is typically constituted by a large number of actions, decisions, and

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description of their aims and tactics can be found here: https://www.lessonsforchange.org/reclaim-the-city/.

[312] Ibid.

[313] Frowe, *Defensive Killing*, 24 – 41.

[314] Ibid, 24.

[315] Another way of putting this is notion is to argue that, as Frowe puts it, 'threat' is a non-moralized term that does not depend on one's responsibility for posing a threat. Ibid, 40 – 3.

processes over extended periods of time, direct intervention is typically only able partially to eliminate the causes of injustice. In the ICE example, for instance, blockading a few ICE offices was only successful in averting a small number of deportations relative to the total number deportations that ICE conducts. The intervention, moreover, might only have managed to delay, rather than stop, deportations. In this case, one might argue that this is still sufficiently consequential for those immigrants who escape deportation for the intervention to be worthwhile on eliminative grounds alone.

Compare this to the RTC occupation: stopping the sale of the Tafelberg site would itself only make a marginal contribution to the overdetermined problem of spatial apartheid in Cape Town. Although the intervention frustrates the commission of injustice, its potential eliminative value is limited to the marginal benefit of keeping that particular site available for affordable housing. The same is true of eliminative interventions that stop students entering campus: each student would make only a negligible difference to the Fallists' shutdown (campus operations cannot resume with only a few students), so much of the value of using violence against these students is in deterring others from attempting to enter campus too. Any permission to harm the shutdown-scabs or the police enforcing the Gatherings Act, would therefore be strengthened if they are not only liable for their own narrow wrongdoing, but also took on some liability for the wider institutional injustices to which they contributed. In the next chapter, I suggest that members of certain unjust institutions do take on complicitous liability by virtue of their institutional role, particularly where this role entails directly causing wrongful harm (as in the case of riot police, for example).

Compare this to manipulative political violence, including the intentional destruction of property, arson attacks against students and staff, and intentional confrontations with police, government officials, and university staff. Although these acts still count as defensive in the broad sense—since their ultimate goal is harm-prevention—they require a more stringent standard of justification by virtue of being manipulative. This does not mean that these acts are necessarily impermissible: it is possible for individuals to accrue sufficiently strong duties when they are responsible for injustice that they can be manipulatively harmed as a means of enforcing their duty.

This might seem an implausible suggestion in cases where members of unjust institutions act non-culpably: despite recognising the liability one incurs through moral responsibility for a threat, Tadros thinks that one must typically be culpable to be liable to

punishment, given the stringency of individuals' rights against manipulative harm.[316] It is therefore only in that smaller subset of culpable wrongdoing that individuals are duty-bound to relinquish their freedom to deter other would-be criminals.

This would suggest a presumption against manipulative to well-intentioned members of unjust institutions, like the executives who staff universities, who might be morally responsible for injustice without being culpable. But Tadros's limitation does not mean that all manipulative harm should be restricted according to culpability altogether: Tadros limits criminal punishment to culpable offenders because of the severity of criminal punishment, which restricts individuals' most basic liberties.[317] It is conceivable that non-culpable members of unjust institutions accrue sufficiently enforceable duties by virtue of their moral responsibility for injustice that they render themselves liable to some lesser manipulative harm. It might not be permissible to imprison, maim, or kill a non-culpable institutional actor, but it might nonetheless be within the bounds of the Means Principle to occupy their office, shout obscenities at them, or even cause them non-serious injury. This means that the firebombing (even of potentially liable agents like university executive members) was likely a violation of the Means Principle, since it threatened significant, vital interests.

This principle suggests a limiting dilemma for political violence. On the one hand, if violence is directed at eliminative ends, its justificatory standard is lower, but there are fewer opportunities for eliminative harm in cases of complex institutional injustice. Otherwise, political violence is likely to involve manipulative harm and therefore incur a higher justificatory threshold. This does not preclude the possibility of violence, but it does reduce the permissibility of significant intentional harm—particularly harm to vital interests, like killing, or maiming. However, where someone bears some moral responsibility for institutional injustice, and manipulative violence is aimed at their non-vital interests, I argue that political violence can still meet the relevant justificatory thresholds.

3.5. Conclusion

Critics of Fallism wrongly make a false assumption. Perhaps they assume that all of those harmed during the Fallist were innocent, in the sense that they were not liable to harm. Alternately, they confuse two senses 'innocent': 'innocent' meaning nonculpable and 'innocent' meaning non-liable. Moreover, they assume that individuals who are innocent in

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[316] Ibid, 318 – 20.
[317] Ibid, 319 – 21.

both senses cannot permissibly be harmed. In this chapter, I have sought to show that none of these assumptions hold: many of the targets of Fallist violence were likely liable, since moral responsibility for injustice is the appropriate criterion for liability. I have also argued that non-liable innocents can—under limited circumstances—be harmed without it violating their rights.

Although I have argued here that many of the Fallists targets were potentially liable, I have already hinted at a problem for the Fallists. Given the causal structure of institutional injustice, many agents make negligibly small contributions to the wrong. Moreover, it is difficult for Fallists to discern who contributes and how much they contribute to injustice. Without the ability to identify liability, the Fallists would be limited only to lesser-evil acts of violence, which I argue here is very limiting indeed. In the following chapter, I turn to these questions to demonstrate that the Fallists could appropriately identify liable targets in at least some cases.

Chapter 4: Liability and Complicity in Injustice

4.1. The 'Indiscriminate' Violence of Fees Must Fall

As we saw in Chapter 3, a frequent criticism of Fallism's violent and disruptive tactics was that it 'violated the rights of others.'[318] Critics referred in particular to those students and staff members who were forcefully ejected from campus, but the criticism applies more generally to all those affected by the movement's harmful and confrontational tactics: the university executives who were harassed, police officers assaulted in melees, and government officials whose offices were occupied and disrupted. As I suggest in the previous chapter, an instructive starting point for thinking about these criticisms is in terms of the principle of liability, as it relates to the regulative norms of defense. Ordinarily, individuals have stringent rights not to be harmed without their consent. However, if someone is liable, they lack the relevant right not to be harmed, typically because they have acted in such a way as to forfeit the right. A paradigmatic case of liability is the case of a culpable aggressor threatening to murder an innocent: whereas the innocent victim maintains her rights not to be killed, the murderer forfeits part of his right against being harmed. Harming someone within the bounds of their liability therefore does not wrong them, because it does not violate any of their rights that are in force.

In this chapter, I discuss the distinct form of the liability justification, distinguishing it from the retributive arguments offered by some Fallists (section 4.2). Thereafter, I turn to the possibilities of 'liability failure': critics argue that, due to the division of labour in unjust institutions, individual institutional actors are likely only to be responsible for minimal contributions to injustice and might therefore not be liable; this problem is compounded by the epistemic difficulty in distinguishing liable and non-liable institutional actors (section 4.3).[319] In resolving this problem, I compare political violence to the analogous problem in Just War Theory, where reductive individualists have been attempting to explain the liability of

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[318] Benatar, David. "University of Capitulation: SA Paying the Price as Thugs Trample Ordinary Rights." *News24*, 23 September 2016. Available at https://www.news24.com/fin24/biznews/university-of-capitulation-sa-paying-the-price-as-thugs-trample-ordinary-rights; Habib, Adam. 'Goals and Means: Some reflections on the 2015 #FeesMustFall Protests.' *Daily Maverick*, 26 January 2016. Available at https://www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/.

[319] See Flanigan, Edmund Tweedy. "From Self-Defense to Violent Protest." *Critical Review of International Social and Political Philosophy*, 2021: 1 – 25; Pasternak, Avia. "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 411 – 3.

combatants that make minimal contributions to warfare (section 4.4). I argue that we can resolve these concerns using the same complicity-based arguments for liability that Just War theorists have applied in this context. In making this case, I respond to criticisms of the complicity account, and set out the limitations of complicitous liability, suggesting that those staff and students who defied the shutdown were liable to defensive force, and the riot police were liable to be harmed, but that other academics and students were not.

4.2. Liability and Desert

Fallists offered a number of conceptually distinct justifications for transgressing the rights of others. It is worth disentangling these arguments. At times, Fallists used the language of defence, claiming that their actions constituted 'self-defence' against the 'violence' that universities and government institutions caused inflicted on (mostly poor) Black South Africans. In the preceding three chapters, I took these claims seriously, arguing that we can coherently apply the regulative norms of the defensive framework to political resistance, since resistance, like defence, is aimed at averting or ameliorating wrongful harm.

However, the Fallists consistently made a second kind of appeal too, grounded largely in a very particular reading of Frantz Fanon's seminal work on anticolonial resistance, *The Wretched of the Earth*.[320] Their reading of Fanon was especially focused on the desert of those at the receiving end of violence: the resort to violence, on this view, was apt because it was what those responsible for injustice deserved for their wrongdoing.[321] Since the government, universities, and other major institutions inflicted structural violence on Black South Africans, it is only right (so the argument goes) that they suffer violence in return. This interpretation is perhaps most pithily exemplified by the Fallist slogan, 'one settler, one bullet' ('settler' being

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[320] Fanon, Frantz. *The Wretched of the Earth*. Translated by Richard Philcox. New York: Grove Press, 2004 [1961]. For discussions of the centrality of Fanon to Fallism, see Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." *Agenda* 31, no. 3 – 4, 2017: 96 – 104; Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019: 326 – 8; Ndlozi, Mbuyiseni. 'In Defence of Black Violence', *Daily Maverick*, 31 August 2015. Accessible at https://www.dailymaverick.co.za/opinionista/2015-08-31-in-defence-of-black-violence/.
[321] See Ndelu, Sandile. "A Rebellion of the Poor: Fallism at thee Cape Peninsula University of Technology." *Hashtag-Analysis of the #FeesMustFall Movement at South African Universities*. Johannesburg: Centre for the Study of Violence and Reconciliation, 2017. Ndelu refers to violence as 'punishing the punisher' (23). Lange, Malose, 'Researching the #FeesMustFall Movement.' In *Hashtag-Analysis of the #FeesMustFall Movement at South African Universities*. Johannesburg: Centre for the Study of Violence and Reconciliation, 2017. Citing Fanon, Lange suggests that the violence is an apt response to the disrespectful treatment of Black students at historically white institutions (6 – 7).

used interchangeably to refer to white South Africans of European-settler descent, as well as to agents of 'neocolonial' institutions, like UCT).[322] Concomitantly, the Fallists were inspired by the retributive notion—suggested by Jean-Paul Sartre in the preface of *Wretched Of The Earth*—that inflicting harm on 'oppressors' affirmed the humanity of the victims of oppression.[323] If this was indeed their aim, the Fallists are not so much defenders as they are vigilantes, meting out just punishment to culpable oppressors.[324]

The appeal to desert and retribution is worrisome. The function of retribution is to distribute to each person their just desert, which is—on this view—a good in itself. I have doubts about whether this is true in principle but let us assume that it is.[325] Even if we accept such a claim, the Fallists would have issues laying claim to it. Firstly, the Fallists would likely have had limited standing to impose retribution. On a tradition view of retribution—explicated famously by Thomas Hobbes and John Locke—individuals have a natural right to punish those who wrong them, which they then transfer to the state.[326] Suppose we assume that the Fallists retain their standing without transferring it to the state—which is also a disputed claim in theories of punishment.[327] In that case, they would still only have standing to punish others for the harms that *they* have suffered, rather than having the standing to punish wrongdoers for their wrongs more generally. It seems presumptuous of the Fallists to assume they are entitled to punish contributors to injustice on behalf of all South Africans, or even all students. But if violent Fallists—who numbered only in their dozens—could only punish for the injustice they personally suffered and could only punish contributors for the amount they contributed to the

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[322] Although he suggests the phrase is metaphorical, Fallist leader Mcebo Dlamini points to its punitive origin in claiming that it is meant to contest White people's assumption of superiority [Dlamini, Mcebo. 'On the 'One Settler, One Bullet' Incident at UCT.' *News24*, 15 November 2018. Available at https://www.news24.com/news24/columnists/guestcolumn/on-the-one-settler-one-bullet-incident-at-uct-20181115].

[323] See Sartre, "Preface" in *The Wretched of the Earth*, 18 – 9. Compare this to Jean Hampton's explication of the expressive goal of retribution as a means of confirming the equality of victims of unfair treatment [Hampton, Jean. "Correcting Harms Versus Righting Wrongs: The Goal of Retribution." *UCLA Law Review* 39, 1991: 1659].

[324] Walzer claims that 'most political militants don't regard themselves as assassins at all but as executioners,' because they enforce a 'revolutionary version of vigilante justice' (Walzer, *Just and Unjust Wars*: 202).

[325] I am persuaded by Victor Tadros's view that it is barbarous to think that the suffering of others is good in itself, but this view is controversial and so I do not rely on it here. See Tadros, Victor. *The Ends of Harm: The Moral Foundations of Criminal Law*. Oxford: Oxford University Press, 2011: ch 4.

[326] Hobbes, Thomas. *Leviathan* in M. Oakeshott (ed.): (New York: Macmillan Publishing Company), 1651 [1962]: ch 14; Locke, John. *Second Treatise of Government*. Indianapolis: Hackett Publishing Company, 1980 [1690]: ch 9.

[327] Duff, R. Anthony. "Retrieving Retributivism." In White, Mark (ed). *Retributivism: Essays on Theory and Policy*. Oxford: Oxford University Press, 2011: 6.

injustices afflicting those particular Fallists, then they would have standing only to inflict very little punishment, if any. Punishment by the Fallists would suffer further procedural problems. Since they lack the resources of the state, they would have limited capacity to punish with any sense of uniformity, since their acts of violence were sporadic and unsanctioned. This would mean that a small number of the contributors to injustice would get punished whilst the vast majority would not, and similarly responsible individuals would be punished differently— hardly a just distribution of desert.

There is a further practical sense in which the desert-based argument is limited. Any plausible version of this view would require a particularly high bar for what makes someone deserve to suffer.[328] If it is possible to deserve suffering, it would be because one is blameworthy for some wrongdoing. This standard is too stringent to justify most of the Fallists' violence: although there were individuals who are morally implicated in injustices by virtue of their contributions to the relevant institutions (including members of university executives and state officials), few of them were culpable oppressors who intentionally or recklessly violated the rights of the oppressed.[329] In the Fallist case, for instance, it is difficult to see how any of the university staff members or non-participating students could have been sufficiently blameworthy for injustice that they deserved to suffer, since most of them acted with good intentions and abided by the rules and norms of their respective institutions. The form that the Fallist violence took, too, was not sufficiently discerning for it to be limited only to culpable— rather than morally responsible—institutional actors. Since their acts of violence lacked the procedural dimensions of criminal justice, the Fallists would have difficulty ascertaining and proving the guilt of those they punished. Even if they distribute justice, the Fallists would fail to distribute it with much transparency or certainty. The Fallists would either have to show much restraint, otherwise justice would not be done and be seen to be done.

The Fallist appeal to retribution, therefore, seems ill-fated. Even if we accept the normative underpinnings of retribution, it seems unlikely that the Fallists would be able to exact much legitimate retribution, or else would run the risk of punishing wrongfully, because they lack the standing and the capacity of the state.

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[328] Moreover, Tadros suggests that the most coherent desert-based view would be grounded in what he calls 'whole-life desert', meaning that a person should receive certain benefits or harms depending on the goodness or badness of their life as a whole, not simply the badness of isolated events (Tadros, *The Ends of Harm*: ch 4).

[329] Recall here the distinction I canvass in the first chapter between agent oppression and institutional oppression (ch 1, fn 49). See Haslanger, Sally. *Resisting Reality: Social Construction and Social Critique*. Oxford: Oxford University Press, 2012.

Instead of framing violence as retributive, I suggest we focus instead on the defensive framework's criterion of liability. Theorists working in the ethics of defence typically use the term 'liability' to mean that someone has acted in such a way that they have forfeited their right not to be harmed for some purpose.[330] Liability has several morally important implications. First, it is easier to justify inflicting harm upon someone if they are liable. In cases of liability, violence need only be narrowly proportionate: we can discount harms committed in defence against liable targets, which permits more marginal trade-offs in harm; if someone is not liable, it can still be permissible to harm them if doing is constitutes the lesser-evil, but this requires more stringent, widely proportionate justification to override the innocent's right against harm.[331] Second, if someone forfeits their right against harm, they also lack the meta-rights to use force to defend their right and to demand compensation for having their rights violated.[332] They do not of course lose all their rights: a liable person does not become like a 'fly' that can be harmed gratuitously by anyone for any purpose;[333] instead, they lose their rights against harms for a particular purpose.

Considering the issues with the retributive view I raise above, the liability criterion is both more permissive and restrictive. It is more permissive in the sense that the agential threshold for liability is lower than for punishment: liability does not require that the agent receiving harm must deserve harm; rather an agent can forfeit their rights against defensive harm without being deserving.[334] Whereas desert requires blameworthiness, it does not necessarily follow that liability does too. But the standard is also more restrictive: retributive views suppose that it is good in itself to harm those who deserve it, whereas liability makes no

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[330] Some theorists do not think it is necessary that one *acts* to forfeit this right but do think it can be sufficient. For example, Victor Tadros argues that liability does not necessitate acting in a particular way and that one can be liable for other reasons; Tadros claims you are liable when you have an enforceable duty to suffer harm, which you can acquire, for example, if you can prevent severe harm to another at reasonably low cost to yourself. See Tadros, Victor. "Duty and liability." *Utilitas* 24, no. 2, 2012: 259 – 277. Although theorists agree that liability is goal-oriented, they differ on how stringent the goal-oriented requirement is. See Ferzan, Kimberley Kessler. 'Forfeiture and Self-Defense,' in Christian Coons and Michael Weber (eds.), *The Ethics of Self-Defense*. Oxford: Oxford University Press 2016. Ferzan, Kimberly Kessler. "Justifying Self-Defense." *Law and Philosophy* 24, no. 6, 2005: 711 – 749.

[331] By way of illustration, if B culpably threatens C's life, then C can permissibly kill B without wronging him. By contrast, C would not be permitted to kill B to save her own life had B simply been an innocent bystander, because B would have a stringent right against being killed since he has not forfeited it to save C's life. See McMahan, Jeff. *Killing in War*. Oxford: Oxford University Press, 2009.

[332] Frowe, *Defensive Killing*: ch 3.

[333] George P. Fletcher, "The Right to Life," *Georgia Law Review* 13, 1979: 1381.

[334] McMahan, *Killing in War*, 8 – 9; McMahan, The Basis of Moral Liability to Defensive Killing": 386 – 7. Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Press, 2014: 91.

such claim: a liability justification is still in need of positive moral reason to warrant the harm done to them.[335] Liability contains a further instrumental condition. This distinction is key: harming someone within the bounds of their liability does not *wrong* them, because it does not violate any of their rights but the harms they suffer are nevertheless bad from an 'impersonal point of view' and therefore only permissible when they serve some further end.[336] Retributive harms, by comparison, have no such instrumental requirement, since desert is good in itself.[337]

Theorists' judgments about liability tend to converge around certain central cases: for instance, all but the most austere absolutists would agree that a malicious murderer loses his right not to be killed by his would-be victim.[338] Culpably posing a direct physical threat to the victim is, in this case, sufficient for liability. Paradigm cases of this sort might create the mistaken impression that political violence—certainly of the kind committed by the Fallists— will likely fail to find liable targets for defensive force, since the agents of violence typically neither direct themselves at persons posing direct threats nor do they have reliable means of appraising who is culpable. However, this conclusion is mistaken: although they are jointly sufficient, neither kinetic threat nor culpability is a necessary condition for liability.[339] The most prominent account of liability in Just War Theory, the Responsibility Account, does not require either posing a direct threat or culpability.[340] On this view, what makes someone liable is that they are morally responsible for a wrongful threat, which entails that they act voluntarily and that the harmful outcome of their action is reasonably foreseeable and unjustified.[341]

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[335] McMahan, *Killing in War*: 9 – 12.

[336] McMahan, *Killing in War*: 8. Cited in Frowe, *Defensive Killing*: 91, for example, McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing." *Philosophical Issues* 15, 2005: 386 – 405.

[337] See Tadros's similar criticism of the retributive view of punishment in Tadros, Victor. *The Ends of Harm: The Moral Foundations of CriminalLlaw*. Oxford: Oxford University Press, 2011: ch 4.

[338] Victor Tadros helpfully outlines the most common views of liability in 'Causation, Culpability, and Liability.' In Coons, Christian, and Michael Weber (eds.). *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016.

[339] I argue in chapter 1 that defensive action need not respond to any aggressive, kinetic threat, but can instead be a response to a violation of duties of justice not involving physical aggression—I take what Laura Valentini calls a 'justice-centred' approach to defence [Valentini, Laura. "Just War and Global Distributive Justice." in David Held and Pietro Maffettone (eds.). *International Political Theory Today*. Cambridge: Cambridge: Polity Press, 2016]. I extend this argument to liability. As Cécile Fabre notes, it is not necessary for a threat to have any kinetic component for it to elicit liability [Fabre, Cécile. *Cosmopolitan War*. Oxford: Oxford University Press, 2012: 109 – 110].

[340] The seminal expositions of this view are McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing." *Philosophical Issues* 15, 2005; Otsuka, Michael. "Killing the Innocent in Self-Defense." *Philosophy & Public Affairs* 23, no. 1, 1994: 74 – 94. Helen Frowe adopts an altered version of the view in *Defensive Killing*; and Victor Tadros counts moral responsibility as a potential (but not exclusive) source of liability in Tadros, Victor. "Duty and Liability." *Utilitas* 24, no. 2, 2012: 259 – 277; Tadros, Victor. "Two Grounds of Liability." *Philosophical Studies*, 2021: 1 – 20.

[341] This is McMahan's formulation ["The Basis of Moral Liability to Defensive Killing": 394 – 404. Compare this to Frowe's view according to which an agent is liable if they 'intentionally fails to avail

Another way to frame this condition is that the agent voluntarily engages in 'risk-imposing' behaviour that eventuates in a threat of wrongful harm to an innocent person.[342] Importantly, moral responsibility is a much thinner notion than culpability. Whereas culpability requires that a person be blameworthy for some wrongful outcome, moral responsibility requires simply that some outcome can properly be ascribed to a person's voluntary agency.

