Utilitarianism and Recourse to War

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Despite the enormous impact that war and the threat of war have had on human well-being, utilitarians have had surprisingly little to say about when, if ever, we may fight wars. Discussion of this question has been dominated by realism, pacifism and just war theory. This article takes some preliminary steps toward remedying this situation. I begin by spelling out what I call the Utilitarian War Principle (UWP). After presenting some considerations in its favour and answering some possible objections to it, I compare UWP with pacifism and with the principles of *jus ad bellum* found in the work of contemporary just war theorists. I argue that adherents of UWP should treat those principles as secondary moral principles, which, although subordinate to UWP, can and should guide its application and which, in turn, should be refined and revised with this goal in mind.

Textbooks and other surveys of the ethics of war and peace typically lay out three basic positions: pacifism, realism and just war theory.[1] Pacifism is the absolutist view that war is immoral and that therefore it is always wrong, always morally unjustified, for either nations or individuals to fight them. Realism is the amoralist thesis, long prevalent among theorists of international relations, that war among nations is neither right nor wrong, but simply a matter of national interest. Realists tend to fudge the question whether their view of international relations is descriptive or prescriptive; that is, whether realism describes how nations behave or how they should behave or both. In any case, realists of all stripes agree that when it comes to war moral categories and moral analysis do not apply; to employ them is not only misleading and irrelevant – a kind of category mistake – but also potentially harmful, even dangerous. This is because moral theorizing in this area is predicated on a misunderstanding of how the world really works and, in particular, of why nations act as they do, a misunderstanding that can have fatal consequences. Just war theory contrasts with realism in holding that moral categories can and ought to be applied to war. It contrasts with pacifism, on the other hand, in maintaining that sometimes it is morally permissible to fight. Accordingly, just war theory specifies the principles that should guide

[1] See, for instance, Brian Orend, 'War', *Stanford Encyclopedia of Philosophy*, available at <http://www.plato.stanford.edu>, and Douglas P. Lackey, *The Ethics of War and Peace* (Upper Saddle River, NJ, 1989).

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us in determining when recourse to war is morally legitimate. This part of the theory is called *jus ad bellum*. In addition, just war theory specifies the moral principles that should guide combatants when they fight wars. This part of the theory is called *jus in bello*. The division of the theory into two parts reflects the plausible thought that whether soldiers fight in a morally legitimate way is an issue distinct from whether their cause is justified (thus, for example, soldiers fighting in a righteous cause might behave immorally by slaughtering the children of their enemy).

One thing that is striking about this tripartite division of theoretical space is the de facto monopoly enjoyed by just war theory over non-pacifist moral discourse about war. There are good reasons for this, of course. Originally shaped by Aquinas, Vitoria, Suarez, Grotius, and other great minds of their times and with roots in earlier Roman and Christian thought, just war theory represents a rich intellectual tradition, one that has had enormous, well-deserved influence. Most contemporary writers on the ethics of war, whether philosophers or not, implicitly work within the just war tradition, broadly understood, even when they challenge or revise some of its precepts. Moreover, the international law of war and jurisprudential reflection on that law are bound up with just war thinking. In contrast to other ethical theories, which often seem to have little impact on the real world, just war theory is part and parcel of a broad international consensus, a consensus that is simultaneously political, legal and moral, about when and why wars may be fought and, if they are to be fought, about how they are to be fought.

Although the just war tradition dominates discussions of the ethics of war, it is not the only possible normative but non-pacifist approach one might take. Nor is it theoretically neutral. Its contemporary representatives understand it, at least implicitly, in broadly deontological terms, and they either ignore or express hostility to the utilitarian or consequentialist tradition in ethics. There are various historical and intellectual reasons for this, among them the important role played by natural law theorists and Catholic thinkers in sustaining, developing and elaborating just war ideas over the years.[2] Utilitarians bear some responsibility for this situation as well, for despite the enormous impact that war and the threat of war have had on human well-being, they have had relatively little to say about when, if

[2] This neglect of, or hostility towards, consequentialism was by no means theoretically preordained. The classical just war theorists were writing before philosophers distinguished between consequentialism and non-consequentialism, and, as will become evident in the discussion below, there are significant consequentialist strands within just war theory itself.

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ever, we may fight wars and (assuming they may sometimes be fought) how we are permitted to fight them.[3]

In this article, I take some preliminary steps toward remedying this neglect, focusing on the issue of *jus ad bellum*, that is, of when, if ever, recourse to war is morally justified. I begin by spelling out what I call the Utilitarian War Principle (UWP). After presenting some considerations in its favour and answering some possible objections to it, I compare UWP with pacifism and with the principles of *jus ad bellum* found in the work of contemporary just war theorists. I argue that utilitarians and other friends of UWP should treat those principles as secondary moral principles, which, although subordinate to UWP, can and should guide its application and which, in turn, should be refined and revised with this goal in mind. Understanding the utilitarian approach to war and the relation of utilitarianism to the received principles of *jus ad bellum* should be of interest to anyone concerned with the ethics of war, whether or not they lean toward consequentialism.

THE UTILITARIAN WAR PRINCIPLE (UWP)

Consequentialism entails that it is morally right for a state to wage war if and only if no other course of action would have better results. Call this the Consequentialist War Principle (CWP). Utilitarianism entails CWP, but because utilitarians believe that individual welfare or well-being is the only thing that is valuable for its own sake, they would refine CWP by replacing 'have better results' with 'result in greater well-being'. Putting things in more detail and somewhat more technically, we arrive at what I shall call the Utilitarian War Principle (UWP):

(UWP) It is morally right for a state[4] to wage war if and only if no other course of action available to it would result in greater expected well-being; otherwise, waging war is wrong.

If a state would act rightly in waging war, then it is morally permitted to do so. Its conduct is justified; it does no wrong. But is it also morally

[3] Two noteworthy exceptions are Richard B. Brandt, 'Utilitarianism and the Rules of War', *Philosophy & Public Affairs* 1.2 (1972), pp. 145–65, and Walter Sinnott-Armstrong, 'Preventive War – What Is It Good For?', *Preemption: Military Action and Moral Justification*, ed. Henry Shue and David Rodin (Oxford, 2007), pp. 202–21. John Stuart Mill said some pertinent things about the justification of war in his essays 'A Few Words on Non-Intervention' (1859) and 'The Contest in America' (1862). In a chapter of *The Elements of Politics*, 3rd edn. (London, 1908), Henry Sidgwick discusses the regulation of war.

[4] Because, strictly speaking, states differ from nations, *state* is the proper term to use here. In this article, however, I forsake terminological purity for stylistic convenience and, like most writers, employ *state*, *nation* and *country* interchangeably.

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required to wage war? An ancillary principle to UWP answers that question:

(ancillary) It is not only morally right, but also *morally required*, for a state to wage war if and only if its waging war would result in greater expected well-being than would anything else it could do.

This essay focuses on UWP, but much of what I say about it will also hold true of the more generic principle, CWP.

UWP requires not only that the benefits of a contemplated war outweigh its costs, but also that nothing else a state could do would bring about a better outcome, that is, an outcome with more well-being or, to be more precise, an outcome with greater *expected* well-being. The notion of expected well-being is a variation on the more familiar idea of expected utility or expected value. An action's expected value is calculated by multiplying the positive or negative value of each of its possible outcomes by the likelihood of each of those outcomes happening and then summing those values. In this way, one can, at least in theory, compare the expected value or, more specifically, the expected well-being, of various courses of action.[5] As the ancillary to UWP implies, if the well-being expected from some other course of action (A) is equivalent to that of waging war (W), and no course of action B, C, . . . X has equivalent or greater expected utility, then although a state is required to choose either A or W, it is not required to select one rather than the other. It acts rightly if it chooses either. This may sound like a purely theoretical point. But given the difficulties of estimating expected well-being, the possibility of ties may not be so remote.