To be morally responsible for a wrongful threat is not sufficient for one to deserve harm, but the Responsibility Account suggests only that it is fairer that liable agents (rather than innocent agents) bear harm. The Responsibility Account is largely motivated by the imperative of distributive justice.[343] When some wrongful harm becomes inevitable, it is fair that those responsible for the harm bear more harm than those not responsible. Consider the distinction between bad brute- and option-luck that is a central tenet of many distributive views of justice.[344] Option luck is a matter of gain or loss due to an 'isolated risk' that one accepts voluntarily, e.g. winning a game of roulette.[345] Brute luck concerns gains and losses that do not stem from an agent's decisions in this way, e.g. suffering from a genetic disorder.[346] Other things being equal, it is worse for someone to suffer bad brute luck than it is to suffer bad option luck, since option luck-sufferers, *ex hypothesi*, had the opportunity to avoid the unlucky outcome and chose to accept the risk; the value of their voluntary choice thus has a diminishing (albeit not nullifying) effect on the moral badness of the bad luck they suffer. Proponents of the Responsibility View argue that agents who are morally responsible for engaging in risk-imposing activity accept the calculated gamble implicit in their actions—when their actions then eventuate in a threat of unjust harm to innocents, it is fairer for them to bear the harm.

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herself of a reasonable opportunity to avoid posing the threat' [Frowe, *Defensive Killing*: 86]. The difference here is that one might be morally responsible for a threat per McMahan without having a reasonable opportunity to avoid posing it, depending on how widely one construes 'reasonable opportunity'.

[342] McMahan, "The Basis of Moral Liability to Defensive Killing": 394. McMahan construes this expansively. Per McMahan, a conscientious driver is morally responsible for the threat she poses to pedestrians when her car malfunctions, even if she took every reasonable precaution, simply by virtue of undertaking the 'risk-imposing' activity of driving. This suggests grounds to doubt the McMahan account—I discuss this later.

[343] McMahan, "The Basis of Moral Liability to Defensive Killing": 395. Otsuka, Michael. "The Moral-Responsibility Account of Liability to Defensive Killing" in Coons, Christian, and Michael Weber (eds.). *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016: 63 – 65.

[344] Otsuka, Michael. "The Moral-Responsibility Account of Liability to Defensive Killing": 63 – 65. Here, Otsuka cites Ronald Dworkin, "What is Equality? Part II: Equality of Resources," Philosophy and Public Affairs 10, 1981: 293.

[345] Ibid.

[346] Ibid.

It is important to note here that one need not be culpable to accept risk: one may have evidence-relative permission for a particular decision or action (if one thinks the risk is relatively low) and thus still accept the risk without being blameworthy.[347] In the context of political violence, one need not therefore intend to oppress others to become liable by virtue of one's moral responsibility for oppression or injustice. For instance, a police officer can intend to discharge her duties conscientiously in the interests of justice but might nevertheless contribute to the oppressive phenomenon of police brutality—a consequence of her duties that she should have reasonably foreseen. Although she might be 'innocent' in the sense that she is not culpable for the injustice, innocence in this sense does not release a person from bearing any of the costs of her voluntary actions.

4.3. Liability Failure

If we adopt the Responsibility View, the agential criterion for liability is thinner than Michael Walzer suggests: he claims that it is only those who are blameworthy for 'crimes against the people' that are potentially permissible targets of political violence.[348] As I suggest in the previous chapter, the reductive individualist approach suggests a potentially wider scope of liability, since liability does not depend on occupying an official role in which one acts as an 'agent of oppression,' as Walzer suggests;[349] rather, any person can render themselves liable if they are morally responsible for injustice.

However, theorists have argued that the agents of political violence might nonetheless be unable to discern between liable and non-liable targets, even using the more permissive conditions of liability rather than desert. Although the Responsibility Account makes it possible for well-intentioned state agents to be liable, the causal structure of institutional injustice means there is a high likelihood of liability failure.[350] When institutions like the state imposes injustice on its citizens, the actions that culminate in injustice are divided up amongst

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[347] It seems though that more culpable agents will be more morally responsible, since they have the intention to cause harm. However, culpability is, in this sense, only incidental to moral responsibility, because one can fully intend unjust harm without malice, if one has mistaken beliefs about what is just. Whereas McMahan suggests that culpability is on the same spectrum as moral responsibility, Tadros argues that they are two distinct sources of liability [Tadros, Victor. "Two Grounds of Liability." *Philosophical Studies*, 2021: 1 – 20.].

[348] Walzer, Michael. *Just and Unjust Wars*. New York: Basic Books, 1977: 200 – 3. See also Walzer, Michael. "Terrorism and Just War." *Philosophia* 34, no. 1, 2006: 3 – 12.

[349] Walzer, *Just and Unjust Wars*: 198 – 201.

[350] See Flanigan, Edmund Tweedy. "From Self-Defense to Violent Protest." *Critical Review of International Social and Political Philosophy*, 2021: 1 – 25; Pasternak, Avia. "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 411 – 3.

various state agents, most of whom act according to the rules and norms of their institutional positions. Because of this division of labour, it is common for individual contributors' moral responsibility to be so minimal (or, as in many cases, causally overdetermined) that they fail to meet a minimum threshold of moral responsibility necessary to be held liable.[351]

These concerns create important practical and epistemic obstacles to the possibility of justified political violence. The practical problem is that those who are more likely to bear the cost of political violence are typically individuals who do the institution's "groundwork" of enforcing policies, laws, and orders designed by their superiors.[352] Consider a common instantiation of political violence: eliciting violent confrontations with the police. Specifically, consider the violent melee between the police and Fallists in the precinct surrounding the houses of parliament in Cape Town that ensued when the police, acting under the auspices of the Gatherings Act, attempted to break up the protest. The individual police officers enforcing the Act—likely on the instruction of their superiors—were agents of an institution in which they exercise relatively little control over the norms, rules, and policies that shape policing in their community. Absent any individual officer, the same injustices would likely occur regardless, and so it does not seem as though any of them makes a causal difference to the institutional injustice. Since causal contribution to a wrongful threat is a necessary condition for liability, it seems many officers might not be liable for the wrongs of their departments. This applies *mutatis mutandis* to the wrongs of any sufficiently large institution.

The hypothetical police officers' liability is also diminished by their epistemic constraints: given the complexity of institutional injustice, those who do the groundwork of their institution have a limited capacity to understand the causal connection between their

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[351] For the seminal analysis of this problem, see Iris Marion Young's analysis of structural injustice. Young, Iris Marion. *Responsibility for Justice*. Oxford: Oxford University Press, 2010. Young considers 'structural' injustice, which is more encompassing than institutional injustice as I use it here: Young is interested in injustice caused by loosely organised political and economic systems, but I am interested here also in the injustices caused by discrete institutions. For a refutation of Young's view, see Sangiovanni, Andrea. "Structural Injustice and Individual Responsibility." *Journal of Social Philosophy* 49, 2018: 461 – 483.

[352] The fact that they are following orders does not, in itself, absolve them of any responsibility for their actions; rather, it simply limits their causal contribution. Some theorists argue that individuals have a duty to follow orders, even if they are unjust, which would negate liability. For the argument that following orders immunize individuals from liability, see Lefkowitz, David. "Legitimate Authority, Following Orders, and Wars of Questionable Justice." *Journal of Political Philosophy* 18, no. 2, 2010: 218. Jason Brennan refutes this view in Brennan, Jason. "When May We Kill Government Agents? In Defense of Moral Parity." *Social Philosophy and Policy* 32, no. 2, 2016: 40 – 61. Brennan offers a convincing general argument against immunity based on following orders. However, even if we assume that there is a general duty to obey orders, this would not apply in partially just states like South Africa, since Lefkowitz's criteria for binding orders are too stringent for a partially just state to meet.

individual contribution and the injustices that their institutions cause,[353] because the causal structure of institutional and structural injustices are more opaque than the causal structure of ordinary violence.[354] If there is no clear connection between any particular action that the officer might undertake and the complex causal chain that eventuates in wrongful harm to others, then they cannot be held responsible for the downstream consequences of their actions that they cannot foresee.

Whilst the reductive individualist view avails the possibility that anyone implicated in injustice might be liable, it requires also that each person's liability must be assessed on an individual basis, since individuals' degrees of moral responsibility and causal contributions are not uniform. Crucially, even if there are individuals within an institution that are liable to bear some harm by virtue of their contributions to injustice (for example, individual police officers who commit acts of brutality), those who engage in violent resistance—often acting in the epistemic fog of a riot, protest, or melee with the police—have limited capacity to assess individual institutional agents' causal contributions and intentional states, and therefore are less able to discern liable targets for political violence.[355] The relative opacity of institutional injustice makes it more difficult than in cases of ordinary defence to determine who is morally responsible for wrongful threats. Political violence therefore runs a considerable risk of being indiscriminate insofar as the agents of violence lack the means discerning between liable and non-liable targets.

Suppose, for instance, that protestors opposing police brutality elicit a melee with police: if the protestors are unable to distinguish between those police officers who commit brutality or encourage the norms and policies that cause brutality, from those who do not (not to mention those officers who actively oppose the salient, harmful institutional features), then the protestors risk harming non-liable officers. This does not preclude the possibility of

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[353] On the question on the causal opacity of injustice, see Ashford, Elizabeth. "Responsibility for Violations of the Human Right to Subsistence." *Poverty, Agency, and Human Rights*, 2014: 95 – 118; For an analysis of the hermeneutical questions of detecting injustice, see Jugov, Tamara, and Lea Ypi. "Structural Injustice, Epistemic Opacity, and the Responsibilities of the Oppressed." *Journal of Social Psychology* 50, no. 1, 2019: 7 – 27.

[354] Compare this to the epistemic arguments for the moral equality of combatants. Luban, David. 'Knowing When Not to Fight' in Frowe, Helen and Lazar, Seth (eds.). *The Oxford Handbook of Ethics of War.* (Oxford: Oxford University Press, 2018; Tadros, Victor. *To Do, To Die, To Reason Why: Individual Ethics in War*. Oxford: Oxford University Press, 2020: 13 – 6; McMahan, Killing in War, 60 – 6. Lazar, Seth, and Valentini, Laura. "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints." In *Oxford Studies in Political Philosophy*. Oxford: Oxford University Press, 2016: 184 – 7.

[355] See Pasternak, "Political Rioting: A Moral Assessment": 410. In the context of warfare, see Lazar, Seth. "Responsibility, Risk, and Killing in Self-Defense," *Ethics* 119, 2009: 701.

violence but, as I suggested in the previous chapter, renders violence much more difficult to justify, since it then occasions a lesser-evil standard.

In reply to this problem, one might argue that the Responsibility Account is potentially very encompassing: depending on how thinly one construes moral responsibility, the account can stretch wide enough to include anyone who makes a causal contribution to injustice—including, for instance, electorates that elect partially just governments, taxpayers who contribute to the state's fiscus, and so on. This would clearly be undesirable, since it suggests that any member of a state is liable for its wrongdoing, and potentially countenances a more or less indiscriminate use of force.[356] The problem for the Responsibility Account is therefore that it must be thick enough to preclude such an encompassing view of liability, but still thin enough to capture the kinds of cases that (its proponents argue) are omitted by culpability-based views of liability. In the Fallist case, for example, it would be implausible to suggest that all students are liable because they contribute to the university by paying tuition. So, there would need to be a way of distinguishing individuals' liability that both avoids this problem and is epistemically accessible to the Fallists.

4.4. Learning from Just War Theory

Seth Lazar suggests that reductive individualists in Just War Theory who have adopted the Responsibility View face an analogous dilemma concerning the liability of combatants. Many combatants on any side of a conflict are militarily ineffective.[357] By way of illustration, empirical research has suggested that most combatants do not use lethal force against enemy targets when presented with the opportunity.[358] These combatants fail to make substantial causal contributions to their military's war efforts, and therefore do not satisfy the causal criterion for liability.

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[356] See for instance Michael Walzer's criticism of apologia for terrorism that claims that members of a state like the US are responsible the injustices of its foreign policy and therefore liable to terrorist attacks [Walzer, Michael. "Terrorism and Just War." *Philosophia* 34, no. 1, 2006: 3 – 12]. Although he adopts what seems like a very thin account of liability, McMahan rejects the claim that voters are responsible for the wrongdoing of their government on the basis that their contribution is too 'trivial' [McMahan, *Killing in War*: 225].

[357] Lazar, Seth. "The Responsibility Dilemma For Killing In War: A Review Essay." *Philosophy & Public Affairs* 38, no. 2, 2010: 180 – 213.

[358] Bazargan, Saba. "Complicitous Liability In War." *Philosophical Studies* 165, no. 1, 2013: 181 – 83. Bazargan cites the empirical evidence of David Grossman's study of combatant ineffectiveness in Grossman, David. *On Killing: The Psychological Cost Of Learning To Kill In War And Society.* Boston: Little Brown and Co., 2009.

Most militaries, therefore, are presumably composed of both liable and non-liable combatants. Since these two groups are indistinguishable to their enemies who act under the fog of war, this presents a serious obstacle to the possibility of just lethal force in warfare, since combatants are in an epistemic position analogous to the agents of political.[359] The responsibility criterion must therefore be thin enough to capture ineffective combatants. That said, most civilians make minimal causal contributions to their state's war effort (by paying taxes, sustaining the economy, and so on). If the responsibility criterion is too thin, it risks capturing all these civilian contributors too and therefore countenancing much more widespread civilian targeting.[360] Proponents of the Responsibility View must find a responsibility threshold that is minimal enough to render ineffective combatants liable and avoid *de facto* pacifism, whilst avoiding a criterion that is so thin that it effectively render the imperative to discriminate between liable and non-liable targets meaningless and permit total war.[361] This is the so-called Responsibility Dilemma for reductive individualists.[362]

The Responsibility Account, as I have presented it thus far, assumes that individuals are only liable for the consequences of their individual actions. It is only when their personal 'risk-imposing activity' eventuates into a threat that they forfeit their right not to be harmed in defence. However, theorists, including those who are broadly speaking reductive individualists, have recently pushed back against this forfeiture model that limits liability according to the consequences of individual action alone.[363] As I will argue, it is compatible with normative core of reductive individualism sometimes to hold individuals liable for the outcomes of groups or institutions to which they belong.

In response to the Responsibility Dilemma, some Just War theorists have argued that combatant liability need not depend solely on a combatant's individual causal contribution to the wrongful threats they pose to their enemies, but rather that individual combatants can become liable by virtue of their *complicity* in the broader threat that their military poses. Combatants in the military participate in a collective enterprise: although an individual

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[359] Lazar, Seth. " The Responsibility Dilemma For Killing In War: A Review Essay." *Philosophy & Public Affairs* 38, no. 2, 2010: 180 – 213.

[360] Ibid.

[361] Lazar, Seth. "Complicity, Collectives, and Killing in War." *Law and Philosophy* 35, no. 4, 2016: 365 – 389.

[362] This phrase comes from Lazar, "The Responsibility Dilemma for Killing in War: A Review Essay": 180 – 213.

[363] Tadros, Victor. *To Do, To Die, To Reason Why: Individual Ethics In War*. Oxford University Press, USA, 2020, ch 2; Tadros, Victor. "Duty and Liability." *Utilitas* 24, no. 2 (2012): 259-277; See also Renzo, Massimo. "Rights Forfeiture and Liability to Harm." *Journal of Political Philosophy* 25, no. 3, 2017: 324 – 342.

combatant's causal contribution to a wrongful threat might be indiscernible, it is morally salient that they are members of a coordinated project in which they act towards collective objectives. Proponents of a complicity-based account of liability argue that individual combatants are morally responsible for the foreseeable consequences of their military's operations, rather than restricting liability to the individual's actions alone.

In rich accounts of complicitous liability in the military that draws on Christopher Kutz's work on complicity,[364] Cécile Fabre and Saba Bazargan-Forward both argue that the military is a cooperative project: individuals participate with the intention to 'do their part' towards the objectives of the collective.[365] For instance, when a group of soldiers intend to rescue an injured comrade, some might lay down suppressive fire whilst others carry their comrade to safety, but all members of the group participate in the rescue mission, which is a cooperative project.[366] Importantly, it does not make sense to say that the soldiers who carried their comrade were the only ones who 'rescued' her—all of the participants in the rescue project can meaningfully say, 'we rescued our injured comrade,' because each soldier is a constituent part of the collective enterprise that rescued their comrade.[367] In this sense, when the soldiers formed participatory intentions to act in concert to rescue their comrade, each soldier became an 'inclusive author' of their shared project—they became part of the 'we' that performs the rescue.[368]

This authorship persists regardless of the individual's actual causal effectiveness: individuals share responsibility for the project by virtue of orienting themselves around a shared goal—they are thus 'teleologically,' rather than just causally, related to the outcomes of the project.[369] Of course, some individuals fail to do their part, but that does not absolve them of responsibility for the collective outcomes. Importantly, this view does not submerge the

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[364] Kutz, Christopher. *Complicity: Ethics and Law For A Collective Age*. Cambridge: Cambridge University Press, 2000. See also Kutz, Christopher. "Causeless Complicity." *Criminal Law and Philosophy* 1, no. 3, 2007: 289 – 305; Bazargan-Forward, Saba, "Complicity". In Jankovic, Marija, and Ludwig, Kirk (eds.). *Routledge Handbook on Collective Intentionality.* Abingdon: Routledge University Press, 2017.

[365] Fabre, Cécile. *Cosmopolitan War*. Oxford University Press, 2012, 28 – 31; Bazargan, Saba. "Complicitous Liability In War." *Philosophical Studies* 165, no. 1, 2013: 177 – 195.

[366] This example is taken from Bazargan, "Complicitous Liability in War." 180 – 1. The same example is used in Tadros, *To Do To Die To Reason Why*, ch 2.

[367] Bazargan, "Complicitous Liability In War." 180 – 1.

[368] See Kutz, "Complicity: Ethics and Law For A Collective Age," 106 – 7. It is the shared goal and concomitant intentions that allows members to speak meaningfully of collective outcomes in which they played a productive role, even if the outcome did not flow from their actions.

[369] Compare this view of complicity to the view suggested in Lepora, Chiara, and Robert E. Goodin. *On Complicity and Compromise*. Oxford: Oxford University Press, 2013: 60 – 5.

individual's moral importance into the collective in a way that is irreconcilable with normative individualism: each person is responsible by virtue of their personal intention and voluntary participation.[370] Recognising that individuals can accrue particular obligations and liability by virtue of joining a group does not deny that it is ultimately the individual that is the proper focus of normative evaluation.[371]

Inclusive authorship, on this view, is a matter of degree. Some functional roles within the cooperative project will be more central to the enterprise than others.[372] The captain of the squad, for instance, bears greater authorship over the rescue mission than her subordinates, and therefore bears greater complicitous responsibility for the outcomes of the project. Moreover, cooperative projects overlap: the squad performing the rescue mission, for example, is a nested enterprise within the broader cooperative projects of the platoon, company, battalion, regiment, military, and ultimately state.[373] Soldiers in other squads within the same company can plausibly also say 'we rescued our injured comrade,' insofar as the rescue mission was part of the set of objectives of the company as well as the squad.[374] But the degree of inclusive authorship will diminish as size of the collective becomes larger and the objectives become broader and less well-specified.[375]

In the cases that Fabre and Bazargan discuss, the focus is on membership of an institution, specifically the military. Could we apply this principle more broadly to membership of institutions like a university or a government? If this were the case, the Fallists would certainly be able to identify liable targets, since all their targets were members of institutions that committed wrongs: the police; the government; and the university. However, if the standard is simply membership of such an institution, this standard again would seem too thin, and would capture many people that I do not think we can plausibly designate as liable.

First, as Seth Lazar notes, membership of an institution is often objectively justified despite the wrongs that the institution might commit.[376] Consider, for instance, academics at

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[370] Kutz, *Complicity: Ethics and Law for a Collective Age*: 75 – 81.
[371] Tadros makes this point in the second chapter of *To Do To Die To Reason Why*, in which he attempts to reconcile some of the apparent distinctions between reductive individualists and traditionalists in Just War Theory. Tadros's point is that it is possible for reductive individualists to recognize the moral significance of group participation without subsuming the individual in the collective.
[372] Kutz, *Complicity: Ethics and Law for a Collective Age*: 160.
[373] Lawford-Smith, *Not in Their Name: Are Citizens Culpable for Their States' Actions?*: ch 4. In the context of war, see Fabre, *Cosmopolitan War*, 29 – 30; Lazar, "Complicity, Collectives, and Killing in War", 369.
[374] Fabre, *Cosmopolitan War*, 29 – 30.
[375] Kutz, *Complicity: Ethics and Law for a Collective Age*: 68 – 72.
[376] Lazar, "Complicity, Collectives, and Killing in War": 376 – 7.

the University of Cape Town. Many academics in South Africa earn substantially less than they would in private industry, but they often commit to lives in academia nonetheless for morally praiseworthy reasons: to teach young people; to fill academia's skills shortage; to benefit their community. These academics have positive moral reasons for joining the university, even if they know the university sometimes wrongs its members. If they are indeed justified in their decision to join academia, their justification would negate the complicitous liability they might accrue as a result, since they cannot be liable by virtue of a justified decision to join.

A similar defence can be made even for members of institutions that do not have positive moral reasons for joining. It is our commitments to various forms of groups that help shape the political life of our communities and provide our lives with content and meaning.[377] Consider, for instance, the academics who join university decision-making bodies that contributed to injustice: their rationales for their actions are only partly grounded in moral calculations; more likely, they were thinking about their career goals, fulfilling their aspirations, earning some prestige, and so on. These pursuits are, for them, part of planning and executing a good life. In permitting the possibility that their institutional membership renders them liable, we risk undermining the conditions that make the good life possible and that facilitate political community.[378] Daniel Statman and Yitzhak Benbaji claim that a decent societies divides up the moral labour of effecting justice, so that individuals are freed from the burdens of having to consider first-order moral questions in all of their decisions and can pursue their own conception of the good life.[379] According to Statman and Benbaji, the moral duties and responsibilities of any role-holder are therefore only to abide by the regulative norms of their role: a police officer's duty is to act according to the ethics of police work.[380] To hold individuals liable for these decisions would be to limit their ability to frame and execute a meaningful and dignified life.

However, there are two sets of cases involving complicitous liability that evade these problems. The first is when individuals are morally responsible for injustice, not because they are complicit in an institution that does wrong, but when they join a particular group effort that is wrongful. For instance, consider the students and staff who refused to comply with the

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[377] Walzer, Michael. "Terrorism and Just War." *Philosophia* 34, no. 1, 2006: 3 – 12.

[378] This is, in part, Walzer's criticism of terrorism. See Walzer, "Terrorism and Just War", 3 – 5.

[379] Benbaji, Yitzhak. "The War Convention and the Moral Division of Labour." *The Philosophical Quarterly* 59, no. 237, 2009: 593 – 617.