UWP focuses on nation-states, not on sub-state, non-state, or supra-state political actors or collectivities or on the choices that individuals may face when their country is contemplating or has undertaken a war. UWP might perhaps be modified or extended to cover these issues, or we might supplement it with other normative principles. In any case, UWP is universalistic in scope, taking into account the interests of everyone equally, including future persons, not just the interests of the nation (or those in the nation) that is contemplating war. In principle, UWP takes into account the well-being of all sentient creatures, not just human beings. Although it is possible to imagine cases in which

[5] Some utilitarians prefer to formulate their criterion of right in terms of actual outcomes, rather than expected outcomes. For various reasons, I prefer the expected-outcome standard, but the practical upshot of this intramural debate is not great. Because we lack omniscience and never know for certain what the outcomes of the actions open to us will be, actual-outcome utilitarians will say that the reasonable way for us to proceed is by trying to maximize expected well-being. For further discussion, see William H. Shaw, *Contemporary Ethics: Taking Account of Utilitarianism* (Oxford, 1999), pp. 27–31.

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the moral assessment of a given war hinges on its effect on animal well-being, to simplify the discussion I concern myself here only with human well-being.

'War' can be defined in different ways. Probably the only potential ambiguity that one needs to be alert to in this context is that there are various kinds of wars that states can fight, from those that involve only restricted combat to those that engage all of a country's resources (though, as Clausewitz observed, there is a propensity for limited wars to escalate toward 'absolute war'[6]). UWP takes this fact into account. Among the alternative courses of action to be considered under UWP is that of fighting a war of a different type, scope or intensity. Relatedly, UWP uses the phrase 'waging war' rather than 'going to war' because whether to fight a war is not a one-time-only decision. Once a war begins, circumstances change, and a war that was initially justified according to UWP may cease to be so, and vice versa. UWP is forward looking: that a war was morally justified at time t does not entail that it is morally justified at time t + x.

War's ill effects are a given; by definition, it involves injury, death and devastation. Epistemic uncertainties may make it difficult to estimate the magnitude of harm ahead of time, but that people will be maimed or killed, that lives will be disrupted, and that things will be destroyed is certain. By contrast, the presumed benefits of any prospective war lie further in the future and are inevitably less certain and more speculative. Those benefits – for example, the deterrence of aggression or the upholding of freedom and self-determination – may indeed outweigh the costs, but generally speaking the costs are immediate and undeniable whereas the benefits are more distant and conjectural. Because of this, when after the fullest reflection it remains uncertain whether an envisioned war would satisfy UWP, it is probably wisest to err on the side of caution. The enormity of war also makes it vanishingly unlikely that UWP would justify both sides waging it, though it is more conceivable, if only barely, that whereas at time t UWP justified country X's war effort, but not country Y's, at time t + 1 the reverse is true.

UWP is simple, but its widespread acceptance would have profound, practical ethical implications. It does not take much familiarity with human history to see three things. First, in deciding to wage war states typically neglect or discount the consequences for other peoples. Justifications of war rarely take a universalistic form or, when they do, the universalism is spurious and what is thought to be good for one side (or for its rulers or for a dominant class) is presumed to be thereby good for humanity as a whole. Second and relatedly, arguments

[6] Carl von Clausewitz, *On War* (1832), vol. 1, bk. 1, ch. 1, and vol. 3, bk. 8, ch. 2.

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for war have frequently been conducted in terms that, if they do not ignore consequences altogether, focus on consequences that have little or nothing to do with how well or poorly the lives of individual people go (for example, when wars are fought to defend national honour or fulfil the destiny of a people). By contrast, this is all that ultimately matters for UWP. True, there are rival conceptions of well-being, and even when there is an agreed-upon concept, there are likely to be empirical uncertainties and disagreements about how best to promote well-being, so understood. But when it comes to war, subtle questions of well-being and measurement are rarely at stake for we are concerned with something that affects large numbers of people in ways whose goodness or badness is fairly obvious.

Third, it is uncommon for either side to have thought through, in any detailed or serious way, the probable gains and losses of fighting. True, the two sides are likely to believe that the stakes are high, that the benefits of fighting are great, the consequences of not fighting too terrible to contemplate, and that there is no feasible alternative. But conviction is not justification, and these beliefs are typically overconfident and only loosely grounded in fact. Even when they have some factual basis, they are riddled with mistaken assumptions and flawed assessments of likelihoods. In particular, seldom is sufficient thought given to alternatives that fall outside the political or ideological consensus of the time, such as not responding to the initial provocation, conceding land or influence, relying on non-violent resistance, or even surrendering. Widespread acceptance of UWP would change this for the better.