[380] This is similar to Statman's criticism of the justice-based view Statman, Daniel. "Fabre's Crusade For Justice: Why We Should Not Join." *Law and Philosophy* 33, no. 3, 2014: 337 – 360.

shutdown of university campuses, and insisted on thwarting the shutdown by attempting to enter campus and resume regular university activities. If their collective effort was successful (which it was not), then this would reduce the number of defensive options available to the Fallists, since they would no longer be able effectively to establish a shutdown as a defensive measure against injustice. As I argue in Chapter 3, these staff members and students therefore constitute part of the threat to the Fallists and other sufferers of injustice by attempting to obstruct their ability to defend themselves.[381] Of course, using force to eject one student would not make a material difference to the effectiveness of the shutdown, and so it is not clear that any one student or staff member is individually responsible for the threat they pose. They are, though, complicit in a collective effort that lacks objective justification, that poses a threat to others, and which they need not undertake for the sake of a minimally decent life. In this sense, I argue that each student and staff member defying the shutdown became complicitously liable for their role in the collective obstruction.

Second, consider the riot police. The police force generally has little moral credibility in South Africa.[382] Because they have remained largely unreformed in South Africa, have let crime run rampant, and are themselves often deeply entwined with organised crime, the police are regarded as 'scavengers, prone to corruption' who take 'expedient and instrumental' attitudes to their roles—a far-cry from civic-minded academics.[383] Admittedly, there might be some high-minded police officers, and some social good that flows from the beleaguered service, and so my aim is not to show that participation in the police generally burdens one with complicitous liability. However, the riot police are a more decidedly net-negative force. The riot police force in South Africa is largely a relic of its apartheid past: much of their approach to controlling protestors has remained unchanged since apartheid—a fact laid bare by the inquiry into their participation in the Marikana Massacre, in which riot police opened fire on striking, unarmed miners.[384] Their history of political repression is so notorious that it

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[381] Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Press, 2014: 24 – 41.

[382] This is the central claim in Steinberg, Jonny. *Thin Blue: The Unwritten Rules of Policing South Africa*. Johannesburg: Jonathan Ball Publishers, 2010.

[383] Ibid, 9 – 11.

[384] For the official report into the incidents of Marikana, see Farlam, Ian. *Marikana Commission of Inquiry: Report on Matters of Public, National and International Concern Arising Out of the Tragic Incidents at the Lonmin Mine in Marikana, in the North West Province.* Pretoria: Marikana Commission of Inquiry, 2015. Available at http://www.thepresidency.gov.za/medialib/downloads/downloads/Full%20Report%20of%20the%20Marikana%20Commision%20of%20Inquiry.pdf. For a critical analysis of the role of the police in the killings, see Alexander, Peter. *Marikana: A View from the Mountain and a Case to Answer*. Johannesburg: Jacana Media, 2012.

has earned its own Wikipedia page.[385] Moreover, they are ineffectual in curbing wrongful violence: during the pro-Zuma insurrections of July 2022, the police (whether wilfully or not) ignored key information and failed to stop an insurrection that killed dozens—an insurrection that only abated when the military and civilian militias intervened.[386]

I argue there is on balance no net positive moral reason for participating in the riot police. Officers are not conscripted, nor are they forced by circumstance: they presumably have the opportunity for careers in other (less sullied) branches of the police force available to them. More generally, the riot police, as it exists in South Africa today, is not a deserving part of a well-functioning moral division of labour: it does not contribute to the well-being of South Africans; on the contrary, it has consistently undermined their political and security rights. When the officers enforce legislation like the Gatherings Act, I argue that they are all complicit in wrongdoing regardless of their degree of contribution.

4.5. Conclusion

In this chapter, I consider the question of liability to consider when individuals suspend their rights not to be harmed by political violence. As in the rest of this project, I have taken normative individualism as the starting point of this analysis: individual liability depends, ultimately, on each individual's moral responsibility. But, as in Just War Theory, this assumption risks moral paralysis since it is not feasible for the potential agents of violence to assess the personal responsibilities of each of their targets. I borrow from recent attempts in Just War Theory to resolve this problem, by holding individuals morally responsible for their complicity with unjust institutions.

It is on this basis that I argue that students and staff who obstructed the shutdown and offers who joined the riot police were complicitously liable. This discussion has more general implications for political violence because the roles played by these academic staff, students, and police officers is often replicated in other protests. However, it is also important to note who is not complicitously liable on this view: academic staff and students abiding by the shutdown, government officials in net-positive departments, and so on. This is not to say these people cannot be liable, but they must be liable on individual—rather than complicitous—bases.

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[385] Available at https://en.wikipedia.org/wiki/Political_repression_in_post-apartheid_South_Africa
[386] *Report of The Expert Panel Into The July 2021 Civil Unrest*, 29 November 2021. Available at https://www.thepresidency.gov.za/content/report-expert-panel-july-2021-civil-unrest [last accessed 14 February 2022].

It is important to note though that it does not submerge the individual entirely into the collective: each person is only liable insofar as they have chosen of their own free agency to join unjust collectives. It is therefore unlike the collectivizing suggestion implicit in 'one settler, one bullet,' which holds individuals accountable for group identities over which they have no control.[387]

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[387] As Walzer suggests, part of the wrongfulness of terrorism is that it is directed indiscriminately at groups of this kind, suggesting not that individuals ought to bear the costs of their responsibility, but rather that certain categories of persons ought not to exist. See Walzer, Michael. "Terrorism and Just War: 3 – 5.

5.1. The 'Strategic Miscalculations' of Fallism

On the 15th of February 2016, University of Cape Town (UCT), some months after the initial wave of Fallist protest, students erected a shack on the campus to protest the 'chronic' shortage of university housing that had left many financially precarious students effectively homeless.[388] The protest, known as 'Shackville', was a continuation of the Fallist, albeit refocused on homelessness rather than financial access. Student homelessness was part of the confluence of privations that Black students suffered at the historically white institutions (HWI) like UCT. At the University of the Witwatersrand, many of the 8000 students who faced exclusion were sleeping rough, typically because they had inadequate financial support.[389] Without intervention, Fallists feared that these students would lose their opportunity for decent education and social mobility.[390]

The Institutional Reconciliation and Transformation Commission (IRTC), established subsequently to investigate the crisis, found that the UCT executive had adopted a 'technical' approach to student housing that neglected the need for deeper structural transformation.[391] This technical approach permitted a housing system that, per the IRTC report, 'marginalised and prejudiced black people.'[392] Amongst other faults, the IRTC claimed that the executive persisted with a housing policy that was 'racially discriminatory' and that the executive's rationale for its policy was implicitly racist.[393] This was not isolated to housing: the IRTC

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[388] Metz, Thaddeus. "The South African Student/Worker Uprisings in Light of Just War Theory." in Booysen, Susan, Gillian Godsell, Rekgotsofetse Chikane, Sizwe Mpofu-Walsh, Omhle Ntshingila, and Refiloe Lepere. *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016; Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019: 117.

[389] Baloyi, Thabo. 'Over 8000 Wits students facing academic exclusion – SRC.' *Wits Vuvuzela*, 17 February 2021. Access at: https://www.thesouthafrican.com/news/over-8-000-wits-students-facing-academic-exclusion-src/. Accessed on 2 March 2021.

[390] Metz, "The South African Student/Worker Uprisings in Light of Just War Theory": 295.

[391] *The Final Report by The Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*. Cape Town: University of Cape Town, 2019.

[392] Ibid, 59.

[393] Ibid, 39 – 41. The university's housing policy prioritised international exchange students and students whose relatives had lived in the same residence; for structural reasons, both of those groups skewed heavily white and wealthy, meaning that wealthy white students who could secure alternative accommodation were effectively given preferential treatment. The university defended the policy as a way of attracting the 'best students.' The IRTC found that the value judgments in this rationale were racist.

found, more broadly, that systemic racism at the university was 'aided and abetted by poor management.'[394]

In general, Fallists were tired of the negotiating in 'tempered discussions' with universities that did not seem to have any regard for their needs.[395] Inspired in part by their reading of Steven Bantu Biko's Black Consciousness, many Fallists decided to eschew dialogue and compromise, and turned to militancy and violence. Fallism, in this sense, broke from the norms of student politics that had preceded it at HWIs: rather than negotiating and proceeding according to the rules of 'civility,' Fallism presented an 'uncompromising' resistance to racial oppression.[396] Their politics rejected the conciliatory disposition that had been the hallmark of Nelson Mandela's African National Congress—a strategy that the Fallists regarded as 'selling out' Black people by supplicating to whites.[397]

The protest action preceding Shackville had achieved remarkable success towards transforming the universities, pressuring national government to order a halt to tuition increases across universities for the following academic year whilst government established an official parliamentary inquiry into the issue of university tuition. The Fallist protests had been militant and confrontational: students and staff were forcefully ejected from campus, and Fallists incited melees with police. Nonetheless, the early phases of Fallism generated a groundswell of public sympathy and Fallism quickly assembled a coalition of progressive student movements. Although this success seemed to embolden then Fallists at Shackville, at least some of the Fallists had recognized that an escalation of 'violence deters us from our common goal' and that the use of 'destructive' means would be 'counterproductive'.[398]

Shackville escalated the militant protest to anarchical violence that enveloped UCT's campus. The catalyst of violence was a university order to remove the shack. Students started bonfires with artwork torn from the walls of the university buildings. The university responded by increasing police and private security presence on campus. The IRTC concluded that the

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[394] Ibid, 36.

[395] Godsell, Gillian, & Chikane, Rekgotsefetse. "The Roots of the Revolution". In Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

[396] Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall movement." *Agenda* 31, no. 3 – 4, 2017: 96.

[397] For Fallist reference to this view, see See 'Newsmaker – Chumani Maxwele: No Regrets for Throwing Faeces at Rhodes Statue'. *City Press*, 29 March 2015. Available at https://www.news24.com/news24/Archives/City-Press/Newsmaker-Chumani-Maxwele-No-regrets-for-throwing-faeces-at-Rhodes-statue-20150429. For a summary of this view, see Bundy, Colin. 'Editorial: The Challenge of Rethinking Mandela', *Journal of Southern African Studies*, 45 no. 6, 2019: 997 – 1012.

[398] Godsell & Chikane. 'The Roots of the Revolution': 102.

presence of riot police suggested that things would 'continue in their unresponsive, insensitive, mechanical, racist and dominant way.'[399] The tense standoff finally erupted in violence by the Fallists: student protestors firebombed the offices of the university executive (although no one was injured), entered into melees with police and private security, and burned an unoccupied university shuttle bus.[400] The ensuing chaos engulfed the campus and its community for weeks.

The Vice-Chancellor of the University of the Witwatersrand, Adam Habib, euphemistically suggested that the violence of Shackville was a 'strategic miscalculation'.[401] The university initially denounced the activity as criminal, interdicting sixteen students involved. Even sympathetic media pundits reported a lull in public sympathy with the movement following Shackville—a pale juxtaposition to the sweeping public support that had risen up to meet the earlier protests.[402] Politically hamstrung by pending disciplinary hearings and criminal charges for their conduct during the Shackville saga, Fallist leaders signed an agreement with the university management that instituted a moratorium on protest action. On the contrary, apologists for Shackville might argue that the Fallists' violence injected the issue of student homelessness with a sense of urgency that had hitherto been absent, and that resulted in an independent report that excoriated the university for its pastoral failures.[403]

Habib's critique is not simply strategic; it is also moral. Resorting to violence when it is ineffective, or when nonviolence would suffice, is to cause wanton harm. The critique is not isolated to Shackville: Habib and other critics argued that violence is unnecessary in democracies, because it is superseded by the availability of nonviolent, civil disobedience.[404] In this sense, the critique extends also to the violent confrontations with staff and students, and melees with the police.

In this chapter, I analyse these claims to assess whether (and when) they rendered violence impermissible. First, I frame these critiques in terms of the Just War conditions of

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[399] *The Final Report by The Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*: 59.

[400] "Annotated timeline of the #FeesMustFall Revolt 2015 – 2016." In Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*: 316 – 27.

[401] Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall*. Johannesburg: Jonathan Ball Publishers, 2019.

[402] Hodes, Rebecca. 'Op-Ed: How Rhodes Must Fall Squandered Public Sympathy', *Daily Maverick,* 20 August 2015. Accessible at https://www.dailymaverick.co.za/article/2015-08-20-op-ed-how-rhodes-must-fall-squandered-public-sympathy.

[403] *The Final Report by the Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*.

[404] Habib, Adam. 'Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests.' *Daily Maverick*, 26 January 2016. Available at https://www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/.

Necessity and *Success* (section 5.2). Next, I outline expositions of these conditions in the Just War literature (section 5.3). I argue that these conditions are best understood as evidence-relative standards that depend upon the reasonable assessment of the relevant agent, and I make a putative case for the reasonableness of *some* Fallist violence (section 5.4). Upon scrutinizing the empirical evidence against political violence, I argue that there is sufficient scope for a reasonable agent to decide in favour of violence in a case like Fallism (section 5.5). Thereafter, I turn to the question of blame, arguing that the victims of unnecessary violence might have reduced grounds for complaint (section 5.6).

5.2. A Problem of *Success* and *Necessity*

So far, this project has explored the possibility that political violence and other disruptive tactics that endanger the rights of others can be framed as defensive action. I take seriously the Fallist claim that their resort to violence is a defensive measure against the 'violence…the system subjects us to.'[405] Even if police officers, government officials, university executives, and the institutions they represent are not the literal 'colonizers' that the students made them out to be, I argue that they can be liable to defensive force nonetheless (see chapters 3 and 4).[406] However, the criticism here is not that the Fallists lacked cause, but that there was no need, and perhaps no instrumental value in turning to violence. This suggests that violence might have been morally problematic because it was both *ineffective* and *unnecessary.* Let me consider each in turn.

There is no clear evidence that the violence of Shackville resolved the immediate housing crisis—instead, it ebbed away at the movement's support and public sympathy. This coheres empirical evidence that suggests that violence is often counterproductive as a strategy towards democratic reform.[407] Violence elicits reactionary responses from dominant groups and institutions.[408] For example, violent riots during the civil rights movement in the USA

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[405] University of the Witwatersrand #FeesMustFall, quoted in Nicolson, Greg. (2016) 'Fees Must Fall: Reloaded'. Daily Maverick, 12 January. http://www.dailymaverick.co.za/article/2016-01-12-fees-must-fall-reloaded/#.Vw9CXmNWdcY.

[406] Manzini, Zinhle. 'Violence is a Necessary Process of Decolonisation.' 2016. *Mail & Guardian*. 2 March 2016. Access at: https://thoughtleader.co.za/violence-is-a-necessary-process-of-decolonisation/. [Accessed on 4 March 2021].

[407] See for example, Chenoweth, Erica & Stephan, Maria. *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. New York: Columbia University Press, 2011; Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013: 271 – 276.

[408] Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review*, 2020: 638 – 659.

increased public perception of the need for 'social control'.[409] Violence also deters potential allies to its cause: political scientists argue that violence creates high barriers to entry for those who might otherwise join a political coalition towards reform.[410] By contrast, the militant and violent measures that preceded Shackville—which included enforcing the shutdown using coercive force and instigating melees with police—were followed by remarkable success, However, it is unclear in that case whether the use of force was a necessary precondition to its success.

The second concern with the violence in Shackville stems from the fact that nonviolence had been effective in making political gains in the earlier stages of Fallism. Escalating violence seems like it was an unnecessary course of action when less violent means was just as, if not more, likely to achieve the desired end. Again, this reflects a more general problem for the use of violence. Empirical research suggests that nonviolent action is effective at persuading members of dominant groups towards reform: whereas violent riots elicited reactionary responses from Whites towards the civil rights movement, nonviolent action of the kind organised by Martin Luther King Jr and Bayard Rustin increased public sympathy for the cause of civil rights (especially when met with police violence).[411] In fact, rather than placing any intrinsic value on nonviolence, critics argue that King's appeal to non-violence was grounded in strategic, instrumental reasons, because he thought it was the most effective means towards change.[412] Nonviolence too, has been shown to be much more effective at building coalitions towards political reform.[413]

5.3. Necessity and Success in the Defensive Framework

These problems, as I suggest in chapter 2, are reducible to considerations for the regulative norms in the defensive framework. Consider again the concern that political violence is futile or counterproductive in achieving its aims. Just War Theory offers a useful framework for thinking about this issue: the on-going debate concerning the condition of *Success*. Grotius first

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[409] Ibid.

[410] Chenoweth & Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*: chs 1 and 2.

[411] Wasow, "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting": 638 – 659.

[412] Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil*. Oxford: Oxford University Press, 2018: 26 – 8.

[413] See Chenoweth, Erica, and Kurt Schock. "Do Contemporaneous Armed Challenges Affect the Outcomes of Mass Nonviolent Campaigns?" *Mobilization: An International Quarterly* 20, no. 4, 2015: 427 – 451.

articulates a version of the principle, arguing that rulers who fail to consider the propensity of warfare to their intended aim risk 'wanton' violence.[414] The principle has subsequently become incorporated into *jus ad bellum*, prohibiting warfare unless it has a 'reasonable prospect of success.'[415] Since this condition does not typically feature in the conditions for defence, reductive individualists have made various attempts to explain *Success* with reference to other conditions more common to defence.[416] These interpretations have produced two kinds of effectiveness criteria.

The first interpretation of *Success* suggests a variable threshold. Some interpretations of the *Proportionality* have focused on the *expected* harm of defensive actions.[417] The expected harm of an action is a product of its magnitude and the probability that it the harm eventuate.[418] According to Jeff McMahan and Thomas Hurka, it is this expected value that matters in determining *Proportionality*: defensive action can only be proportionate if its expected good effects outweigh its expected harm.[419] What constitutes a 'reasonable prospect of success' will thus depend on the magnitude of harm involved. Since individuals can only be liable to proportionate harm, this formulation builds *Success* into liability. As McMahan puts it, 'because the conditions of liability, including a condition of instrumental effectiveness, are internal, a person can be liable to be harmed only when harming him can be expected to have beneficial effects that morally outweigh the harm.'[420]

The second interpretation of *Success* suggests a thin, static requirement for cases of liability and a thicker variable requirement for lesser-evil cases. Once someone has fulfilled

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[414] Grotius, Hugo. *The Rights of War and Peace*, bk. 2, 24, secs. 5, translated by A. C. Campbell. Washington, D.C.: M. Walter Dunn, 1901: 127 - 128.

[415] Statman, Daniel. "On the Success Condition for Legitimate Self-Defense." *Ethics* 118, no. 4, 2008: 659.

[416] Recall that reductive individualists take the position that the rules of warfare are reducible to the rules of violence in other contexts. Traditionalists, like Suzanne Uniacke, argue that *Success* is unique to the rules of war, arguing that it is a precondition to the legitimacy of a political authority that it only engages in war with a reasonable prospect of success. I think there is at least presumptive reason to think this is not true. For instance, it certainly does not seem true in lesser-evil cases: there must certainly be a threshold probability of success if one risks harm to innocents. See Uniacke, Suzanne. "Reasonable prospect of success." in Frowe, Helen, and Gerald Lang, eds. *How We Fight: Ethics in War*. Oxford: Oxford University Press, 2014. For attempts at incorporation see Statman, " On the Success Condition for Legitimate Self-Defense": 659 – 70; Frowe, *Defensive Killing*: ch 5.

[417] Hurka, 'Proportionality in the Morality of War', *Philosophy and Public Affairs*, Vol. 33, No. 1, 2005: 34–66; Jeff McMahan, 'Just Cause for War', Ethics and International Affairs, Vol. 19, 2005: 5.

[418] For example, suppose A plays Russian roulette with six-shooter pistol. If there is a bullet the chamber, A will suffer a harm of X amount if she pulls the trigger. Since the *ex ante* evidence-relative probability of there is a bullet in the chamber is one-in-six, the expected harm of pulling the trigger is one sixth the value of X.

[419] Ibid. For a critical discussion of these accounts see Frowe, *Defensive Killing*: ch 5.

[420] McMahan, *Killing in War*: 25.

the agential condition of liability, Helen Frowe and Kimberley Kessler Ferzan[421] argue that the liable agent has forfeited their right against proportionate defensive force.[422] *Defensive* is the operative word here: Frowe argues that a defender's actions can only count as defensive if the defender believes that they are acting in their own defence.[423] If they do not believe that violence has any prospect of defending against a threat, then their actions cannot properly be construed as defensive. This suggests a condition that is both minimal (since any prospect will do) and subjective in this case.[424] In contrast, in cases where defensive action risks harm to innocents, Frowe argues that a reasonable prospect of success is required for a lesser-evil permission, since the moral reasons for overriding innocents' rights against being harmed will be weaker or stronger depending on the probability that defensive action will produce a preferable outcome.[425]

Let me turn now to the second problem: that violence is less effective compared to nonviolence. The moral issue here is articulated by the condition of *Necessity* in Just War Theory. *Necessity* has conventionally been construed as limiting the use of violence to circumstances in which there is no less harmful means of achieving the same end.[426] Theorists have since refined the condition along two dimensions. The first is to focus not on harms *simpliciter* but instead to morally-weight harms by discounting those harms for which individuals are liable; in other words, when we seek to minimize harm, we should give greater weight to harm to non-liable victims.[427] The second concerns trade-offs between the harm and probability of success: *Necessity* might require means that are more harmful if its prospects of

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[421] To be precise, Ferzan thinks the agential condition is 'defeasibly sufficient' for liability and describes *Success* and *Necessity* as being internal to liability [see See Ferzan, Kimberley Kessler. 'Forfeiture and Self-Defense,' in Christian Coons and Michael Weber (eds.), *The Ethics of Self-Defense*. Oxford: Oxford University Press 2016: 234 – 4.]. For the purposes of this paper, though, I am going to treat her like an externalist, since she gives primacy to forfeiture rather than the instrumental conditions. In this sense, perhaps it is apposite to refer to the distinction as being between 'instrumentalists' and 'non-instrumentalists'.

[422] Frowe, *Defensive Killing*: ch 4.

[423] Ibid: 99 – 102. For a similar exposition, but from a nominally internalist perspective, see Ferzan, Kimberly Kessler. "Justifying Self-Defense." *Law and Philosophy* 24, no. 6, 2005: 711 – 749.

[424] Frowe, *Defensive Killing*: 101 – 102.

[425] Frowe argues that harming innocents must meet both a proportionality condition and a lesser-evil requirement. Per Frowe, proportionality inquiries assume counterfactually that defensive action is successful in its end, thus bracketing questions of success. The lesser-evil condition, by contrast, is sensitive to probability. See Frowe, *Defensive Killing*: 154 – 156.

[426] For a formulation of this view, see Quong, Jonathan. *The Morality of Defensive Force*. Oxford: Oxford University Press, 2020.