THE APPEAL OF UWP

One might embrace UWP because one believes that a utilitarian approach to ethics is the most plausible normative stance; hence, it is the approach to be taken when reflecting on the ethics of war. UWP, however, does not state a general criterion of right and wrong; rather, it is a fairly specific normative principle covering a limited ethical domain. Although utilitarianism entails UWP, the reverse entailment does not hold. One can, with perfect consistency, accept UWP and reject utilitarianism as a general account of right and wrong. Indeed, one could even believe UWP to be true without believing that when wars are morally justified, this is because they maximize expected well-being. UWP states a biconditional, not an explanatory relationship ('if and only if' is not equivalent to 'because'). Thus, it is possible that a theorist might grant that UWP is true, even universally true, but hold that what accounts for its truth is some normative factor or combination of factors other than welfare-maximization (and perhaps even that these factors

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vary from case to case). More weakly still, one might believe only that UWP is an extremely reliable generalization, not a necessarily true nor even a universally true proposition.

Let's look more closely at why non-utilitarians might accept UWP as providing a satisfactory or basically correct criterion of when it is right for a state to wage war, beginning with those consequentialists who dissent from utilitarianism because of its value theory. Although almost all consequentialists of this sort grant that well-being is intrinsically valuable, they believe also that some other things (knowledge, perhaps, or equality, or beauty, or personal affection, or species diversity) are valuable for their own sake, independent of their effect on human well-being. Even so, these consequentialists may well grant that when it comes to the question of whether to wage war, at stake are welfare consequences so profound as to dwarf, for all practical purposes, any non-welfare consequences that one might think are also intrinsically valuable. They may further believe, quite plausibly, that trying for the sake of theoretical completeness to take into account those other consequences would make matters needlessly complicated or even prove counterproductive. In this way, non-utilitarian consequentialists might come to accept UWP as essentially correct – as, practically speaking, the most pertinent and useful moral criterion by which to assess the validity of waging war.

What about non-consequentialists? Why should they embrace UWP? The main reason is that UWP states an intuitively plausible normative principle. Common-sense morality would balk, I believe, at the proposition that fighting a war can be right even when the overall results of fighting would be worse than not fighting. It is therefore implicitly committed to CWP. And if well-being is understood broadly enough to encompass goods like liberty and self-determination that are essential to human flourishing – as Mill and almost all contemporary utilitarians believe – then most people, I submit, will find UWP intuitively correct as well.

Almost all contemporary non-consequentialists believe that consequences, although not the whole story morally, are relevant to the determination of right and wrong and, further, that in some circumstances consequences may be all that really matters. They are especially likely to place overriding importance on consequences when it comes to choices that have the potential to affect the well-being of many, many people for better or worse and in deep and important ways, as is undoubtedly the case with decisions about war and peace. So, consistent with their various theoretical commitments, non-consequentialists could join common-sense morality in endorsing UWP as an intuitively acceptable, middle-level normative principle, a principle the validity of which is evident upon reflection and that

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also coheres well with the judgements we are inclined to make about specific cases. Or, short of this, they may find that UWP offers a useful public standard for the assessment of war, around which it may be possible to build a political consensus. And, finally, even if some non-consequentialists find themselves unable to endorse UWP, they should find it helpful to have its implications spelled out because it is likely to capture at least part of what they think is normatively important.

In this context it is worth noting that the reasons many non-consequentialists have for rejecting a utilitarian or consequentialist account of right and wrong do not apply to UWP. For example, critics of utilitarianism contend that it is insensitive to questions of distribution, that it demands too much of us as individuals, that it can too easily conflict with ordinary moral requirements like keeping one's promises or telling the truth. They urge that utilitarianism is too impersonal and coldly calculating, and they maintain that it ignores one's individual attachments and personal commitments and the specific moral obligations that grow out of our various everyday relations with others. They argue that it falters as a personal ethic, having nothing serviceable to say about how individuals should live their day-to-day lives or about what kind of people they should strive to be. However, these criticisms lack bite or miss the mark altogether when it comes to UWP. When war and peace are at issue, we want our decision-makers to focus on the consequences of their actions and to be committed to acting so as to make people's lives go as well as possible. We want them to be impartial, dispassionate and empirically minded – to be rational deliberators who look objectively at the big picture and the long run, basing their decisions on the most accurate and detailed understanding they can obtain of the circumstances in which they are operating and the likely results of the alternatives open to them.[7]