[427] Lazar, Seth. 'Necessity in Self-Defense and War'. *Philosophy & Public Affairs*, 40(1) no. 11, 2012. McMahan, Jeff. 'The Limits of Self-Defense'. In Christian Coons and Michael Weber (eds.), *The Ethics of Self-Defense*. Oxford: Oxford University Press 2016: 187 – 8.

averting a threat are sufficiently higher.[428] *Necessity* is therefore not simply about minimizing harm, but rather about minimizing expected morally weighted harm.

The shift in interpretations of Necessity from 'last resort' to 'minimizing harm' is important for the purposes of political violence.[429] As critics of Fallism point out, it is always, in principle, civil disobedience is always open to members of democracies.[430] However, the Fallists were all imbued with the sense that injustice would remain unresolved much longer if they remained civil.[431] The decision to resort to militancy and violence, then, was grounded in the desire to minimize the effects of injustice by correcting it. sooner, even if civil disobedience might eventually have remedied it.

However, this of course assumes that violence would resolve injustice more effectively than nonviolence. The relative effectiveness of political violence has come under serious academic scrutiny recently. In the next section, I argue that violence—particularly of the Fallist kind—is not ruled out by the existing evidence.

5.5. Reasonableness and Fallism

How must we assess *Necessity* and *Success*? In this section, I argue that both conditions depend upon assessments of what is 'reasonable' from the epistemic perspective of the defending agent. This standard is stricter depending on who is affected: when violence affects the interests of innocents, the standard is stricter, whereas the standard is more generous when violence affects only liable individuals.[432]

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[428] To see why this is so, consider McMahan's example of selecting between two means of defending 100 innocent civilians against a threat: 'the first of these means would be certain to save 100 innocent civilians but would also be certain to kill one innocent bystander as a side effect,' whereas 'the other would have an 80 percent probability of successfully defending the 100 civilians but would not kill any innocent bystander.' The expected outcome of the first course of action is that one bystander will be killed, whereas the expected outcome in the second case is that twenty will be killed. Therefore, although the first means is more harmful, its higher prospect of success makes the trade-off worthwhile. See McMahan, Jeff. 'Proportionality and necessity in Jus in Bello'. *The Oxford Handbook of Ethics of War*. Oxford: Oxford University Press, 2018: 439 – 40.

[429] Christopher Finlay makes a similar point in Finlay, Christopher J. *Terrorism And The Right To Resist: A Theory of Just Revolutionary War*. Cambridge: Cambridge University Press, 2015: ch 5.

[430] Habib, Adam. 'Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests.' *Daily Maverick*, 26 January 2016. Available at https://www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/.

[431] Godsell & Chikane. 'The Roots of the Revolution': 102.

[432] Although I will argue this differently, Christopher Finlay makes a similar division in the weighting of interests in his discussion of Necessity. See Finlay, Christopher. 'Rights Worth Dying For: Distributing the Costs of Resistance'. In *Terrorism and the Right to Resist: A Theory of Just Revolutionary War*. Cambridge: Cambridge University Press: 2015: 125 – 54.

Standardly, ethicists in Just War Theory follow Derek Parfit in distinguishing three standards of justification. If X is fact-relative justified, then it is the right thing to do given the facts about the world that actually obtain; if X is evidence-relative justified, then it would be right if the facts were as a particular body of evidence suggested they were; if X is belief-relative justified, then it would be right if the facts were as a particular agent believed them to be.[433] For instance, Doctor must cure patient by administering either Treatment A or Treatment B. Treatment A will actually save patient, but all the evidence suggests that Treatment B will be more effective. Doctor, acting in a hurry, believes that A is the right course. Treatment A is justified in the fact- and belief-relative senses, but not in the evidence-relative sense.[434] As Parfit suggests, which standard we should use depends largely on the purpose of our evaluation.

I argue that the relevant standard for assessing whether defence satisfies *Success* and *Necessity* cannot be a fact-relative. In any case of harmful defensive action, there exists a less harmful alternative that would be available if only one knew all the facts. For instance, suppose Assassin tries to shoot me. if I only knew to take a step to the left at exactly the right moment, I would avoid being shot without harming Assassin. Relative to all the facts, then, any action that would harm Assassin is not necessary, and so shooting him in self-defence would be unjustified. If we accept a fact-relative standard for *Necessity*, the result would be that almost no harmful defensive action can be justified, since there is almost always a less harmful alternative available.[435] The fact-relative standard would also cease to be action-guiding, since it gives the agent no indication *ex ante* of when they should act.

This would clearly be an untenable conclusion, since we think that there are many cases of justified self-defence that do not involve dodging bullets or Vulcan sleeper-grips.[436] The same is true of *Success*: if *Success* is fact-relative justified, then no defence attempts would be permissible if they turn out to be unsuccessful. This too seem untenable: there must be some cases in which agents are permitted to act even if their defence turns out to. be unsuccessful. It is for this reason that both *Necessity* and *Success* are framed in terms of the *expected* value of

[433] Parfit, Derek. *On What Matters* (Vol. I). Oxford: Oxford University Press, 2011: 151 – 3. See also Tadros, Victor. *The Ends of Harm: The Moral Foundations of CriminalLlaw*. Oxford: Oxford University Press, 2011: 217 – 20.

[434] Parfit, *On What Matters*, 151 – 3.

[435] Lazar, Seth. "Necessity in Self-Defense and War." *Philosophy & Public Affairs* 40, no. 1, 2012: 3 – 44.

[436] As Jeff McMahan notes, Mr Spock in Star Trek can harmlessly incapacitate anyone using a special Vulcan grip that is entirely harmless. In light of this fact, all harmful hand-to-hand self-defence immediately becomes unnecessary. McMahan, Jeff. 'Self-Defense and Culpability'. *Law and Philosophy*, *24*(6), 2005: 755.

action: expected value is not an ontic term, but an epistemic denotation about what a particular person does or should believe *ex ante* about a course of action.[437]

Accordingly, I argue that *Necessity* and *Success* must depend either on what the defender believes (as per the belief-relative standard) or what they ought to believe (as per the evidence-relative standard). The first is a purely descriptive standard, based simply upon whether the defender acts upon a good-faith belief. The second is a normative standard: it does not ask what the defender actually believes, but typically asks what a reasonable person in the defender's position would believe.[438] The reasonableness standard therefore assesses whether the defender not only acted in good faith, but whether they have also complied with the right normative epistemic standards.[439] To see where they might come apart, consider the following case:

- *Knuckle-Cracker*: Defender's father and uncles would always crack their knuckles before punching each other and it is the only time she would see anyone crack their knuckles. During an argument with Defender, Innocent cracks his knuckles because his hands hurt. Defender punches Innocent pre-emptively, believing he is about to punch her.

In *Knuckle-Cracker*, one might argue that the idealised reasonable person would have come to a different conclusion and not to punch Innocent, since they would not have understood the knuckle-cracking as evidence of an imminent attack. If so, Defender would have acted impermissibly in the evidence-relative sense, even if she is belief-relative justified, because her beliefs are not reasonable given the evidence.

But what are the correct normative standards by which to measure the reasonable person? TM Scanlon suggests that what is 'reasonable' is idealized according to what a responsible epistemic agent would do.[440] This requires minimally that they form their beliefs without 'bias, motivated reasoning, or culpably bad evidence-gathering.'[441] But if the standard is always this minimal, then Defender would be permitted to punch Innocent. It seems then that

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[437] Ferzan, Kimberly Kessler. "Justifying Self-Defense." *Law and Philosophy* 24, no. 6, 2005: 736; McMahan, Jeff, 'Self-Defense and the Problem of the Innocent Attacker', Ethics 104, 1994: 285.

[438] Ferzan, "Justifying Harm": 744. For a more general description of the 'reasonable person' test, see Gardner, John. "The Many Faces of the Reasonable Person." *Law Quarterly Review* 131, no. 1, 2015: 563 – 584.

[439] Bolinger, Renée Jorgensen. "Reasonable Mistakes and Regulative Norms: Racial Bias in Defensive Harm." *Journal of Political Philosophy* 25, no. 2, 2017: 199 – 200.

[440] Scanlon, Timothy. *Moral Dimensions*. Cambridge: Cambridge University Press, 2008: 52.

[441] Bolinger, "Reasonable Mistakes and Regulative Norms: Racial bias in Defensive Harm": 199 – 200.

we need a thicker standard—at least for cases like *Knuckle-Cracker*. In other cases, the minimal standard does not seem inapt. Consider the following:

- *Balcony*. Killer corners Defender on a second-floor balcony and is about to stab her. Defender has two options: she can jump off the balcony without injury, avoiding conflict; or she can shoot Killer injuring him severely. Suppose there is good evidence that Defender would land safely if she were to jump. However, Defender is abnormally risk-averse when it comes to heights following an abseiling incident, and so she does not trust that she will land safely. She decides instead to kill Killer.

In this case, Defender seems to meet the minimal criterion—although she is particularly risk-averse, this does not seem epistemically culpable or reckless—but she is not a much more commendable epistemic agent than that. Nevertheless, the minimal criterion seems to be enough in this case: Defender does not seem to wrong Killer as she wrongs Innocent in *Knuckle-Cracker*. What then makes the difference?

To resolve this question, it is important to return to the debate about *Necessity* and *Success* in section, with a focus on their connection to liability. Theorists agree that *Necessity* and *Success* require strict evidential standards in cases of lesser-evil harm to innocents; where theorists differ concerns harm to liable agents. Whereas theorists like Frowe and Ferzan apply a belief-relative standard to cases of liability, McMahan and Hurka seem to suggest an evidence-relative standard. The evidence-relative view has potentially problematic consequences. Consider again the Balcony case, in which Killer tries to kill Defender who can easily escape. Since killing Killer is evidence-relative unnecessary, it would be impermissible on this view. All things considered, then, Victim should rather jump than kill Murderer. But what are the other implications of this conclusion?[442] Does Murderer retain his right against

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[442] Frowe, Jonathan Quong and Joanna Firth discuss this problem in relation to the question of internalism and externalism. internalism holds that violence *violates the rights* of those on whom it is inflicted when it is not sufficiently instrumental, whereas externalism holds that such violence is all-things-considered wrong without violating the rights of liable parties (although it can still violate the rights of innocents). Firth, Joanna Mary, & Quong, Jonathan. "Necessity, Moral Liability, and Defensive Harm". *Law and Philosophy*, 31(6), 2012: 673 – 701; as well as Frowe, *Defensive Killing*, 91 – 94. The debate between internalists and externalists assumes that there is a conceptual connection between liability and the instrumental conditions. However, I think that if we lift the veil on the positions in this debate, we find a dispute about the substantive content of liability rather than a truly conceptual dispute about its connection to Necessity and Success. (On this point, see Tadros, Victor. *To Do, to Die, to Reason why: Individual Ethics in War*. Oxford: Oxford University Press, 2020: 166.) To illustrate, consider two positions I have considered: McMahan's Responsibility Account and Ferzan's Forfeiture Account. Per McMahan, the *raison d'être* of liability is to distribute some inevitable quantum of harm fairly between agents with a view to minimizing bad brute luck. ([McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing." *Philosophical Issues* 15, 2005: 386 – 405.]. Given that its aim is *distributive*, the content of this view has instrumentality built into it from the start. By contrast, on

being killed unnecessarily? Can he complain that Victim has wronged him by acting unnecessarily, and can he use force to defend himself from being killed?[443] This would surely be absurd.

First, consider the wrong done to Killer. The wrong in this case does not seem to be that Defender is invading Killer's sphere of non-interference: Killer seems to relinquish his right against non-interference when he tries to kill her.[444] However, the wrong Defender does to him is that she could save his life at reasonably low cost, by jumping off the balcony. Defender therefore does not violate the right that one ordinarily has not to kill another person, but she does fail in her duty of rescue.[445] As Joanna Firth and Jonathan Quong suggest, this right is independent of 'responsible choices' and is grounded instead in the individual's 'urgent need'.[446]

This has important moral upshots for the kinds of rights and claims Killer has against Defender. One has a much weaker right to be rescued than one does not to be killed through interference: Killer would not be permitted, for instance, to kill Defender in defence of her unnecessary attack. He might be allowed to kick her in the shin to save his life, or perhaps push her off the balcony if she will only break a nail, but his defensive rights are much reduced.[447]

Let us return then to the question of what it means to make a 'reasonable' judgment about *Necessity* and *Success*. From the discussion above, I argue that this is calibrated according to whether the action risks the rights of innocents (and how strong the affected rights are) or whether it is a matter simply of beneficence. When others' rights are at stake, we have a much greater epistemic duty to ensure that our actions will avert sufficient harm to offset the infringement of their rights. When someone lacks such a right, by contrast, we should still

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Ferzan's view, liability is meant to 'restore normative balance' between an aggressor, who forfeits their right by attempting a culpable attack, and their victim, whose right to security are at risk of violation. [Ferzan, 'Forfeiture and Self-Defense": 240.].

[443] McMahan has argued that agents like Murderer are more morally responsible than agents like Victim for the situation in which they are ultimately harmed [see McMahan, 'The Limits of Self-Defense': 200 – 2.]. However, as both Frowe and Quong have pointed out, this would create a serious tension in McMahan's position, since it would concede that Murderer can be liable to unsuccessful or unnecessary violence (see Frowe, *Defensive Killing*: 115 – 116, and Quong, *The Morality of Defensive Force*: ch 5).

[444] Firth, Joanna Mary, and Jonathan Quong. "Necessity, Moral Liability, and Defensive Harm." *Law and Philosophy* 31, no. 6, 2012: 673 – 701.

[445] Ibid.

[446] Ibid.

[447] Consider, in comparison, the rights one would have to harm an innocent person for your own rescue. These rights are severely limited, since you are typically using another person (Tadros, Victor. *The Ends of Harm: The Moral Foundations of Criminal Law*. Oxford: Oxford University Press, 2011: ch 5).

refrain from making reckless decisions, but we are not under a similarly strong epistemic duty. In the next section, I discuss these conclusions in the context of Fallism.

If the relevant standard is 'reasonableness,' as I suggest, then I argue that there is a putative case for the reasonableness of the earlier militant action by the Fallists—including forcefully ejecting staff and students from campus, and inciting melees with the police—but not for the violence of Shackville.

First, consider the fact that students had, in the past, attempted nonviolent means of engaging with universities: a process that students found frustrating and fruitless, given that these 'tempered discussions' never seemed to achieve any results.[448] Militant action therefore was not a hasty first resort, but rather premised on the perceived failures of nonviolence. During Shackville, by contrast, violence escalated rapidly: the Fallists took the initiative in firebombing offices and threatening the university crèche despite the prior success of lesser, albeit militant, means during the earlier phases of Fallism.

Second, prior to Shackville, the Fallists paid close attention to the rights of those innocents that would be affected. The initial structure of Fallism was to host plenary sessions, open to all students, who could come to debate the strategy and tactics of the movement.[449] The movement, at this point, espoused a non-hierarchical structure of leadership in which all students were free to participate. In this sense, those students who would have their education affected by the shutdown were able to provide input and perhaps even some tacit consent.

Part of the problem with Shackville was that, although it nominally sought to defend poor Black students, the Fallists at Shackville did so without the consent of those they represented. As Christopher Finlay argues, this action risks depriving those students of their autonomy: it was open to the students to choose whether they preferred to return to class or to continue the struggle to meet all their demands.[450] Students had already begun to query the effectiveness of any escalation of violence, and many sought a return to normalcy.[451] Absent their consent, the rights transgression they suffered becomes weightier, and imposes upon the Fallists a more demanding epistemic criterion—one which Shackville failed to meet.

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[448] Godsell, Gillian, & Chikane, Rekgotsefetse. "The Roots of the Revolution" in Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

[449] Booysen, Susan. 'Two Weeks in October: Changing Governancein South Africa,' in Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

[450] Finlay, Christopher J. *Terrorism And The Right To Resist: A Theory of Just Revolutionary War*. Cambridge University Press, 2015: ch 5.

[451] Godsell & Chikane. 'The Roots of the Revolution': 102.

Lastly, consider the action that the Fallists took against liable targets, which I have argued (in Chapters 3 and 4) included staff and students who did not comply with the shutdown, and riot police. Given the discussion in 5.4, I suggest that the relevant standard by which to judge their actions is whether they were minimally responsible epistemic agents. The decisions to use force against noncomplying students and staff or riot police do not strike me as obviously poorly motivated or irrational. There is a rational connection between the use of force and the defensive aims of the Fallists in both cases: it was only when the students and staff obstructed the shutdown, or the police obstructed protests that the Fallists turned to violence.

Given the above, I argue that the Fallists likely fulfilled the reasonableness criterion in its actions prior to Shackville, but not during Shackville itself. However, one might object nonetheless that the preponderance of empirical evidence should have precluded any reasonable person from undertaking a militant or violent campaign, as the Fallists did. In the next section, I consider the empirical evidence to show why, despite its headline findings, it nevertheless leaves enough scope for movements like Fallism reasonable to use violence.

5.4. Assessing the Empirical Evidence

It is worth returning to the empirical evidence against violence. If the evidence is indeed overwhelming, then this would have damning implications for the permissibility of violence, because it would be difficult for a reasonable agent to ignore. However, in this section I argue that there is enough ambiguity within the empirical evidence that an epistemically responsible agent—particularly in a case like Fallism—might reasonably believe violence to be necessary and effective.

Recent empirical surveys by political scientists—including Erica Chenoweth, Maria Stephan, Kurt Schock, Kathleen Gallagher Cunningham, and Omar Wasow—suggest a general statistical correlation between violence and the achievement of a movement's political goals.[452] This evidence suggests that violence is generally less effective than nonviolent political action. However, I argue that this evidence should be informative in determining the necessity of

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[452] Stephan, Maria, and Chenoweth, Erica. "Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict." *International Security* 33, no. 1, 2008: 15. See also Chenoweth, Erica, and Maria J. Stephan. "Drop Your Weapons: When and Why Civil Resistance Works." *Foreign Affairs.* 93, 2014; Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013: 271 – 276; Chenoweth, Erica, and Kurt Schock. "Do Contemporaneous Armed Challenges Affect the Outcomes of Mass Nonviolent Campaigns?" *Mobilization: An International Quarterly* 20, no. 4, 2015: 427 – 451; Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review* 114, no. 3, 2020: 638 – 659.

violent action, but it is not decisive. This section considers these prominent empirical surveys in greater depth to map out their limitations. My intention here is not to dispute these surveys or their conclusions, but rather to argue that the evidence alone does not rule out the necessity violence, particularly in a case like Fallism.

Although violent political movements might, overall, be less effective than nonviolent movements, it is necessary to take a more granular approach to the evidence in assessing the necessity of violence in any particular case. By comparison: it might be true that, in general, requesting police intervention is more effective against would-be assailants than resorting to self-defence. But this alone does not render self-help unnecessary, because there are clearly cases in which police intervention will be less effective—the common law requirement that limits self-defence to cases of 'imminent' attack provides a useful heuristic for this set. Similarly, I shall argue that, despite the general findings of empirical findings, there remains a set of cases in which defensive political violence might remain necessary.

Despite the headlines of the empirical surveys I have mentioned, a granular analysis suggests that the evidence against violence of the Fallist kind is considerably more modest. In Chenoweth and Stephan's research, for instance, violent movements have a success rate of 26%, compared to 53% for nonviolent movements, but this survey codes movements as 'violent' only if violence was central to their strategy—movements that merely have violent flanks, like the ANC, are coded as 'nonviolent'.[453] The efficacy differential narrows when one compares predominantly nonviolent movements appended by violent flanks (like the anti-apartheid movement) to those that are totally nonviolent—a more salient comparison for assessing Fallism, since the movement was largely peaceful (albeit confrontational), even if its more radical elements often spilled over into violence. Here, the respective efficacy rates are 46% and 60% in favour of total nonviolence—hardly a death knell for violence.[454]

Importantly, the above evidence does not mean that total nonviolence always has a fourteen-percentage point advantage over violent flanks, which would still render violence less effective and therefore unnecessary in all cases. John Braithwaite's in-depth study of the South African case suggests that the difference in effectiveness might depend upon how a movement

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[453] Chenoweth and Stephan, "Drop Your Weapons: When and Why Civil Resistance Works." 93 – 9.
[454] Schock and Chenoweth, 'Do Contemporaneous Armed Challenges Affect the Outcomes of Mass Nonviolent Campaigns?', 435. See also Schock, Kurt and Chenoweth, Erica. 'Radical Flank Effects and the Outcomes of Civil Resistance Movements'. *Fletcher Summer Institute*, 2012. Available at http://www.slideshare.net/NonviolentConflict/fsi2012-radicalflank-effects.

manages its violent flank.[455] When a nonviolent movement manages its relationship to its flank correctly, the flank can serve as a useful spoiler that provides the movement with political leverage; when mismanaged, the flank can become unduly costly to the movement's appeal.[456]

Statistical evidence alone, therefore, does not support the claim that the use of violence is uniformly ineffective (compared to nonviolent alternatives). Rather, there is sufficient variation in the evidence to leave open the possibility that violence can, under particular circumstances, be more effective when properly managed. More generally, given the iterative and complex histories of political causes, the relationship between violent and nonviolent action towards the same end is difficult to delineate with precision—as Avia Pasternak has suggested in her analysis of rioting, even seminal cases of nonviolence, like Martin Luther King Jr's campaign, might owe some of their success to the spoiler effect of their violent and uncivil counterparts (in the particular case in question, the suggestion is that it might have been Malcolm X's minatory rhetoric that encouraged White Americans willingness to engage with King).[457]

Next, it is worth examining in closer detail the reasons that political scientists adduce to explain the efficacy of nonviolence. I want to focus here on broadly two suggestions by political scientists: first, that nonviolence has a greater capacity for building broad coalitions, whereas violence imposes more demanding barriers to coalition for potential supporters; second, that violence is less effective at achieving political change because it alienates influential actors and institutions, including members of the political and economic elites, the press, the armed forces, and foreign governments, whereas nonviolence is more likely to win their recognition and sympathy.[458] I do not dispute either of these empirical claims, but I shall argue first that they are of diminished application in cases like Fallism.

It is easy to see why building broad coalitions and persuading dominant actors are important means towards maximalist aims—including for movements that aim at 'self-determination, the removal of an incumbent leader, or the expulsion of a foreign military

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[455] Braithwaite, John. 'Rethinking Radical Flank Theory: South Africa'. *RegNet Research Paper* no. 23. 2014.

[456] Ibid.

[457] Pasternak, Avia. "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018: 393.