OBJECTIONS TO UWP

Most of the standard criticisms of utilitarianism are irrelevant to UWP. Still, we can anticipate various possible objections to it. For one thing, critics of UWP are likely to point out that when nations go to war, even those nations initiating manifestly aggressive and purely self-aggrandizing wars, they frequently claim to be acting for the greater good and defend their actions, at least in part, on grounds that sound utilitarian. To the critics this is evidence of the bankruptcy of the utilitarian approach. The obvious reply, however, is that one must distinguish genuine, serious and empirically grounded

[7] See, more generally, Robert E. Goodin, *Utilitarianism as a Public Philosophy* (Cambridge, 1995).

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thought about outcomes from spurious claims about the greater good and from sophistical arguments or state propaganda that takes a superficially consequentialist form but merely rationalizes a course of action determined on other grounds. No normative principle is shown to be incorrect because the deluded or unscrupulous abuse it.

Furthermore, the proper remedy for such abuse is not to forego consequentialist reflection, but to strive to do it better – more accurately and more carefully and with greater awareness of the various illusions and mishaps to which human reasoning is prone. Although utilitarian-like reasoning can be, and has been, manipulated or misused, and although, when it comes to matters of war in particular, the assertions on both sides about what is or is not for the greater good are prone to be poorly grounded, tendentious or even entirely spurious, to take UWP seriously is to push against this. By insisting that the right answer depends on the likely outcomes of alternative actions in the actual circumstances we face, and on nothing else, it provides the only possible antidote to baseless assertions about the greater good.

The above rejoinder, however, does not solve what many will see as the major problem with UWP, namely, that when applied to real situations, it is hopelessly inconclusive because of the epistemic obstacles confronting any attempt to use it. These obstacles are of two types, one a result of UWP's value theory, the other of its consequentialism. First, it will be urged that the concept of well-being is elusive, that the things that promote it are extremely variable or even unknowable, and that UWP ends up requiring us to compare goods that are, in fact, incommensurable.[8] Second, it will be urged that, even if we could plausibly assign values to different outcomes, the consequences of the various possible courses of action open to any nation contemplating war are too uncertain and unpredictable for UWP to yield a determinate answer either way. Let us consider these in turn.

In responding to the first set of claims, we can follow Mill in pointing out that we already know quite a lot about human well-being – about what it is for people's lives to flourish or fail to flourish, about the sources of their suffering and satisfaction, and about the various things that conduce to, or thwart, their faring well. We are far from being entirely in the dark about these matters. There is widespread agreement about the things that are good for people and the things that damage their interests, blight their prospects, or make their lives go poorly. Although more work is needed to clarify and refine the notion of well-being, of which there are competing philosophical

[8] For a presentation of this final criticism, see A. J. Coates, *The Ethics of War* (Manchester, 1997), pp. 173–5.

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conceptions,[9] and although we have a lot left to learn about the biological, psychological and social factors that affect well-being, when it comes to questions of war, as previously suggested, subtle questions of well-being are rarely involved: the relevant evils and goods are gross and unmistakable.

Still, weighing and comparing them can be challenging, and a number of philosophers believe that many values (for example, liberty and equality) are incommensurable, meaning roughly that it is not possible to measure and compare them against each other. This is a vexed topic in contemporary discussions of value theory and decision-making, especially for those who believe in a diverse range of intrinsically valuable goods. By contrast, UWP appeals to an apparently monistic standard, namely, well-being. Yet, on closer inspection this monism may be more terminological than substantive because at least some conceptions of well-being oblige us to make comparisons on an essentially intuitive basis. But, again, it is easy to exaggerate the problems facing UWP, for even those philosophers who stress that various values (or various aspects of well-being) cannot be reduced to a common measure also believe that we often can and do make reasonable comparisons and trade-offs among them.