[458] Chenoweth and Stephan. "Drop Your Weapons: When and Why Civil Resistance Works": 95 – 7. Wasow also argues that elite media is more likely to report sympathetically on nonviolent action, and that dominant groups are accordingly more likely to recognise a movement's cause as a result (see Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review* 114, no. 3, 2020: 638 – 659).

occupation,' which make up the bulk of Chenoweth and Stephan's survey.[459] This kind of largescale reconfiguration of the state typically requires the cooperation and recognition of a large number of actors and institutions, including the 'defection' of members of the elite.[460] To take the example of the ANC, the campaign to end minority rule required that the apartheid establishment and white minority cede power to the Black majority lead by the ANC, which was driven largely by international sanctions and foreign recognition of the legitimacy of the ANC.[461] International action was delayed largely by international fears that the ANC was a terrorist organisation, rather than a legitimate government-in-exile. The transition too depended upon convincing the white minority to enter into talks with the ANC, and for the apartheid regime effectively to cede power by agreeing to a new constitution and democratic elections. Without the peaceable assurances of the ANC, and its mostly nonviolent action, it is unlikely that it would have had the international support, domestic buy-in, or stable climate in which to achieve the cession of power and the institution of a new democratic framework.[462]

However, it not clear that this explanation should be instructive to campaigns like Fallism: although Fallism took inspiration from revolutionary movements and writers, its explicit objectives were minimalist and achievable within the extant legal and political framework of the South African state. Fallism did not seek to displace the existing regime and sought only for the government to acquiesce to its specific policy demands. Unlike the ANC during apartheid, it was not important to its ends that foreign governments recognise Fallism, or that members of the existing regime defect. It is also not clear that a large base of popular support was necessary for the Fallists' ends: indeed, Fallism won its most tangible victories—the President's announcement of a tuition freeze, the insourcing of workers, and the establishment of a parliamentary commission—as leaders in government and universities took executive action to quell the pressure that a relatively small number of students exerted through shutdowns, aggressive protests, and riots. The proffered explanations for violence's ineffectiveness therefore struggle to gain traction in such a case.

To recap the argument so far: although empirical surveys provide a useful set of considerations against the necessity violent action, the evidence does not preclude the possibility that violence might still be more effective in some cases; this insight is particularly

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[459] Chenoweth and Stephan. "Drop Your Weapons: When and Why Civil Resistance Works": 95.
[460] Ibid.
[461] Ibid: 97.
[462] For more discussion on this example, see Braithwaite's analysis in "Rethinking Radical Flank Theory: South Africa". Chenoweth and Stephan make a similar point regarding the ability of political movements to govern democratically after transition.

salient to cases like Fallism, in which political scientists' more general reasons for nonviolence's efficacy do not obviously apply.

5.6. Necessity, Success, and Blame

Perhaps one might object to my arguments so far and think that the violence of Fallism—both before and during Shackville—was unnecessary or too ineffective. This would mean that violence was impermissible. However, it is not only important to assess whether violence was indeed impermissible, but also to consider who might reasonably claim against unnecessary or ineffective violence. In this section, I argue that there is a distinction between assessments of impermissibility and *blame*: blame is an action, only to be rightfully undertaken by those with the relevant standing to do so.

Suppose that the riot police or the noncompliers during the shutdown were to blame the Fallists for their use of violent force. Such a complaint would ring particularly hollow, given its hypocrisy. We can claim that liable agents, who contribute to injustice, lose their *standing* to complain about the Fallists' conduct. Although they might technically be correct about the impermissibility of the violence, I argue that their claims against it are of little moral value.

To understand this problem, consider the function of blaming someone for impermissible conduct.[463] On the most views of blaming, the purpose of blaming is not simply to express a judgment about the moral facts as they are (it is not simply a matter of claiming that Victim has done wrong) but also to express an intention or desire, or to communicate protest at the blamee's actions, such as the desire that Victim had used her moral capacities differently in this case.[464] The problem with hypocritical blame is not that the hypocritical blamer is incapable of accurately appraising the moral facts about another's conduct, but rather that they are incapable of expressing the conative content of blaming in good-faith: for instance, Killer in *Balcony* cannot sincerely wish that Defender would have acted differently, since he acted contrary to the standard against which he holds Defender.

Blame, in this sense, requires not only an accurate epistemic judgment, but also an appropriate sense of 'self-scrutiny' that is lacking in the hypocritical blamer.[465] In this case, it

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[463] Consider, for example, TM Scanlon's view that to blame another is to adjust one's attitude towards them in response to an impairment of the moral relationship you share Scanlon, Timothy. *Moral Dimensions: Permissibility, Meaning, Blame*, Cambridge, MA: Harvard University Press, 2008.
[464] Sher, George. *In Praise of Blame*, Oxford: Oxford University Press, 2006.
[465] Wallace, R.J, "Hypocrisy, Moral Address, and the Equal Standing of Persons", *Philosophy & Public Affairs*, 38, 2010: 307 – 341.

is because Murderer has an even greater disregard for Victim's well-being that he cannot with any sense of consistently express disappointment at her lack of beneficence.

Even if, contrary to the arguments I suggest in the preceding sections, we think that a the Fallists acted impermissibly in deploying violence, this section suggests that the appropriate reactions to their conduct might not be what we would expect. It would mean that those who are implicated in institutional injustice have a diminished capacity to blame protestors for their violence. As Ted Honderich suggests in his analysis of the similarities between injustice and violence, the protestors can readily respond '*tu quoque*' to any critic that is complicit in serious injustice.[466] The IRTC report following Fallism at UCT, for instance, found that the university executive acted with a callous disregard for the well-being of poor and homeless students.[467] Given these findings, the complaint that the Fallists did not act with sufficient beneficence when they committed unnecessary harm is likely to seem hypocritical when emanating from members of universities that do not care about 'Black bodies', unless they have proven themselves sufficiently self-scrutinizing.[468] This does not make the protestor's conduct permissible, but it is politically and morally consequential, nonetheless.

This, of course, does not immunize protestors from blame: as in the case of Fallism, it is possible for critics within the movement, within the community it represented, and outside of unjust institutions to blame those Fallists who acted impermissibly by committing harm, since they are free of the inconsistencies that might undo others' ability to blame. It also should not mean that members of the institution are morally incapacitated: even if they lack the standing to blame the Fallists, they might nevertheless make considered moral appeals to them that call for an end to violence whilst recognising their own complicity in wrongdoing (and, presumably, taking sincere measures of remedy). However, this would be an appeal to the conscience and beneficence of the Fallists, rather than a demand that they respect the rights of others.

5.7. Conclusion

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[466] Honderich, Ted. *Violence for Equality (Routledge Revivals): Inquiries in Political Philosophy*. Oxford: Routledge, 2014. See also Coady, Cecil Anthony John. "The Idea of Violence." *Philosophical Papers* 14, no. 1, 1985: 2 – 4.

[467] *The Final Report by the Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*. Cape Town: University of Cape Town, 2016.

[468] Nyamnjoh, "The Phenomenology of Rhodes Must Fall: Student Activism and the Experience of Alienation at the University of Cape Town": 261.

In this chapter, I have attempted to deflate some of the concerns about the necessity of violence—particularly those that suggest that violence is never necessary in democracies. I have argued that the empirical evidence alone does not bear out this claim, and that it is possible for individuals to decide reasonably to pursue violence if they act with due epistemic responsibility. Moreover, even if violence fails *Necessity* and *Success*, I argue that others have limited standing to blame the agents of violence when they themselves are complicit in injustice.

Specifically, I conclude too that violence prior to Shackville was necessary, whereas the violence of Shackville was not. I return to this finding in the conclusion of this dissertation.

Chapter 6: Violence and The Expression of Self-Respect

6.1. Violence and Black Pain

When Chumani Maxwele threw a bucket of feces over a statue of Cecil John Rhodes, he claimed to be acting out of black pain—the feelings of alienation and suffering produced by systemic oppression.[469] Attributing the cause of black pain to the University of Cape Town (UCT) as an institution, Maxwele leaned a placard against the statue that read, "Exhibit White Arrogance @ UCT." The feces, supposedly collected from pit latrines in the Black township of Khayelitsha, represented the degradations that Black people continued to suffer since the end of apartheid. Maxwele's protest, he claimed, was not only a means of galvanizing political support; it was itself a way to defend the dignity of Black people by undermining a symbol of oppression.[470]

Thus far, this dissertation has considered criticisms of the Fallists' political violence against injustice, where that violence was aimed at correcting or preventing further material injustice, including exclusion from university, a lack of social mobility, homelessness, and the connection between these phenomena and the grinding poverty that plagues so many Black South Africans. In this chapter, I pivot to consider a concurrent claim that some Fallists made: that they were not only defending themselves against material injustice, but that they sought to protect themselves from immaterial harm to their dignity, self-respect, and honour.

In this chapter, I argue that the most plausible way of understanding this claim is as a claim about the *expressive* value of certain acts of violence, which assert our value as a means of restoring or protecting our *self-respect*, which is jeoparised by systemic injustice. This argument has gained traction in Just War Theory, in which theorists have applied it to cases of seemingly futile defence against culpable aggressors and explicitly oppressive regimes. In cases where victims have no prospect of defending themselves against material harm, this argument suggests that they might still permissibly harm their aggressors to redeem or protect their immaterial goods.

In this chapter, I consider this argument in the context of Fallism. Pervasive, racialized injustice undoubtedly undermines the immaterial goods of Black South Africans. However, I argue that this argument has limited traction insofar as it is meant to justify violence: it faces

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[469] Maxwele, Chumani. 'Black Pain Led Me to Throw Rhodes Poo'. *Business Day*, 16 March 2016. Available at https://www.pressreader.com/south-africa/business-day/20160316/281883002451263.
[470] Ibid.

serious *Proportionality* and *Necessity* constraints that would seriously minimize the kind of violence it can justify.

6.2. The Puzzle of Futile Defence, and Futile Resistance

Just War Theorists have recently sought to resolve a puzzle in the ethics of defence, the Puzzle of Futile Defence.[471] Recall that *Success* stipulates that defensive force is only permissible if it has a reasonable prospect of success. This condition is entailed by *Proportionality* and *Necessity* (since futile force cannot achieve ends proportionate to the harm it causes, nor can it minimize overall harm if it lacks instrumental value); but it is also entailed by the definition of defence: if an action cannot plausibly defend anything against harm, then it cannot coherently be called 'defensive'.[472]

Despite the plausibility of the condition, there are some instances of futile defence that are clearly justified. Consider the following case

- *Wrist-breaking:* Jones is going to break Smith's legs for fun because Jones is a sadist. Jones is much stronger than Smith and will certainly succeed. Smith cannot stop Jones from breaking his legs, but he can break his wrist. Unluckily, Jones is sufficiently sadistic that he will persist through the pain and break Smith's legs anyway.[473]

I take it as self-evident that Smith is permitted to break Jones's wrist. However, since the wrist-breaking would cause unnecessary harm to Jones without any prospect of saving Smith, it seems his defence fails to fulfil the condition, and is therefore impermissible.

This case is exemplary of a number of real-world cases in which we have similar intuitions: perhaps most poignantly, Daniel Statman argues that the Jewish resistors in the Warsaw Ghetto—which participants knew was destined to fail—were evidently permitted to fight their Nazi captors despite the inevitability of their defeat.[474] The task then for Just War theorists is to find an explanation that reconciles our intuitions about these cases with our

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[471] The original exposition of this problem is in Statman, Daniel. "On the Success Condition for Legitimate Self-Defense." *Ethics* 118, no. 4, 2008; See also Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Press, 2014; Ferzan, Kimberly Kessler. "Defending Honor and Beyond: Reconsidering the Relationship Between Seemingly Futile Defense and Permissible Harming." *Journal of Moral Philosophy* 15.6, 2018: 683 – 705; Bowen, Joseph. "Necessity and Liability: On an Honour-based Justification for Defensive Harming." *Journal of Practical Ethics* 4, no. 2, 2016.
[472] Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Prress, 2014: 99 – 102. For a fairly similar exposition, but from a nominally internalist perspective, see Ferzan, Kimberly Kessler. "Justifying Self-Defense." *Law and Philosophy* 24, no. 6, 2005: 711 – 749.
[473] This is a reformulation of a case presented in Firth & Quong, 'Necessity, Moral Liability, and Defensive Harm,' 694 – 6.
[474] Statman, "On the Success Condition for Legitimate Self-Defense": 668.

commitment to Success or at least to effectiveness as a subsidiary condition of Necessity and Proportionality.

Reconciling these two imperatives, Just War theorists argue, lies in recognizing that violent force does not need to prevent physical or emotional harm to be defensive. Instead, defence can be aimed at protecting immaterial goods that relate to our esteem, namely moral standing,[475] honour,[476] dignity,[477] or self-respect.[478] The basic argument here is as follows: when an aggressor violates their victim, they not only cause them primary physical harm, but also cause a parasitic, secondary harm to the victim's honour, dignity, or self-respect. The secondary threat is grounded in the aggressor acting with 'inappropriate lack of regard' towards the victim.[479] In a case like that of *Wrist-breaking*, Smith faces two threats: the 'primary threat' of murder and a 'parasitic threat' occasioned by Jones refusal to recognize Smith's moral status as an end in himself.[480] Even if they fail to avert the primary harm, victims can nonetheless avert or rectify the secondary harm by undertaking defensive action. So, to return to the example, Smith cannot save his legs by breaking Jones's wrist, but breaking Jones's wrists will defend Smith against the secondary harm to his honour. His defence is therefore not futile—it is, in fact, effective defence and potentially necessary defence of his honour—and so the dilemma seems to be resolved.

6.3. Reconsidering the Solution

Despite its seemingly tidy appearance, there are a few features of the proposed solution that are conceptually troublesome. First, moral properties like moral standing and dignity are not properties that we can *lose*—they are immutable features of being a particular kind of being (i.e., a rational, autonomous one).[481] It would be anathema to the idea of moral standing to suggest that it is something that others can deprive of me. Smith, upon having his legs broken,

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[475] Frowe, Helen. "The Role of Necessity in Liability to Defensive Harm." In Coons, Christian & Weber, Michael (eds.), *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016.

[476] Statman and Frowe frame their justification in terms of honour. See Statman, " On the Success Condition for Legitimate Self-Defense"; Frowe, *Defensive Killing*, 109 – 16.

[477] McMahan, Jeff. "The Limits of Self Defense". In Coons, Christian & Weber, Michael (eds.), *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016.

[478] Bazargan-Forward, Saba. "Dignity, Self-Respect, and Bloodless Invasions." In Strawser, Bradley, Jenkins Ryan, and Robillard, Michael (eds.). *Who Should Die?: The Ethics of Killing in War*. Oxford: Oxford University Press, 2017: 142.

[479] Frowe, *Defensive Killing*: 110.

[480] Statman, "On the Success Condition for Legitimate Self-Defense": 668; Frowe, *Defensive Killing:* 109 – 110.

[481] Statman, " On the Success Condition for Legitimate Self-Defense": 669.

does not thereby lose some part either of his dignity or his standing. It is not clear then what he is defending when he breaks Jones's wrists, if there is no loss that he suffers (besides his wrists).

If we suppose that aggressors do diminish victims' honour or dignity when they attack them without appropriate regard for their status, then futile defence remains futile: in the case of Smith, Jones proceeds to break his legs with little regard for his status anyway. One can argue that Smith forces Jones to care about his status by harming him, but this would be unsatisfyingly contingent: it would mean that Smith is permitted to break Jones's wrist if he is slightly empathetic and might change his mind about Smith's status, but he is not permitted if Jones is a psychopath. Perhaps we then want to say that Smith only suffers the harm to his immaterial goods when he is attacked without putting up a fight. Besides being ad-hoc, this would also be undesirable: it would render Smith complicit in the harm to himself by making his inaction its proximate cause.

It seems then that thinking about futile defence in terms of defending some object is conceptually problematic. In her discussion of the problem, Frowe suggests implicitly that what is going here is not defence in the sense we otherwise use the term, but instead something communicative: she claims that by performing futile defence, a victim 'try to convey…a refusal to be passive, a refusal to be complicit, a means of asserting oneself as a person worthy of better treatment.'[482] Similarly, Statman claims that, when a person acts in futile defence, they 'show themselves to be men (or women) of honour.'[483] Both of these formulations suggest that the purpose of the putatively defensive action is not to 'defend' in the narrow sense, but rather to 'show' or 'convey' in an expressive sense.[484]

When an action is motivated or best explained by a particular attitude, this attitude provides expressive content to the action.[485] In the case of futile defence, it is the attitude that 'X is valuable end in themselves and is not worthy of this treatment.' This is a reply to the implied expressive content of the aggressive action: 'X is not worthy of respectful treatment.' Conceiving of the futile defence in these terms is instructive in understanding the preventative, corrective, and ameliorative ends it might serve. Consider first the possible audiences for the

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[482] Frowe, Defensive Killing: 113. Cited in Ferzan. "Defending Honor and Beyond: Reconsidering the Relationship Between Seemingly Futile Defense and Permissible Harming": 693 – 4.
[483] Statman, "On the Success Condition for Legitimate Self-Defense": 679.
[484] Ferzan, Kimberly Kessler. "Defending Honor and Beyond: Reconsidering the Relationship Between Seemingly Futile Defense and Permissible Harming": 684 – 7.
[485] Anderson, Elizabeth, & Pildes, Richard. "Expressivism: A General Restatement." *University of Pennsylvania Law Review*, 2000: 1509 – 20.

expression: the defender might be addressing their aggressor, themselves, an actual third-party, or an imagined third-party.

In addressing the aggressor or third-party potential aggressors, the implied message might be preventative: 'do not treat me (or anyone) like this again;' in which case it serves the defensive end of preventing future harm. It might, otherwise, be aimed at recognition: by expressing the attitude to the aggressor, the victim demonstrates to him why he is wrong to have treated her inconsistently with her status.[486] In this case, what is at stake is not our dignity or honour, since those are immutable; rather, what is at stake is our *recognition respect*: the entitlement to be treated consistently with our moral status.[487] It is of course too late in the case at hand (Smith can retroactively undo Jones's recognition disrespect by breaking his wrist), but the expressive measure holds the promise of preventing future instances of the offending behaviour. Of course, this reintroduces the possibility that the defence will be futile or counterproductive towards this end—suppose the wrist-breaking only convinces Jones further that Smith is worthless and only fit for physical abuse. Alternately, one might think that it the communication alone is what is worthwhile, regardless of whether it is received.

In addressing themselves or third-party victims of similar mistreatment, the end of futile defence might be to reassert that they are persons of value and that the treatment they are receiving is inconsistent with their status. If so, it is again not their dignity or honour at stake, since those presumably persist regardless even of what they think of ourselves. Rather, it is their self-respect: when someone is mistreated—particularly when they are persistently mistreated—their own estimation of themselves can deteriorate.[488] A lack of recognition respect is not simply something that remains external to us; if we are continually denied recognition respect, this can become internalised and so we too begin to doubt our value relative to others—it affects our basal self-respect, which is our fundamental regard for ourselves as agents.[489] As John Rawls claims, there is an 'intimate connection with our person and with those upon whom we depend to confirm the sense of our own worth.'[490] The harm then is not that their status actually diminishes, but rather that their inner conception of their status declines.

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[486] For responses to this view, see Tadros, Victor. *The Ends of Harm: The Moral Foundations of Criminal Law*. Oxford: Oxford University Press, 2011: 99 – 108.

[487] Bazargan-Forward, "Dignity, Self-Respect, and Bloodless Invasions.": 154; Dillon, Robin. S. "Self-Respect: Moral, Emotional, Political". *Ethics*, 107(2), 1997: 242.

[488] Ibid: 242.

[489] Dillon, "Self-Respect: Moral, Emotional, Political": 242.

[490] Rawls, John. *A Theory of Justice*. Cambridge, MA: Harvard University Press, 1971: 389.

A diminishment of self-respect is not only bad for its own sake: it has deleterious consequences for our ability to live flourishing lives. If, through the neglect or abuse of others, we are convinced that we are of no value, we lose our most fundamental agential capacities to plan our lives in ways that we find meaningful, and to execute them with confidence and a sense of deep satisfaction.[491] Recall that this capacity for practical reason is a necessary condition for a *flourishing* or *decent* life—one that is not only biologically persisting, but one that is meaningful and deserving of human dignity.[492] Although we would survive without it, we would suffer a 'degenerating sense of nobodiness.'[493] For this reason, Rawls regards self-respect as a primary good: we not only need self-respect to lead decent lives; we are also owed conditions amenable to our self-respect as a matter of justice.[494]

When the expressive content of aggression denies our worth, the purpose of futile defence then is to refute this content, both for our own sake and for others, so that we can maintain the self-respect to live a good life and insist that others treat us accordingly.

6.4. Injustice and Self-Respect

It is not only interpersonal aggression that can be laden with expressive content, or that can diminish our self-respect. Injustice, particularly institutional injustice, can express recognition disrespect for institutional subjects, and emaciate their basal self-respect.[495] As I suggest in Chapter 1, some apologists for Fallism, like Dr Mbuyiseni Ndlozi, sought to redefine the ambit of 'violence' to include a host of injustices imposed upon Black South Africans by the 'white world'.[496] 'Violence', in this sense, is structural: it includes all of the effects of injustice that undermine the dignity of Black people. Fallists, too, recognised that it was the 'violent system of power' that caused the loss to their dignity and that had to be confronted.[497]

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[491] Ibid: 386.

[492] Nussbaum, Martha. *Women and Human Development: The capabilities approach* (No. 3). Cambridge: Cambridge University Press, 2000; Nussbaum, Martha. "Capabilities as Fundamental EEntitlements: Sen and Social Justice. *Feminist Economics*, 9 (2 - 3),2003: 33 – 59; Sen, Amartya. "Well-Being, Agency and Freedom: The Dewey lectures 1984. *The Journal of Philosophy*, *82* (4), 1985: 169 – 221.

[493] Ibid, 348; King Jr, Martin Luther. "Letter from Birmingham Jail." *UC Davis Law Review* 26, 1992: 839.

[494] Ibid.

[495] Bazargan-Forward, Saba. "Dignity, Self-Respect, and Bloodless Invasions."

[496] Ndlozi. 'In Defence of Black Violence'.

[497] Nyamnjoh, Anye. 'The Phenomenology of Rhodes Must Fall: Student Activism and the Experience of Alienation at the University of Cape Town.' *The Strategic Review for Southern Africa*, 39(1), 2017: 261. Nyamnjoh cites a claim by activists of Rhodes Must Fall that "Our existence as black people is defined by a violent system of power."