Utilitarians long ago gave up belief in anything like Bentham's hedonic calculus. They tend, like Mill, to take a broad view of the things that are important for human flourishing, such as respect for individual autonomy and the upholding of basic rights. Undoubtedly, UWP invites extremely hard questions, such as: in terms of their long-run contribution to human well-being, are the goods that this war seeks to secure, and that it has such and such a likelihood of securing, worth the projected loss of these many lives and this much material damage? Posed this way, the question may seem daunting, indeed, but whenever a nation weighs recourse to war it is precisely tough questions of this sort that one should be asking and that the relevant decision-makers should be debating, as carefully and with as much specificity as they can muster.[10]

This brings us to the second obstacle facing the effort to apply UWP to real-world situations, namely, that the consequences of our choices are unforeseeable. Even if we could assess correctly the goodness or badness of various outcomes (our first problem), our knowledge of

[9] Contemporary philosophers typically distinguish three accounts (or types of accounts) of well-being: mental-state accounts, desire-satisfaction accounts and objective-list accounts.

[10] Here it is worth bearing in mind Thomas Hurka's point that it is fallacious to maintain 'that what cannot be measured precisely cannot be measured at all'. Thomas Hurka, 'Proportionality in the Morality of War', *Philosophy & Public Affairs* 33.1 (2005), pp. 34–66, at 66.

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the future is inevitably tenuous and imperfect, especially insofar as it involves anticipating how others will respond to what we do. One has to concede this. Moreover, decisions-makers sincerely trying to apply UWP can misjudge the probable effects of the courses of action they consider, either overlooking some possible outcomes altogether or miscalculating their likelihood. They can be unaware of, or fail to attend to, some alternative courses of actions. In addition, their judgments can be distorted by faulty background assumptions and various kinds of bias, as well as wishful thinking, anchoring, framing effects, and other sorts of cognitive errors to which all human decision-making is prone. Emotion, self-interest and social pressure can also cloud their judgement.

Nevertheless, the critic of UWP overstates the hopelessness of our epistemic situation. Much of the time we manage to navigate through the world with some success. We anticipate future events more or less correctly. Things go according to plan; our expectations are fulfilled. Moreover, fuller discussion, the ventilating of assumptions, the incorporation of divergent perspectives and empirical testing can improve our anticipations of the future, our knowledge of the probable results of different courses of actions. An appreciation of our own fallibility can also help, as can an awareness of the various ways, logical and psychological, in which reasoning can go astray. We can learn from history, too, by studying the flawed thinking that has characterized so many decisions to wage war and comparing it to what an impartial, well-informed observer who had undertaken to apply UWP would have decided, looking at the facts and probabilities and taking into account the interests of all.

There are many wars, the waging of which unarguably violated UWP, and others about which we can assert with reasonable confidence, I believe, that fighting them accorded with UWP. Furthermore, no nation, to my knowledge, has consciously adhered to UWP, and few thinkers have used it to examine either current or past wars.[11] Given these facts, it seems premature to discard UWP as unworkable. Moreover, even if the epistemic problems I have canvassed are as serious as the critic of UWP believes they are, it would not follow that UWP should be rejected. A normative principle is not shown to be incorrect because it is difficult to apply, still less because it does not yield quick and easy answers. We cannot rule out the possibility that morality is complicated or that getting the right answers to some important moral questions may be difficult. Nor should it be surprising

[11] One who has is Bart Gruzalski. See his 'Some Implications of Utilitarianism for Practical Ethics: the Case against the Military Response to Terrorism', *The Blackwell Guide to Mill's Utilitarianism*, ed. Henry R. West (Oxford, 2006), pp. 249–69.

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that it is particularly challenging to morally assess large-scale decisions that affect the lives of thousands or even millions of people in countless ways. It might turn out, then, that a normative principle like UWP that, upon serious reflection, we judge to be plausible, reasonable, well justified, or just plain true simply is difficult to apply in certain cases and that about those cases conscientious people may reasonably differ. That would be unfortunate, but it might be the way things are. As we shall see below, however, there may be a way to reduce the possibility of reasonable disagreement. But, first, I must compare UWP with two rival approaches to the ethics of waging war: pacifism and just war theory.

PACIFISM AND UWP

Realists will repudiate UWP because they disparage any effort to apply moral theory to, or develop normative principles for, issues of war and peace. For this reason and because its amoralism has been amply criticized elsewhere, I put realism aside here. Pacifism, by contrast, is a normative stance: it rejects all wars as immoral and forbids us to fight them. This absolutist position collides with UWP, which conspicuously refrains from forbidding war across the board. If waging a given war would produce better results than not fighting, then we are morally justified in waging it.