Explicitly oppressive and discriminatory laws and policies have a damaging effect on self-respect.[498] Consider the policy of apartheid, which reserved superior education, employment, and services for White people, and consigned Black people predominantly to unskilled labour, inadequate education, and indecent living conditions—the programme of apartheid was to 'prepare the black man for the subservient role in this country.'[499] The ideological superstructure that supported this segregation was denigrated Black people, depicting their culture as primitive and casting them as intellectually inferior to justify their subservient position—an ideological view that was dynamically reinforced by the dearth of their opportunities for betterment.

Anti-apartheid thinker Steven Bantu Biko argued that an evil equal in force to the material deprivations of apartheid was the 'spiritual poverty' occasioned by the systemic denigration that Black people suffered.[500] A state of spiritual poverty, per Biko's description, approximates a total absence of basal respect: it leaves 'a man only in form…a shell, a shadow of a man, completely defeated.'[501] Biko's suggestion here is that the structure of apartheid imbued Black people with the abiding sense of inferiority: that they were not intelligent enough for university educations or non-manual labour; that their culture was backwards; that they were less beautiful, less good, and less valuable than whites.[502]

This wrong persisted after apartheid: although the democratic state and its institutions are not explicitly motivated by a lack of respect for Black people, the expressive content of their institutional norms and design nevertheless conveys the attitude that Black people are not of equal status. In the case of the University of Cape Town, for instance, the commission established following an agreement with Fallist leaders found that the policies of the university were implicitly racist, and perpetuated the inferior status of Black students.[503] Despite its corrective duties, the university had failed to correct the features of its institutional design that

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[498] Ibid, 165.
[499] Biko, Stephen Bantu. 'We Blacks'. In ed. Aelrad Stubbs, *I Write What I Like*. 8, no. 3, 1978: 27 – 28.
[500] Ibid, 28.
[501] Ibid, 28.
[502] Ibid.
[503] The Institutional Reconciliation and Transformation Commission (IRTC) report investigating the housing crisis following the events of Shackville found not only that the university policy unduly favoured white students, but that the university had never bothered inquiring into the issue of homelessness despite several reports that indicated a looming crisis and peaceful protests by students that tried to call attention to the issue. *The Final Report by the Institutional Reconciliation and Transformation Commission (IRTC) of the University of Cape Town*. Cape Town: University of Cape Town, 2016.

financially excluded and culturally alienated Black people.[504] Although it did not intentionally dominate Black students, the university's design locked them into a position of unilateral deference, in which they subjected themselves to the authority of the university but received insufficient responsibility over its functioning in return.[505] Without intending to denigrate the students, this structure nevertheless eroded their sense of self-respect, as they were at the whim of an institution that had little regard for them. Despite their duty of pastoral care towards their students, poor Black students scarcely featured in the university's deliberations as they should have, and certainly did not feature as prominently as White students.

Given their disappointment with the democratic dispensation, many Fallists embraced Biko's philosophy of Black Consciousness.[506] During apartheid, when the organisations affiliated with the ANC (at that time a banned party) espoused non-racial politics in their resistance to the state's segregationist policies; by contrast, Biko explicitly rejected non-racialism as harmful to the cause of Black liberation, because it ignored the problem of spiritual poverty.[507]

Biko's suggested curative to spiritual poverty was Black Consciousness, which was aimed at (a) recognising the political, social, and economic structures that conditioned Black inferiority; (b) establishing a strong Black solidarity, so that Black people could form a positive and proud Black identity; and (c) freeing themselves of the symbolic structures of whiteness that undermined their value.[508]

Biko's main recommendations to these ends were the formation of Black-only political movements and casting off the restraints of white supremacy.[509] Fallists have subsequently reinterpreted Black Consciousness though to include a broader range of confrontational and even violent tactics. Dr Mbuyseni Ndlozi, spokesperson of the Economic Freedom Fighters and apologist for Fallism, invoked the dignity of Black people in defending Fallists who

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[504] Godsell, Gilian, & Chikane, Rekgotsofetse. "The Roots of the Revolution." In Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa.* Johannesburg: Wits University Press, 2016: 54 - 73.

[505] Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil.* Oxford: Oxford University Press, 2018: 174 – 187.

[506] Biko, Steve. *I Write What I Like: Selected Writings.* Chicago: University of Chicago Press, 2015 [1972].

[507] Biko, Steve "White Racism and Black Consciousness" in *Student Perspectives on South Africa.* Cape Town: David Philip Publisher, 1978.

[508] Ndlozi, Mbuyiseni. 'In Defence of Black Violence', *Daily Maverick*, 31 August 2015. Accessible at https://www.dailymaverick.co.za/opinionista/2015-08-31-in-defence-of-black-violence/.

[509] Ndlovu, Z. (2015). 'Heirs Of The Struggle are Entitled to Their Rage. Business Day Live. Available from http://www.bdlive.co.za/opinion/columnists/2015/10/21/heirs-of-the-struggle-are-entitled-to-their-rage.

instigated violence at the Tshwane University of Technology.[510] It is in the spirit of a reinterpreted Black Consciousness, that Ndlozi implored Black people no longer to 'turn the other cheek'.[511]

Of course, the argumentative move that Ndlozi makes is not limited here to confronting physical aggression by whites: it is an enjoinder to resist the institutions that empower 'whiteness' and to defend the dignity of Black people. This argument would then countenance acts of violent resistance regardless of whether they furthered the defence against material injustice, if they asserted the dignity of Black people by refusing to be cowed by injustice.

6.5. Why is Violence Necessary?

Although the victims of injustice might effectively use violence to express their rejection of injustice, it is not clear why violence—rather than a strongly-worded letter, a peaceful march, or any other non-violent protest—is necessary.[512] Indeed, much of the history of civil disobedience is one of peacefully communicating rejection of injustice. Why then should violence be permissible if it is an excessively harmful way of communicating the same attitude? In particular, should members of democratic states not aspire to engage in peaceful dialogue with each other?

Edmund Flanigan's answer to this question is that there is a *fittingness* to violence that other responses lack: violence does not only express rejection; it expresses it *adequately* by correctly conveying the correct measure of the wrong.[513] In other words, violent rejection demonstrates not only that the injustice was wrong; it conveys just how wrong it was-- commensurate with the degree of violence. Civil restraint, in these cases, would fail adequately to convey the message.

One might want to push back against this view. There is presumably not some kind of innate semiotic quality about violence that makes it a natural or even unique way to express rejection adequately. Insofar as it is an adequate form of communication, it is because it has meaning designated by convention: violence has been socially constructed to mean different things.[514] Its expressive value is grounded in the contingent fact that it is the conventional way

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[510] Ibid. See also Mngxitama, Andile, Amanda Alexander, and Nigel C. Gibson. "Biko Lives." In *Biko Lives!* New York: Palgrave Macmillan, 2008: 1 - 20.

[511] Ibid.

[512] Hart, H. L. A. *Law, Liberty and Morality*. Oxford: Oxford University Press, 1963: 63.

[513] Ibid, 14 – 6.

[514] Bowen, Joseph. "Necessity and Liability: on an Honour-Based Justification for Defensive Harming." *Journal of Practical Ethics* 4, no. 2, 2016: 91.

of expressing rejection or condemnation. Critics of communicative uses of violence argue that we ought to be sceptical of using violence to communicate simply because it is a convention.[515] Insofar as violence connotes the rejection of injustice, this is a perverse convention, and it is incumbent upon us to find new conventions of expression that do not require suffering.[516]

I am sympathetic to this critique. However, I will for present purposes assume that the Fallists are correct and that there is a value-communicating quality to violence. The Fallists' defence of violence on these grounds, though, are troubled for other reasons.

6.6. Who Should Bear Expressive Violence?

The first problem with the view is that there is a problem of liability and proportionality. In this section, I argue that the structure of injustice means that Fallists would have few if any liable targets at hand for communicative violence, and that the communicative value of violence would not be enough to warrant much defensive force.

Here is perhaps an important disanalogy between *Wrist-Breaking* case and the violence of Fallism. In the case of *Wrist-Breaking*, it is Jones himself who has insufficient regard for Smith and whose attitude is expressed in the act. When Smith breaks Jones's wrists, he is harming the originator of the offending attitude—recall, for instance, that Frowe limits honour-based harm to culpable agents.[517] In the case of Fallism, many of the agents of the state and universities acted with no such attitude: they are well-intentioned and (for all we know) act with equal regard for others, even if they are complicit in injustice (see chapter 4). This does not seem like it would preclude the possibility of expressive violence though: the operations of the institutions—in which its agents are complicit—expresses disrespectful attitudes, whether its agents endorse them or not. The harm therefore persists, and needs to be met, regardless of their good intentions.

There is a different sense though in which it does matter. As I discuss in chapters 3 and 4, an agents' intentions make a difference to their liability. Culpable agents, like Jones, are very liable and so their victims have wide permission to harm them for relatively little moral gain (in this case the benefit to Smith's self-respect). Even if Smith's self-respect were only worth 1 util, and killing Jones would cost him 100 utils, we might think that Jones's interests are sufficiently discounted that it remains worthwhile for Smith to kill Jones.

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[515] Ibid. See also Tadros, Victor. *The Ends of Harm: The Moral Foundations of Criminal Law*. Oxford: Oxford University Press, 2011: 99 – 110.
[516] Tadros, *The Ends of Harm*: 112.
[517] Frowe, *Defensive Killing*: 109 – 116.

By contrast, the well-intentioned agents of unjust institutions are liable to less harm, because they are often well-intentioned despite their complicity injustice. This still renders them liable to bear some cost for the benefit of the victims of injustice, but this needs to be weighed up more carefully against the benefits to victims' self-respect. Moreover, it seems at least contingently likely that there would be a correlation between an agent's blameworthiness and the ameliorative effect that harming them would have on the self-esteem of victims of injustice: harming a well-meaning university administrator, for instance, seems like it would do much less to augment someone's sense of themselves than harming a malicious police officer, for instance. Similarly, consider harming innocents for similar purposes: it seems not only unlikely to be a lesser-evil, but it is also a deeply impoverished expression of rejection to target someone who is innocent of the offending injustice. To put it differently: although it might augment one's self-respect to stand up to a sadist like Jones, I do not think it is befitting of much self-respect to stand up to a physically vulnerable philosophy professor.

This does not mean that those who are complicit in injustice are not liable to this kind of communicative violence altogether. However, it does mean that they would only be liable to the receive an amount of violence proportionate to their complicity or contribution to injustice, which I suggest is exceedingly small.

6.7. Necessity Tradeoff

There is a further problem for proponents of this argument. I have accepted here that violence might be necessary to communicate one's value against an unjust institution. However, this is different from saying that violence to these ends satisfies *Necessity*, which requires the overall minimization of harm.

Violence—particularly materially futile violence—can come at a strategic cost to political movements. In the previous chapter, I suggest that violent flanks can sometimes be effective as spoilers, but this is not guaranteed, and it comes at the risk of alienating potential allies, aggravating institutions like the university and the police, a loss of public sympathy, and so on.[518] These are costs that members of the movement and the community they represent must bear: at Shackville, for instance, the cost of violence was a setback to Fallism generally.

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[518] Stephan, Maria, and Erica Chenoweth. "Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict." *International Security* 33, no. 1, 2008: 15. See also Chenoweth, Erica, and Maria J. Stephan. "Drop Your Weapons: When and Why Civil Resistance Works." *Foreign Affairs* no. 93, 2014; Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013: 271 – 276; Chenoweth, Erica, and Kurt Schock. "Do Contemporaneous Armed Challenges Affect the Outcomes of Mass

Members of movements would have to be particularly sensitive then to the desires of their constituency. As Christopher Finlay suggests, it is the prerogative of the autonomous members of that community how they decide to tradeoff different conflicting goods: i.e., Fallists would have to consult and be attuned to the desires of Black students—and perhaps Black South Africans generally—in deciding to pursue a confrontational Black Consciousness-inspired strategy, rather than choosing their use of violence more sparingly to materially strategic ends.[519]

That is not to say that Black students could *not* make that choice. But the essential point is that it would be their prerogative. This points to a further important limitation of this justification. Suppose that the Fallists lacked the enthusiastic consent of their community. First, they would have to weigh up the benefit of their communicative violence against the potential setbacks it would cause to the interests of those innocents who have not consented. But secondly, the Fallists acts of violence would then only communicate their own individual dignity, rather than the aggregated dignity of their community, since they lack the standing to act on their behalf. This, combined with the liability limitations I canvass above, would have even further limiting effects on the amount of violence they could inflict.

6.5 Conclusions

The most plausible way to understand the permission to commit futile violence is as an expressive act, aimed at protecting the self-respect of the victim of injustice by asserting their value in the face of recognition disrespect. This permission applies not only in interpersonal cases, but in cases of injustice too—both of the explicitly oppressive kind and of the institutionalized kind. This chapter therefore partially vindicates the claims that Chumani Maxwele made about his own fecal protest; however, given the thin liability of most institutional agents, this justification is likely to be relatively narrow in scope.

Nonviolent Campaigns?" *Mobilization: An International Quarterly* 20, no. 4, 2015: 427 – 451; Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review* 114, no. 3, 2020: 638 – 659.
[519] Finlay, Christopher J. *Terrorism And The Right To Resist: A Theory of Just Revolutionary War.* Cambridge University Press, 2015, ch 5.

Conclusion

C.1. The problems of political violence

Political violence relies on the use of force to coerce partially just institutions to reform. Insofar as political violence constitutes a use of force to protect individual rights, it is subject to the same deep moral principles as war, revolution, and self-defence. Nevertheless, the nonmoral facts about a case like Fallism raise novel problems that test the deep moral principles of defence in new and complex ways. Despite my commitment to reductivism, I argue that there are empirically frequent properties to political violence that merit investigating the particularities of the category in greater depth, rather than subsuming it into the existing literature. In this sense, war, revolution, defence, and political violence are all subject to the same moral calculations of Proportionality and Necessity, but the 'inputs' for these calculations (who is harmed, how are they harmed, what are the alternative courses of action, and so on) differ significantly enough between these phenomena that they constitute separate categories of inquiry.

First, political violence does not rely on imminent security threats for just cause. Unlike typical cases of self-defence or war,[520] there was no imminent attacker or military aggression that gave rise to Fallism. Rather, its causes are 'political' in that they involve structures of institutions and distributions of resources. It was therefore the task of chapter 1 to demonstrate that these injustices can still warrant defensive force, despite its differences from physical aggression or military threat. As I suggest in that chapter, the facts of structural injustice require introducing constraints to just cause for political violence that the literature on defensive ethics and Just War has not had to consider.

Second, unlike war or revolution, political violence aims at reform from within a democratic state, but (unlike defence) political violence threatens to undermine democracy and civil order. In chapter 2, I argued that this does not preclude the possibility of violence, but it does raise novel considerations about how to square our political obligations and the immaterial value of democracy and civil order with individuals' right to protect themselves against injustice.

Third, unlike war, revolution, or defence, political violence (almost necessarily) directly affects well-intentioned functionaries of civil institutions—often using individuals manipulatively to coerce their institutions. Some of the moral questions this raises are

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[520] I note, of course, that Cecile Fabre has discussed the hypothetical possibility of 'subsistence wars' in Fabre, Cécile. *Cosmopolitan war*. Oxford University Press, 2012.

familiar to the literature on Just War and defensive ethics: whether it is permissible to harm individuals who pose no direct threat, whether it is permissible to use manipulative harm, and so on. However, political violence is distinguished by the frequency of these properties: it is hard to imagine a case of political violence (that is not reducible to self-defence) that does not involve this particularly vexed kind of action. Chapters 3 and 4 provided an exposition of this problem.

Fourth, political violence raises novel problems for Necessity. Whereas Necessity in self-defence concerns the varying effects of imminent actions, Necessity in political violence depends upon more complex—and perhaps even 'political'--considerations, including the workings of institutions, tradeoffs with other activist strategies, and the political leadership of the movement itself. Again, although the principle of Necessity remains constant, the 'inputs' for one's Necessity calculation differ categorically from ordinary defence and war.

These are not problems unique to Fallism. I suggest that there is a category of political action—including land occupations in South Africa and farmers strikes in India—that will all contend with these problems. Although we can ultimately appeal to the deep moral principles that apply to other cases, this class of political violence requires thorough investigation of its empirically frequent normative questions.

C. 2. Reassessing Fallism

As I state in the introduction, I began this project as a corrective to the assessments of Fallism by its critics. Criticism of Fallism, I suggest, was marked by the erroneous imposition of civil disobedience frameworks that did not capture the particularities of post-apartheid South Africa. In the course of this project, I have sought to explain why, despite its transition to democracy, there has been no moral magic that has rendered violence impermissible, as its critics seem to presume. Similarly, I have resisted other arguments in favour of categorical impermissibility. I have argued that we cannot infer any general prohibition of violence from the claims made against Fallism: that Fallism's violence necessarily violated democratic norms and the rule of law; that it violated the rights of innocents; and that it was impermissible by virtue of its futility and the availability of nonviolence.

However, I argue that there are important moral limits to the defensive use of violence—limits that Fallism sometimes exceeded. In particular, I argue that some instances of violence were too morally costly to have possibly been permissible; that violence was sometimes intentionally directed towards non-liable targets; that its necessity depends on a

reasonable evidence-based standard; and that its appeals to the defence of dignity or self-respect were of limited force.

In what follows, I revisit the main conclusions of this project. I begin in Section ii by reiterating the main conclusions of the first two chapters, in which I argue that individuals have the right to defend themselves against injustice, even in democracies. In Section iii, I turn to the limits of defensive force. Mapping the remaining criticisms of Fallism onto the regulative norms of defence, I argue that some acts of violence do not violate individuals' rights, nor are they morally wrong for being unnecessary. Here, I piece together conclusions from chapters 3, 4 and 5 to assess which acts of violence were and were not permissible. These conclusions rebut the sweeping prohibition of violence suggested by Fallism's critics, and produce a more granular, case-by-case assessment of the various acts of violence during Fallism.

In the first two chapters of this dissertation, I argued against a general moral prohibition of political violence in partially just states like South Africa. These chapters addressed the following questions:

1. Did the issues of Fallism constitute a just cause for violence?

2. Were the Fallists under a stringent duty to obey the law?

3. Is violence always prohibited in South Africa's democratic politics?

Despite the state's transition towards democracy, I argued that the injustices suffered by its most vulnerable members both resembled the injustices of apartheid and shared the key normative properties of ordinary violence. The fulcrum of these chapters is this: if we accept that individuals' have a right to violent resistance against violent aggression, and we accept such a right against oppressive regimes like apartheid, then we should also accept it in the Fallist case, unless there is a categorical moral difference that distinguishes the cases.

Chapters 3 through 6 turn from the broader question of the right to defensive violence to more narrow questions about whether violence violated individuals' rights, whether it was impermissibly unnecessary or ineffective, and whether it could ever be used to defend a person's dignity or self-respect. These chapters address the following questions:

4. Did Fallists violate the rights of all those affected by their violence?

5. Were critics right that violence was an unnecessary strategic error?

6. Were the Fallists wrong to use violence to defend their dignity?

Ultimately, I argue that the shutdowns and ensuing ejections of staff and students were permissible, as were the confrontations with police and private security. By contrast,

firebombing the university bus, firebombing the vice-chancellor's office, and planting a bomb near crèche were not permissible.

C. 3. Did the Issues of Fallism Constitute Just Cause for Violence?

First, Chapter 1 argued for the moral similarities between (some forms of) injustice and violence. In this chapter, I was careful to be conservative in my comparison between violence and injustice: although some authors have sought to redefine 'violence' so broadly that it encompasses any injustice (by applying the term to negative and positive rights, letting go of any agential requirements, and bringing all rights and interests into its remit), I set out to show only that there are institutional injustices that contain all of the key moral properties of violence.

Those properties of ordinary violence that are not present in injustice—that violence invades one's body, that it involves the kinetic action of an agent, that it is immediate—are not deep moral differences. However, those putative differences that do have some normative value—that violence infringes negative rights, that it affects our basic right to bodily integrity, and so on—are differences that exclude some forms of injustice but not all. Where institutions impose themselves upon their subjects and deprive them of basic entitlements—including subsistence, self-respect, and education—they mirror the key moral properties of what we otherwise call 'violence.' Chapter 1 therefore concludes with a presumptive right to defend oneself against such injustices that should be acceptable even to one who takes a conservative view of what 'violence' is and of the possible just causes of defensive violence.

C. 4. Were the Fallists Under a Stringent Duty to Obey the Law?

Next, Chapter 2 engaged with arguments against political obligation. Here, I endorse a view similar to that of Delmas and Avia Pasternak, who suggest that members of partially just states are not bound by stringent political obligation to restrain themselves to civil disobedience.[521] My contribution here is not to offer a new objection to or account of political obligation, but to enrich the existing literature with a salient historical comparison: highlighting the continuity between apartheid and democratic South Africa.

Critics of Fallism claimed that violence is unacceptable in a democratic state, even if it was permissible as a form of resistance against apartheid when the African National

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[521] Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil.* Oxford: Oxford University Press, 2018; Pasternak, Avia, "Political Rioting: A Moral Assessment." Philosophy & Public Affairs 46, no. 4, 2018: 384 – 418.

Congress (ANC) launched their military wing, *uMkhonto weSizwe*.[522] However, as I argue in the course of the chapter, the *de jure* injustices of apartheid have largely been succeeded by the *de facto* injustices of the post-apartheid dispensation. To argue that South Africans now have an obligation to constrain themselves to civil disobedience would be to argue that this shift from *de jure* to *de facto* injustice completely alters their rights and duties in relation to the state—a position I argue is untenable.

After dismissing a political obligation debarring uncivil and violent political action, I turn to the defensive framework. If (following Chapter 1) we think vulnerable South Africans suffer injustices tantamount to violence, and (following the first part of Chapter 2) we think they do not have an obligation to remain civil and nonviolent, then there is a putative case for a defensive right against the state.

C. 5. Is Violence Always Prohibited in South Africa's Democratic Politics?

The second contribution of Chapter 2 is then to consider various other objections to the use of political violence, particularly in democracies, in light of the defensive framework. My aim here is to show that any other objections to violence do not constitute general prohibitions that rule out the possibility of defensive violence. Rather, I argue that these objections can be absorbed into the defensive framework, because they speak to the necessity or proportionality of violence. Consider arguments to the effect that violence erodes civil and democratic norms,[523] that violence negatively alters the nature of politics,[524] or that it transgresses the political rights of others[525]—I argue that these claims must be accounted for in proportionality calculations of the limits of defence, but this means too that they can sometimes be offset if the cost of not acting is sufficiently weighty. Similarly, consider the claim that South Africans have alternative means of political action under democracy—this is straightforwardly a claim about the necessity of violence, and it is one that Fallists can reasonably claim does not hold when the apparatus of democracy does not function efficiently.

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[522] Adam Habib makes the apartheid/democracy comparison in Habib, Adam. "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests." *Daily Maverick*, 26 January 2016.

[523] Sabl, Andrew. "Looking Forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons." *Journal of Political Philosophy* 9, no. 3 (2001): 307 – 330.

[524] Butler, Judith. "Protest, Violent and Nonviolent." In *Antidemocracy in America*. Columbia University Press, 2019: 233 – 40.

[525] Benatar, David. "UCT: Capitulation isn't Working". *PoliticsWeb*, 21 September 2016. Available at https://www.politicsweb.co.za/opinion/uct-capitulation-isnt-working [Last accessed 15 February 2022]; Habib, "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests."

This is not to deny that the transition to democracy makes a significant difference to the permissibility of violence. The establishment of democracy meant that there is now more to 'lose,' as it were, since democratic norms are fragile and the alternative to democracy would be worse; it also weakened the necessity of violence, since it presented peaceable alternatives (at least sometimes). But these are not categorical objections: rather, they suggest only that it is more difficult for political violence to meet defensive norms in democracies.

The conclusion of these chapters is that a thorough moral assessment of political violence in South Africa must be contingent: there is no general principle that prohibits violence simply because South Africa is a democracy. Such a thorough assessment of violence must assess the particular facts of the case, weighing them up against the norms of *Necessity* and *Proportionality*. My examination of the South African case therefore confirms the conclusions of theorists like Pasternak, as well as refuting the criticisms of Fallism who claimed that there is no place for violence in democratic South Africa.

C. 6. Did Fallists Violate the Rights of All Those Affected by Their Violence?

Although Fallism's critics claim that the movement impermissibly violated the rights of others,[526] I find this to be only partially correct. Indeed, my analysis marks some acts of Fallist violence as impermissible, including planting a nail-bomb on campus, firebombing a university bus and the Vice-Chancellor's office at the University of Cape Town, and threatening the university crèche. By contrast, the investigation flags other acts as likely to be permissible: using force to enforce a lockdown of campuses, using force to resist arrest and police intervention, and even inciting melees with police officers and private security.

In Chapter 3, I argue that students, academic staff, university administrators, government officials and police officers are not necessarily 'innocent' or protected by rights in force against violence, as Fallism's critics would have it.[527] Critics of Fallism might claim that there the victims of violence do not threaten others with imminent harm—there are no agents of oppression, in Michael Walzer's terms.[528] However, as I explain in Chapter 3, this criticism has largely become obsolete with the ascendance of reductivism: reductivists typically do not assign liability based on posing an imminent threat, but rather on the basis of a salient moral connection with harm, which might be further causally upstream.[529] So, by

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[526] Ibid.
[527] Benatar, "UCT: Capitulation isn't Working."
[528] Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books, 1977: ch 12.
[529] McMahan, Jeff. *Killing in War*. Oxford: Oxford University Press: 2009: 8 – 12.

virtue of their foreseeable and avoidable contributions to injustice, they can render themselves liable to be harmed to correct the injustice. Those who violate the campus shutdowns, police officers who disrupt protests, and those who contribute to the injustices of the state and the university—these actors might all satisfy the criteria for liability despite not personally inflicting harm upon anyone.

However, Chapter 3 also clarified some of the unique difficulties in justifying violence as a means of resistance to institutional injustice in democracies. Violence in democracies involves harm to immaterial goods including democratic norms and civil peace, and so it is typically more costly than other forms of violence. When the injustices that instigate violence in these states is institutional—as it often is in democracies—political violence is more likely to be manipulative than eliminative, since it is less likely that there are agents of oppression that threaten imminent harm as there might be in oppressive states. Agents must therefore often direct their violence towards instigating some form of change within an institution, rather than frustrating the commission of harm. Since this uses the victims of violence towards further ends, this kind of manipulative harm occasions higher justificatory standards than most of the ordinary defence cases with which we might be familiar.

Of course, these difficulties vary depending on the particular act: the categorization in Chapter 3 allows us to perform some moral triage, distinguishing between more and less costly acts. Following the Just War tradition, this categorization allows us to dismiss some acts of violence as too costly plausibly to be worthwhile: intentional, vital harm to innocents, for instance, can conceptually be permissible, but can in effect be ruled out. I argue the same is true for foreseeable but unintentional harm to innocents' vital interests. Here, I differ from Pasternak, who suggests that there can be lesser-evil grounds for this kind of harm: on the contrary, I argue that the potential gains of political violence are too limited to constitute the lesser evil.[530] On this basis, I conclude that that Fallist acts like the firebombing of a university bus and threats to the university crèche were impermissible. This also rules out forms of violence that are intentionally aimed at immaterial goods in which innocents share: for example, violence aimed at undermining democracy (such as the pro-Zuma insurrection in July 2021) transgresses innocents' political rights and is therefore likely too costly to be the lesser evil. Similarly, I argue that manipulative harm occasions such a high moral threshold that most manipulative harm to innocents and vital manipulative harm to

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[530] Pasternak, "Political Rioting: A Moral Assessment": 414.

nonculpable liable agents is unlikely to be permissible. Therefore, even if we accept the liability of the university executive, we can still rule out manipulative harm like firebombing the office of the Vice-Chancellor of the University of Cape Town.

Chapter 4 interrogates a claim that Chapter 3 takes for granted: that some actors are liable for institutional injustice, and that Fallists could readily identify them. Following the lead of Just War Theory, Chapter 4 argues that individuals can be liable by virtue of their complicity in injustice and institutions that commit injustice. This is true of individuals who obstruct less harmful means of protest: police officers who disrupted occupations and protest, as well as students who defied the shutdowns, limited the defensive options available to the Fallists, thereby forming a part of the threat to Fallists. Although their contributions to this threat is small, it is their teleological connection to injustice that renders them liable. In the cases I have mentioned here, action against the liable targets is also eliminative, which occasions a lower justificatory threshold. It is therefore more likely that harming them to obstruct their threat will be permissible. Other agents can be liable by virtue of their contribution to institutions that commit injustices, such as riot police officers. However, their liability must be moderated by considerations including whether individuals have good moral and prudential reasons to join the relevant institution, and how significant the contribution to injustice of their role is likely to be. On this basis, I find it likely that members of the riot control police were liable, but I am sceptical about the conclusion that academics and students (who did not defy the shutdown), or other private citizens were liable. These conclusions therefore confirm my assessment in Chapter 3.

C. 7. Were Critics Right That Violence Was an Unnecessary Strategic Error?

Chapter 5 turns to the question of *Necessity*. I try here to deflate concerns about violence's instrumental value. Concerning Fallism, I argue that the violence preceding Shackville complied with *Necessity* and *Success*, but that Shackville itself did not.

In this chapter, I argue first that empirical evidence alone does not rule out the possibility of necessary political violence in a case like Fallism.[531] In particular, there is

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[531] Stephan, Maria., and Erica Chenoweth. "Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict." *International security* 33, no. 1, 2008: 15. See also Chenoweth, Erica, and Maria J. Stephan. "Drop Your Weapons: When and Why Civil Resistance Works." *Foreign Affairs* no. 93, 2014; Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013: 271 – 276; Chenoweth, Erica, and Kurt Schock. "Do Contemporaneous Armed Challenges Affect the Outcomes of Mass Nonviolent Campaigns?" *Mobilization: An International Quarterly* 20, no. 4, 2015: 427 – 451;

sufficient ambiguity concerning the value of violent flanks that they could plausibly think violence necessary.[532]

Next, I argue that the relevant standard for *Necessity* and *Success* is an evidence-relative reasonableness standard that is calibrated according to the liability of those suffering harm. Since the Fallists were initially conscientious about harm to innocents and were measured in their escalation to moderate violence, I argue that the violence before Shackville satisfied the instrumental conditions. However, since the Fallists at Shackville were not duly conscientious and escalated violence rapidly without precedent, they did not satisfy the conditions.

However, even if we accept that some violence was unnecessary, there is a second question about who can meaningfully make moral claims about its impermissibility. Individuals who are complicit in injustice—including police officers, security contractors, and university executive members—have little or no standing to complain about proportionate but unnecessary harm to them. Consequently, we might conclude that some acts of violence were likely unnecessary—including Shackville—but that many of the individuals who blamed the Fallists for it (including university vice-chancellors and senior government officials) have little force in their claims.

C. 8. Were the Fallists Wrong to Use Violence to Defend Their Dignity?

Although my assessment from Chapter 3 to Chapter 5 countenances some violence in resistance to injustice, Chapter 6 takes a much more sceptical view of defence of dignity, honour, or self-respect. Despite its popularity among Fallists, this argument seems ultimately to be the most limited. Although I argue that it is conceptually possible to use violence to defend one's self-respect, I argue that it is likely to be disproportionate (since the relative gain in self-respect is relatively low), and that it requires tradeoffs with other goods that make it difficult to satisfy *Necessity*.

C. 9. What is Permissible and What is Desirable

Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review* 114, no. 3, 2020: 638 – 659.

[532] See Braithwaite, John. 'Rethinking Radical Flank Theory: South Africa'. *RegNet Research Paper* no. 23, 2014; Chenoweth, Erica, and Schock, Kurt. "Do Contemporaneous Armed Challenges Affect the Outcomes of Mass Nonviolent Campaigns?" *Mobilization: An International Quarterly* 20, no. 4, 2015: 427 – 451.

In the course of this project, I argue that there is, in principle, a compelling moral case for the permissible resort to violence to resist injustice in democracies, and that certain of the Fallists' acts of violent resistance complied with the key regulative norms of defensive action: particularly defensive action against staff and students who did not comply with the shutdown, and against the police. However, it is important to clarify the limits of this claim. The claim here is (a) that it was within the bounds of the Fallists' defensive rights to use violence; and (b) that the criticisms levelled at the Fallists (and other movements that resort to violence) often fail.

However, one might nonetheless think that the Fallists were wrong, or that nonviolence would have been desirable even if it were not required. In this sense, the point of this dissertation is not to commend violence as a course of action for political movements. Rather, it is to suggest that we cannot dismiss violence out of hand as wrongheaded, but we must engage each case on its merits, and make a stronger case for strategic nonviolence if that is indeed preferable. Whilst critics of Fallism were quick to label them 'thugs,' I suggest here that they very often had a compelling moral case for their actions—one which their critics ought to answer.

Bibliography

- Alexander, Peter. *Marikana: A View from the Mountain and a Case to Answer*. Johannesburg: Jacana Media, 2012.

- Aliber, Michael. "Chronic Poverty in South Africa: Incidence, Causes and Policies." *World Development* 31, no. 3, 2003.

- Anderson, Elizabeth, & Pildes, Richard. "Expressivism: A General Restatement." *University of Pennsylvania Law Review*, vol. 148 no. 5, 2000.

- Arendt, Hannah. *On Violence*. New York: Houghton Mifflin Harcourt, 1970.

- Ashford, Elizabeth. "Responsibility for Violations of the Human Right to Subsistence." In Meyers, Diana (ed.). *Poverty, Agency, and Human Rights*. Oxford: Oxford University Press, 2014.

- Ashford, Elizabeth. "The Alleged Dichotomy between Positive and Negative Rights and Duties." In Pogge, Thomas, and Schramm, Michael (eds.). *Absolute Poverty and Global Justice*. Oxford: Routledge Press, 2016.

- Ashford, Elizabeth. "The Duties Imposed by the Human Right to Basic Necessities." In Pogge, Thomas (ed.). *Freedom From Poverty as a Human Right: Who Owes What to the Very Poor*. Oxford: Oxford University Press.

- Bazargan-Forward, Saba. 'Complicity.' In Jankovic, Marija & Ludwig, Kirk (eds.). *Routledge Handbook on Collective Intentionality*. Routledge University Press, 2017.

- Bazargan-Forward, Saba. "Dignity, Self-Respect, and Bloodless Invasions." In Strawser, Bradley, Jenkins Ryan, and Robillard, Michael (eds.). *Who Should Die? The Ethics of Killing in War*. Oxford: Oxford University Press, 2017.

- Bazargan, Saba. "Complicitous Liability in War." *Philosophical Studies* 165, no. 1, 2013.

- Bedau, Hugo. "On Civil Disobedience," *The Journal of Philosophy*, 58 (21), 1961.

- Beebee, Helen, and Kaiserman, Alex. "Causal Contribution in War." *Journal of Applied Philosophy* 37, no. 3, 2020.

- Benatar, David. "UCT: Capitulation isn't Working." *PoliticsWeb*, 21 September 2016. Available at https://www.politicsweb.co.za/opinion/uct-capitulation-isnt-working [Last accessed 15 February 2022].

- Benatar, David. *The Fall of the University of Cape Town: Africa's Leading University in Decline*, Johannesburg: Politicsweb Publishing, 2021.

- Benbaji, Yitzhak. "The War Convention and the Moral Division of Labour." *The Philosophical Quarterly* 59, no. 237, 2009.

- Berger, Mike. 'Fallism and the Intellectuals.' PoliticsWeb, 20 October 2016. Available at https://www.politicsweb.co.za/opinion/fallism-and-the-intellectuals.

- Berlin, Isaiah. 'Two Concepts of Liberty.' In *Four Essays on Liberty*, London: Oxford University Press, 1969.

- Biko, Steve. "White Racism and Black Consciousness." In Van der Merwe, Hendrik, and Welsh, David (eds.). *Student Perspectives on South Africa*. Cape Town: David Philip Publisher, 1972.

- Birnbaum, Emily. "'Occupy ICE' Protests Emerge Across the Country". *The Hill*, 23 June 2018. Available at https://thehill.com/business-a-lobbying/393790-occupy-ice-protests-emerge-across-the-country.

- Bolinger, Renée Jorgensen. "Reasonable Mistakes and Regulative Norms: Racial Bias in Defensive Harm." *Journal of Political Philosophy* 25, no. 2, 2017.

- Booysen, Susan. 'Two Weeks in October: Changing Governance in South Africa.' In Booysen, Susan, et al. *Fees Must Fall: Student Revolt, Decolonisation, and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

- Bowen, Joseph. "Necessity and Liability: on an Honour-Based Justification for Defensive Harming." *Journal of Practical Ethics* 4, no. 2, 2016.

- Braithwaite, John. 'Rethinking Radical Flank Theory: South Africa.' *RegNet Research Paper* no. 23, 2014.

- Brennan, Jason. "When May We Kill Government Agents? In Defense of Moral Parity." *Social Philosophy and Policy* 32, no. 2, 2016.

- Brennan, Jason. *When All Else Fails: The Ethics of Resistance to State Injustice*. Princeton, NJ: Princeton University Press, 2018.

- Brownlee, Kimberley. *Conscience and Conviction: The Case for Civil Disobedience*. Oxford: Oxford University Press, 2012.

- Bufacchi, Vittorio. 'Two Concepts of Violence.' *Political Studies Review*, 3 (2), 2005.

- Bufacchi, Vittorio. *Violence and Social Justice*. London: Palgrave Macmillan, 2007.

- Bundy, Colin. 'Editorial: The Challenge of Rethinking Mandela,' *Journal of Southern African Studies*, 45:6, 2019.

- Butler, Judith. "Protest, Violent and Nonviolent." In *Antidemocracy in America*. New York: Columbia University Press, 2019.

- Butler, Judith. *The Force of Nonviolence: An Ethico-Political Bind*. London: Verso, 2021.

- Caney, Simon. "Responding to Global Injustice: On the Right of Resistance." *Social Philosophy and Policy* 32, no. 1, 2015.

- Celikates, Robin. "Democratizing Civil Disobedience." *Philosophy & Social Criticism* 42, no. 10, 2016.

- Celikates, Robin. "Rethinking Civil Disobedience as a Practice of Contestation—Beyond the Liberal Paradigm." *Constellations* 23, no. 1, 2016.

- Chenoweth, Erica, and Kathleen Gallagher Cunningham. "Understanding Nonviolent Resistance: An Introduction." *Journal of Peace Research* 50, no. 3, 2013.

- Chenoweth, Erica, and Kurt Schock. "Do Contemporaneous Armed Challenges Affect the Outcomes of Mass Nonviolent Campaigns?" *Mobilization: An International Quarterly* 20, no. 4, 2015.

- Chenoweth, Erica, and Maria J. Stephan. "Drop your Weapons: When and Why Civil Resistance Works." *Foreign Affairs* no. 93, 2015.

- Chikane, Rekgotsofetse. "Young People and the #Hashtags that Broke the Rainbow Nation." In *Young People Re-Generating Politics in Times of Crises*. Johannesburg: Palgrave Macmillan, 2018.

- Christiano, Thomas. *The Constitution of Equality: Democratic Authority and Its Limits*. Oxford: Oxford University Press, 2008.

- Coady, Cecil Anthony John. "The Idea of Violence." *Philosophical Papers* 14, no. 1, 1985.

- Cohen, Carl. "Civil Disobedience and the Law," *Rutgers Law Review*, 21 (1), 1966.

- Coons, Christian, and Weber, Michael. 'The Ethics of Self-Defense,' in Coons, Christian, and Michael Weber eds. *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016.

- Crenshaw, Kimberlé. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." *University of Chicago Legal,* 1989.

- Daniel. "Fabre's Crusade for Justice: Why We Should Not Join." *Law and Philosophy* 33, no. 3, 2014.

- Daniels, Norman, "Reflective Equilibrium", *The Stanford Encyclopedia of Philosophy* (Summer 2020 Edition), Edward N. Zalta (ed.), Available at https://plato.stanford.edu/archives/sum2020/entries/reflective-equilibrium/.

- Davis, Rebecca; Swingler, Shaun; and van der Merwe, Marelise. "#FeesMustFall: The Day Parliament Became a War Zone". *Daily Maverick*, 22 October 2015. Available at

https://www.dailymaverick.co.za/article/2015-10-22-feesmustfall-the-day-parliament-became-a-war-zone/.

- Delmas, Candice. *A Duty to Resist: When Disobedience Should be Uncivil*. Oxford: Oxford University Press, 2018.

- Dentlinger, Lindsay. "#FeesMustFall Damage Costs Soar to Nearly R800M." *Eye Witness News*, 8 August 2018. Available at https://ewn.co.za/2018/08/08/feesmustfall-damage-costs-soar-to-nearly-r800m.

- Dewey, John. "Force and Coercion." *The International Journal of Ethics* 26, no. 3, 1916.

- Dillon, Robin. "Self-Respect: Moral, Emotional, Political." *Ethics*, 107 (2), 1997.

- Duff, R. Anthony. "Retrieving Retributivism." In White, Mark (ed). *Retributivism: Essays on Theory and Policy*. Oxford: Oxford University Press, 2011.

- Dworkin, Ronald. *Justice for Hedgehogs*. Cambridge, MA: Harvard University Press, 2011.

- Dworkin, Ronald. *Law's Empire*. Cambridge, MA: Harvard University Press, 1986.

- Evans, Jenni. 'Max Price's Office Fire-Bombed at UCT,' *Politicsweb*, 17 February 2016. Available at https://www.politicsweb.co.za/news-and-analysis/max-prices-office-firebombed-at-uct.

- Fabre, Cécile. "Guns, Food, and Liability to Attack in War." *Ethics* 120, no. 1, 2009.

- Fabre, Cécile. *Cosmopolitan War*. Oxford: Oxford University Press, 2012.

- Fairbanks, Eve, 'The Birth of Rhodes Must Fall.' *The Guardian*, 18 November 2015. Accessible at https://www.theguardian.com/news/2015/nov/18/why-south-african-students-have-turned-on-their-parents-generation.

- Fanon, Frantz. *The Wretched of the Earth*. Translated by Richard Philcox. New York: Grove Press, 2004 [1961].

- Ferzan, Kimberley Kessler. 'Forfeiture and Self-Defense,' in Coons, Christian and Weber, Michael (eds.), *The Ethics of Self-Defense*. Oxford: Oxford University Press 2016.

- Ferzan, Kimberly Kessler. "Defending Honor and Beyond: Reconsidering the Relationship Between Seemingly Futile Defense and Permissible Harming." *Journal of Moral Philosophy* 15 no. 6, 2018.

- Finlay, Christopher J. *Terrorism, and the Right to Resist: A Theory of Just Revolutionary War*. Cambridge: Cambridge University Press, 2015.

- Firth, Joanna Mary, & Quong, Jonathan. 'Necessity, Moral Liability, and Defensive Harm.' *Law and Philosophy* 31 no. 6, 2012.

- Flanigan, Edmund Tweedy. "From Self-Defense to Violent Protest." *Critical Review of International Social and Political Philosophy*, 2021.

- Fletcher, George. "The Right to Life," *Georgia Law Review* 13. 1979.

- Fricker, Miranda. *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford: Oxford University Press, 2007.

- Friedman, Daniel. 'Zille Blasts 'Fallists' for Alleged Role in Mayosi's Suicide.' *The Citizen*, 31 July 2018. Available at https://www.citizen.co.za/news/south-africa/1988918/zille-blasts-fallists-for-alleged-role-in-mayosis-suicide/.

- Frowe, Helen. "Can Reductive Individualists Allow Defense Against Political Aggression?" *Oxford Studies in Political Philosophy* 1, 2015.

- Frowe, Helen. "Lesser-Evil Justifications for Harming: Why We're Required to Turn the Trolley." *The Philosophical Quarterly* 68, no. 272, 2018.

- Frowe, Helen. "The Role of Necessity in Liability to Defensive Harm." In Coons, Christian & Weber, Michael (eds.). *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016.

- Frowe, Helen. *Defensive Killing*. Oxford: Oxford University Press, 2014.

- Frye, Marilyn. *The Politics of Reality: Essays in Feminist Theory*. New York: Crossing Press, 1983.

- Gabbatt, Adam. "The Growing Occupy Ice movement: 'We're Here for the Long Haul'." *The Guardian*. Retrieved 6 July 2018. Available at https://www.theguardian.com/us-news/2018/jul/06/occupy-ice-movement-new-york-louisville-portland.

- Galtung, Johan, and Dietrich Fischer. "Positive and Negative Peace." In *Johan Galtung*. Berlin: Springer Press.

- Galtung, Johan. 'Cultural Violence.' *Journal of Peace Research*, *27* no. 3, 1990.

- Galtung, Johan. "Violence, Peace, and Peace Research." *Journal of Peace Research* 6, no. 3, 1969.

- Garver, Newton. 'What Violence Is,' in A. K. Bierman and J. A. Gould (eds), *Philosophy for a New Generation*. Second edition. New York: Macmillan, 1973.

- Garver, Newton. "Violence and Social Order." *Philosophy of Law, Politics, and Society*, 1988.

- Godsell, Gillian, & Chikane, Rekgotsefetse. "The Roots of the Revolution." In Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Wits University Press, 2016.

- Govendar, Pregar. '#FeesMustFall cost 18 Varsities More than R460m in Damage to Property Alone.' *Mail & Guardian*, 29 September 2016. Available at https://mg.co.za/article/2016-09-29-00-feesmustfall-cost-18-varsities-more-than-r460m-in-damage-to-property-alone/.

- Grossman, David. *On Killing: The Psychological Cost of Learning to Kill in War and Society.* Boston: Little Brown and Co, 2009.

- Grotius, Hugo. *The Rights of War and Peace*, bk. 2, 24, secs. 5, translated by A. C. Campbell Washington, D.C.: M. Walter Dunn, 1901 [1625].

- Habermas, Jürgen. "Civil Disobedience: Litmus Test for the Democratic Constitutional State," translated by Torpey, John. *Berkeley Journal of Sociology*, 30, 1985.

- Habib, Adam. "Goals and Means: Some Reflections on the 2015 #FeesMustFall Protests." *Daily Maverick*, 26 January 2016. Available at www.dailymaverick.co.za/opinionista/2016-01-26-goals-and-means-some-reflections-on-the-2015-feesmustfall-protests/ [Last accessed 13 June 2021].

- Habib, Adam. *Rebels and Rage: Reflecting on #FeesMustFall.* Johannesburg: Jonathan Ball Publishers.

- Harris, John. The Marxist Conception of Violence. *Philosophy & Public Affairs*, 1974.

- Harris, John. *Violence and Responsibility.* London: Routledge, 1980.

- Hart, H. L. A. *Law, Liberty, and Morality.* Oxford: Oxford University Press, 1963.

- Haslanger, Sally. *Resisting Reality: Social Construction and Social Critique*. Oxford: Oxford University Press, 2012.

- Hobbes, Thomas, *Leviathan*. Edited by M. Oakeshott. New York: Macmillan Publishing Company, 1962 [1651].

- Hodes, Rebecca. 'Op-Ed: How Rhodes Must Fall Squandered Public Sympathy,' *Daily Maverick, 20 August 2015*. Accessible at https://www.dailymaverick.co.za/article/2015-08-20-op-ed-how-rhodes-must-fall-squandered-public-sympathy

- Hodes, Rebecca. "Questioning 'Fees Must Fall.'" *African Affairs* 116, no. 462, 2017.

- Honderich, Ted. *Violence for Equality (Routledge Revivals): Inquiries in Political Philosophy*. London: Routledge, 2014.

- Huemer, Michael. *The Problem of Political Authority.* New York: Palgrave MacMillan, 2012.

- Humphrey, Mathew. and Stears, Marc. "Animal Rights Protest and the Challenge to Deliberative Democracy," Economy and Society 35, 2006.

- Hurka, Thomas. 'Proportionality in the Morality of War,' *Philosophy and Public Affairs*, Vol. 33, No. 1, 2005.

- Jansen, Jonathan, 'Charged Fees Must Fall Students Must Atone So We Can Move On,' *Business Day Live*, 13 September 2018. Available at https://www.businesslive.co.za/rdm/politics/2018-09-13-jonathan-jansen-charged-fees-must-fall-students-must-atone-so-we-can-move-on/ [Last accessed 15 February 2022].

- Jansen, Jonathan, *As by Fire: The End of the South African University*. Johannesburg: NB Publishers, 2017.

- Jubb, Robert. "Disaggregating Political Authority: What's Wrong with Rawlsian Civil Disobedience?" *Political Studies* 67, no. 4: 2019.

- Jugov, Tamara, and Lea Ypi. "Structural Injustice, Epistemic Opacity, and the Responsibilities of the Oppressed." *Journal of Social Psychology* 50, no. 1, 2019.

- Kamm, Frances M. *Intricate Ethics: Rights Responsibilities, and Permissible Harm*. Oxford: Oxford University Press, 2007.

- Kant, Immanuel. *Grundlegung Zur Metaphysik der Sitten*. Translated as *Groundwork of the Metaphysics of Morals* in *Immanuel Kant: Practical Philosophy*, translated and edited by Gregor, Mary. Cambridge: Cambridge University Press, 1996 [1785].

- King Jr, Martin Luther. "Letter From Birmingham City Jail." 1963. Available at https://philpapers.org/archive/LEVITE-3.pdf#page=23.

- Klosko, George. *The Principle of Fairness and Political Obligation*. Lanham, MD: Rowman & Littlefield, 1992.

- Kutz, Christopher. "Causeless Complicity." *Criminal Law and Philosophy* 1, no. 3, 2007.

- LaFave, Wayne. *Criminal Law*. 4th ed. Washington, DC, Thomson-West, 2003.

- Lazar, Seth, and Laura Valentini. "Proxy Battles in Just War Theory: Jus in Bello, the Site of Justice, and Feasibility Constraints." In *Oxford Studies in Political Philosophy*. Oxford: Oxford University Press, 2016.

- Lazar, Seth. 'Necessity in Self-Defense and War.' *Philosophy & Public Affairs*, 40 (1), 2012.

- Lazar, Seth. "Complicity, Collectives, and Killing in War." *Law and Philosophy* 35, no. 4, 2016.

- Lazar, Seth. "National Defence, Self Defence, and the Problem of Political Aggression." In Fabre, Cecile & Lazar Seth (eds.). *The Morality of Defensive War*. Oxford: Oxford University Press, 2014.

- Lazar, Seth. "The Nature and Disvalue of Injury." *Res Publica* 15, no. 3, 2009.

- Lazar, Seth. "The Responsibility Dilemma for Killing in War: A Review Essay." *Philosophy & Public Affairs* 38, no. 2, 2010.

- Lazar, Seth. *Sparing Civilians*. Oxford: Oxford University Press, 2015.

- Lee, Steven. "Poverty and Violence." *Social Theory and Practice* 22, no. 1, 1996.

- Lepora, Chiara, and Robert E. Goodin. *On Complicity and Compromise*. Oxford: Oxford University Press, 2013.

- Lippert-Rasmussen, Kasper. "Global Injustice and Redistributive Wars." Law, Ethics and Philosophy 1 no. 1, 2013.

- Locke, John, *Second Treatise of Government*. Edited by Macpherson, C. (ed.). Indianapolis: Hackett Publishing Company, 1980 [1690].

- Louw, Antoinette, and Mark Shaw. *Stolen Opportunities: The Impact of Crime on South Africa's poor*. No. 14. Halfway House: Institute for Security Studies, 1997.

- Luban, David. "Just War and Human Rights." Philosophy & Public Affairs 9 no. 2, 1980.

- Luban, David. "Knowing When Not to Fight." in Frowe, Helen and Lazar, Seth (eds.). *The Oxford Handbook of Ethics of War*. Oxford: Oxford University Press, 2018.

- Mamdani, Mahmood. "The South Africa Moment." *Journal of Palestine Studies* 45 no. 1, 2015.

- Mandela, Nelson. "I Am Prepared to Die." 20 April 1964. Available at http://db.nelsonmandela.org/speeches/pub_view.asp?pg=item&ItemID=NMS010 [Accessed 10 June 2021].

- Manzini, Zinhle. "Violence is a Necessary Process of Decolonisation." *Mail & Guardian*. 2 March 2016. Access at: https://thoughtleader.co.za/violence-is-a-necessary-process-of-decolonisation/. Accessed on 4 March 2021.

- Maringira, Godfrey and Gukurume, Simbarashe. "Being Black in #FeesMustFall and #FreeDecolonisedEducation: Student Protests at the University of the Western Cape." In Langa, Malose (ed). *#Hashtag: An analysis of the #FeesMustFall Movement at South African Universities*. Johannesburg: Centre for the Study of Violence and Reconciliation, 2017.

- Matandela, Mbali. "Redefining Black Consciousness and Resistance: The Intersection of Black Consciousness and Black Feminist Thought." *Agenda*, 31 (3-4), 2017.

- Maxwele, Chumani. 'Black Pain Led Me to Throw Rhodes Poo.' *Business Day*, 16 March 2016. Available at https://www.pressreader.com/south-africa/business-day/20160316/281883002451263.

- McIntyre, Alison, "Doctrine of Double Effect", *The Stanford Encyclopedia of Philosophy* (Spring 2019 Edition), Edward N. Zalta (ed.). Available at https://plato.stanford.edu/archives/spr2019/entries/double-effect/.

- McIntyre, Alison. "Doing Away with Double Effect," *Ethics*, 111, 2001.

- McMahan, Jeff. 'Proportionality and necessity in Jus in Bello.' *The Oxford Handbook of Ethics of War.* Oxford: Oxford University Press, 2018.

- McMahan, Jeff. "Just Cause for War." *Ethics & International Affairs* 19, no. 3, 2005.

- McMahan, Jeff. "The Basis of Moral Liability to Defensive Killing." *Philosophical Issues* 15 2005.

- McMahan, Jeff. "The Morality of War and the Law of War." In Rodin, David and Shue, Henry (eds.). *Just and Unjust Warriors: The Moral and Legal Status of Soldiers.* Oxford: Oxford University Press, 2008.

- McMahan, Jeff. "War as Self-Defense." *Ethics & International Affairs* 18, no. 1, 2004.

- McMahan, Jeff. "Intention, Permissibility, Terrorism, and War." *Philosophical Perspectives* 23, no. 1, 2008.

- McMahan, Jeff. "Just Cause for War." Ethics and International Affairs, vol. 19, 2005.

- McMahan, Jeff. *Killing in War.* Oxford: Oxford University Press, 2009.

- McMahan, Jeff. *The Ethics of Killing: Problems at the Margins of Life.* Oxford: Oxford University Press, 2002.

- Metz, Thaddeus. 'A Life of Struggle as Ubuntu' in Ndlovu-Gatsheni, Sabelo & Ngcaweni, Busani (eds.). Nelson Rolihlahla Mandela: Decolonial Ethics of Liberation and Servant Leadership. Johannesburg: Africa World Press., 2018.

- Metz, Thaddeus. "The South African Student/Worker Uprisings in Light of Just War Theory." in Booysen, Susan (ed.). *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa.* Johannesburg: Wits University Press, 2016.

- Miller, Ronald. "Violence, Force and Coercion." *Violence.* New York: David McKay Company, 1971.

- Mngxitama, Andile, Amanda Alexander, and Nigel C. Gibson. "Biko Lives." In *Biko Lives!* New York: Palgrave Macmillan, 2008.

- Molefe, T. O. "Oppression Must Fall." *World Policy Journal* 33, no. 1, 2016.

- Mpofu-Walsh, Sizwe. *Democracy and Delusion: 10 Myths in South African Politics.* Cape Town: Tafelberg, 2017.

- Msimang, Sisonke. 'The Burning,' *Africa Is a Country*, 18 February 2016. Available at https://africasacountry.com/2016/02/the-burning/

- Msimang, Sisonke. "End of the Rainbow." *Overland* 223, 2016.

- Mutekwe, Edmore. "Unmasking the Ramifications of the Fees-Must-Fall-Conundrum in Higher Education Institutions in South Africa: A Critical Perspective." *Perspectives in Education* 35, no. 2, 2017.

- Naicker, Camalita. "From Marikana to #FeesMustFall: The Praxis of Popular Politics in South Africa." *Urbanisation* 1, no. 1, 2016.

- Nardin, Terry. "International Political Theory and the Question of Justice." *International Affairs* 82 no. 3, 2006.

- Narveson, Jan. *The Libertarian Idea*. Peterborough: Broadview Press, 2001.

- Ndelu, Sandile. 'Liberation Is a Falsehood: Fallism at the University of Cape Town' in Langa, Malose (ed). *#Hashtag: An Analysis of the #FeesMustFall Movement at South African Universities*. Johannesburg: Centre for the Study of Violence and Reconciliation, 2017.

- Ndlozi, Mbuyiseni. 'In Defence of Black Violence,' *Daily Maverick*, 31 August 2015. Accessible at https://www.dailymaverick.co.za/opinionista/2015-08-31-in-defence-of-black-violence/

- Nicolson, Greg. 'Fees Must Fall: Reloaded.' Daily Maverick, 12 January 2016. http://www.dailymaverick.co.za/article/2016-01-12-fees-must-fall-reloaded/

- Nicolson, Greg. 'Fees must fall: Reloaded.' Daily Maverick, 12 January 2016. Available at www.dailymaverick.co.za/article/2016-01-12-fees-must-fall-reloaded

- Nixon, Rob. *Slow Violence and the Environmentalism of the Poor*. Cambridge, MA: Harvard University Press, 2011.

- Nussbaum, Martha. 'Capabilities as Fundamental Entitlements: Sen and Social Justice.' *Feminist economics*, 9 nos. 2-3, 2003.

- Nussbaum, Martha. *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press, 2001.

- Otsuka, Michael. "The Moral Responsibility Account of Liability to Defensive Killing." In Coons, Christian & Weber, Michael (eds.). *The Ethics of Self-Defense*. Oxford: Oxford University Press, 2016.

- Oxlund, Bjarke. "#EverythingMustFall: The Use of Social Media and Violent Protests in the Current Wave of Student Riots in South Africa." *Anthropology Now* 8, no. 2 2016.

- Parfit, Derek. *On What Matters* (Vol. I). Oxford: Oxford University Press, 2011.

- Pasternak, Avia. "Political Rioting: A Moral Assessment." *Philosophy & Public Affairs* 46, no. 4, 2018.

- Pasternak, Avia. "'It's Good to Do Something with Your Rage': Violent Protests and Epistemic Injustice." Unpublished Paper, 2021.

- Pillay, Sarita. "Seven Reasons Why Reclaim the City Is occupying Helen Bowden and Woodstock Hospital." *GroundUp*, 4 April 2017. Available at https://www.groundup.org.za/article/seven-reasons-why-reclaim-city-occupying-helen-bowden-and-woodstock-hospital/.

- Pogge, Thomas. "Severe Poverty as a Violation of Negative Duties." *Ethics & International Affairs* 19, no. 1, 2005.

- Pogge, Thomas. "World Poverty and Human Rights." *Ethics & international affairs* 19, no. 1, 2005.

- Quong, Jonathan. *The Morality of Defensive Force*. Oxford University Press, 2020.

- Rawls, John, *A Theory of Justice* (Revised Edition). Cambridge, MA: Harvard University Press, 1999 [1971].

- Renzo, Massimo. "Rights Forfeiture and Liability to Harm." *Journal of Political Philosophy* 25, no. 3, 2017.

- Robeyns, Ingrid and Fibieger Byskov, Morten. "The Capability Approach", *The Stanford Encyclopedia of Philosophy*, Fall 2021 Edition, Edward N. Zalta (ed.), Available at https://plato.stanford.edu/archives/fall2021/entries/capability-approach.

- Rodin, David. "Justifying Harm." *Ethics* 122, no. 1, 2011.

- Rodin, David. "The Myth of National Self-Defence." in Fabre, Cécile, and Seth Lazar, (eds). *The Morality of Defensive War*. Oxford: Oxford University Press, 2014.

- Sabl, Andrew. "Looking Forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons." *Journal of Political Philosophy* 9, no. 3, 2001.

- Sangiovanni, Andrea. "Structural Injustice and Individual Responsibility." *Journal of Social Philosophy* 49, 2018.

- Sartre, Jean-Paul. 'Preface' in Fanon, Frantz. *The Wretched of the Earth*. Translated by Richard Philcox. New York: Grove Press, 2004 [1961].

- Satgar, Vishwas. 'Bringing Class Back In: Against Outsourcing During #FeesMustFall at Wits,' Susan Booysen (ed.), *Fees Must Fall: Student Revolt, Decolonisation and Governance in South Africa*. Johannesburg: Wits University Press, 2016.

- Scanlon, Thomas. *Moral Dimensions*. Harvard University Press, 2009.

- Schock, Kurt and Chenoweth, Erica. Radical Flank Effects and the Outcomes of Civil Resistance Movements. *Fletcher Summer Institute*, 2015. Available at http://www.slideshare.net/NonviolentConflict/fsi2012-radicalflank-effects.

- See Chenoweth, Erica, Maria J. Stephan, and Maria J. Stephan. *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. New York: Columbia University Press, 2011.

- See McMahan, Jeff. 'Proportionality and Necessity in Jus in Bello.' *The Oxford Handbook of Ethics of War*. Oxford: Oxford University Press, 2015.

- Seekings, Jeremy, and Nicoli Nattrass. *Policy, Politics and Poverty in South Africa*. Johannesburg: Springer, 2015.

- Sen, Amarya. "Well-Being, Agency and Freedom: The Dewey Lectures, 1984." *The Journal of philosophy*, 82 (4), 1985.

- Sher, George. *In Praise of Blame*, Oxford: Oxford University Press, 2006.

- Shue, Henry. "Mediating Duties." *Ethics* 98, no. 4, 1988.

- Shue, Henry. *Basic Rights: Subsistence, Affluence, and US Foreign Policy*. Princeton, NJ: Princeton University Press, 2020.

- Simmons, A. John. "Philosophical Anarchism," in John T. Sanders and A. John Simmons (eds.). *For and Against the State: New Philosophical Readings*. Boulder, CO: Rowman and Littlefield, 1996.

- Srinivasan, Amia. "The Aptness of Anger," *Journal of Political Philosophy* 26, 2018.

- Statman, Daniel. "On the Success Condition for Legitimate Self-Defense." *Ethics* 118, no. 4, 2008.

- Steinberg, Jonny. 'Violence and its Rehearsals are Signs of a New Era,' *BDLive*, 29 May 2015, http://www.bdlive.co.za/opinion/columnists/2015/05/29/violence-and-its-rehearsalsare-signs-of-new-era.

- Steinberg, Jonny. *Thin Blue: The Unwritten Rules of Policing South Africa*. Johannesburg: Jonathan Ball Publishers, 2010.

- Steinhauser, Gabriele. 'South Africa President Says Rioting Following Predecessor's Arrest Was Attempted Insurrection.' *Wall Street Journal*, 16 July 2021. Available at https://www.wsj.com/articles/south-africa-president-says-rioting-following-predecessors-arrest-was-attempted-insurrection-11626468508.

- Stilz, Anna. *Liberal Loyalty: Freedom, Obligation, and the State*. Princeton, NJ: Princeton University Press, 2009.

- Stolley, Giordano. 'Our Parents Were Sold a Dream in 1994'. *The Independent*, 23 October 2015. Accessible at https://www.iol.co.za/news/south-africa/kwazulu-natal/our-parents-were-sold-a-dream-in-1994-1934973.

- Tadros, Victor. 'Causation, Culpability, and Liability.' In Coons, Christian, and Michael Weber (eds.). *The Ehics of Self-Defense*. Oxford: Oxford University Press, 2016.

- Tadros, Victor. "Causal Contributions and Liability." *Ethics* 128, no. 2, 2018.

- Tadros, Victor. "Duty and liability." *Utilitas* 24, no. 2, 2012.

- Tadros, Victor. "Localized Restricted Aggregation." *Oxford Studies in Political Philosophy* 5, 2019.

- Tadros, Victor. "The Moral Distinction Between Combatants and Noncombatants: Vulnerable and Defenceless." *Law and Philosophy* 37, 2018.

- Tadros, Victor. "Two Grounds of Liability." *Philosophical Studies*, 2021.

- Tadros, Victor. *To Do, To Die, To Reason Why: Individual Ethics in War*. Oxford: Oxford University Press, 2020.

- Thomson, Judith Jarvis, *Rights, Restitution, and Risk*. Cambridge, MA: Harvard University Press, 1986.

- Uniacke, Suzanne. "Reasonable Prospect of Success." In Frowe, Helen, and Lang, Gerald (eds.). *How We Fight: Ethics in War*. Oxford: Oxford University Press, 2014.

- Valentini, Laura. "Just War and Global Distributive Justice." in David Held and Pietro Maffettone (eds.). *International Political Theory Today*. Cambridge: Cambridge: Polity Press, 2016.

- Van der Hart, Dirk. "ICE Temporarily Shutters Portland Facility Due To 'Occupy' Protest.' Oregon Public Broadcasting, 20 June 2018. Available at https://www.opb.org/news/article/portland-occupy-ice-building-closed/.

- Waldron, Jeremy. "Terrorism and the Uses of Terror." *The Journal of Ethics* 8, no. 1, 2004.

- Wallace, R.J. "Hypocrisy, Moral Address, and the Equal Standing of Persons," *Philosophy & Public Affairs*, 38, 2010.

- Walzer, Michael. 'Civil Disobedience and Corporate Authority,' *Obligations: Essays on Disobedience, War, and Citizenship*. Cambridge, MA: Harvard University Press, 1970.

- Walzer, Michael. "Terrorism and Just War." *Philosophia* 34, no. 1, 2006.

- Walzer, Michael. "Civil Disobedience and Corporate Authority." *Obligations: Essays on Disobedience, War, and Citizenship*. Cambridge, MA: Harvard University Press, 1970.

- Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books, 1977.

- Wasow, Omar. "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting." *American Political Science Review*, 2020.

- Wellman, Christopher. "Liberalism, Samaritanism, and Political Legitimacy," *Philosophy and Public Affairs* 25, no. 3, 1996.

- Wenar, Leif. "Rights". In *The Stanford Encyclopedia of Philosophy* (Spring 2021 Edition), Edward N. Zalta (ed.), Available at https://plato.stanford.edu/archives/spr2021/entries/rights.

- Wilson, Jason. "'Occupy ICE: Activists Blockade Portland Building Over Family Separations". *The Guardian*, 20 January 2018. Retrieved June 23, 2018. Available at https://www.theguardian.com/us-news/2018/jun/20/occupy-ice-portland-protest-immigration-family-separations.

- Wolff, Jonathan, and Avner De-Shalit. *Disadvantage*. Oxford: Oxford University Press, 2007.

- Wolff, Robert. *In Defence of Anarchism*. New York: Harper Torchbooks, 1970.

- Xaba, Wanelisa. 'The Dangers of Liberalism: A Short Reflection on the African National Congress in South Africa.' *Yale Human Rights & Development Law Journal*, 20, no. 55, 2019.

- Xaba, Wanelisa. "Challenging Fanon: A Black Radical Feminist Perspective on Violence and the Fees Must Fall Movement." Agenda 31, no. 3-4, 2017.

- Young, Iris Marion. *Five Faces of Oppression*. Princeton, NJ: Princeton University Press, 2011.

- Young, Iris Marion. *Responsibility for Justice*. Oxford: Oxford University Press, 2010.

- Zikalala, Nomsa Ingrid, Jacob T. Mofokeng, and Hendrick P. Motlalekgosi. "'Black Like Me': A Critical Analysis of Arrest Practices Based on Skin Colour in the Gauteng Province, South Africa." *International Journal of Criminology and Sociology* 10, 2021.