If one believed that the antecedent in the above 'if–then' conditional is never satisfied – that is, that waging war is never the optimal course of action – then UWP would lead one to a kind of contingent pacifism. Certainly, it seems reasonable to believe (1) that nations have fought many, many wars that failed to satisfy UWP and were therefore immoral and should not have been fought. Perhaps this is true of most wars that nations have fought. Could one plausibly go further and maintain (2) that almost all past wars fail the UWP test or, even, (3) that absolutely all of them do? To be sure, there is probably no war of which it can be truly said that (viewed as a whole) it was a welfare-maximizing event or series of events. Wars often look like collective folly. There will always have been some state of affairs that the belligerents involved could have brought about instead that would have been better for the world and probably for each of them as well. But this fact is irrelevant here. UWP addresses what an individual nation should choose to do now, in the circumstances it finds itself in, circumstances that have been structured by past events and past decisions, both its own and those of others.

Proposition (2) strikes me as doubtful, but perhaps it is true, whereas I am confident that proposition (3) is false and that on some occasions nations have been justified, according to UWP, in resorting to arms. At

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the very least, the burden of proof would be on a proponent of (3) to debunk the various historical examples that critics are likely to bring forward. In any case, propositions (1), (2) and (3) suggest, on inductive grounds, that it is likely – or possibly extremely likely – that any wars that nations might consider fighting in the future will be immoral. If this is so, then we might be led to a kind of sophisticated pacifism that holds that although wars can in principle be morally justified and sometimes are justified, in fact they rarely are justified – so rarely, in fact, that we will get the best results if we internalize in ourselves, teach our children and proclaim to others the principle that war is categorically wrong and that no nation should ever again fight one.

Certainly, the truth of (1), (2) and (3), if any of them be true, should guide us in the application of UWP. Recourse to war is fraught with the gravest risks to human well-being, and the knowledge, if knowledge it be, that nations have only sometimes, if ever, been justified in waging it would be salutary. Yet, the sophisticated pacifist goes beyond this and proposes on consequentialist grounds that we abandon UWP in favour of pacifism as our sole guiding principle regarding recourse to war. UWP is so likely to rule out as immoral any future war, the waging of which might be contemplated, that we do not need to apply it and, indeed, can dispense with it altogether. And we should dispense with it, our imagined pacifist argues, because if we apply UWP to the war decision before us, we might err and decide (incorrectly) to go to war, whereas we know ahead of time (based on induction from past history) that the waging of this or any other war would almost certainly be wrong. And even if this pacifist stance leads us on rare occasions to err morally by failing to fight wars that UWP would have approved, we still do better in the long run, the argument continues, by adhering to it and refusing ever to appeal to UWP or to entertain war as an option.

A strategic or indirect consequentialist approach like this may be sound in some cases,[12] but here it is unconvincing. It might seem obvious that a world in which everyone believed that wars should never be fought would be a better world because no wars would be fought. But whether that is true depends on what the imagined world without war would be like. If such a world had more injustice, oppression or aggression – in short, more misery and less well-being – than a world with the occasional war, then it might not be a better world. A world in

[12] R. M. Hare, for example, argued that although it is logically possible that slavery could be happiness maximizing, in the real world it never is. We therefore get better results if we teach people that slavery is categorically wrong and should always be resisted and if we internalize and act on that principle ourselves than we would get if we encouraged people (including ourselves) to weigh the consequences of each and every instance of slavery before deciding whether to oppose it. See R. M. Hare, 'What is Wrong with Slavery', *Philosophy & Public Affairs* 8.2 (1979), pp. 103–21.

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which people did not care enough about combating these evils to risk their own safety or otherwise incommode themselves might not be a better world.[13] In any case, for one to follow the sophisticated pacifist and repudiate all wars may or may not be the best way to bring it about that human beings fight no wars. It depends on whether most other people also categorically repudiate war. If most people have trouble accepting pacifism or have trouble sticking to it when push comes to shove, endorsing pacifism might not be the best way to ensure that human beings fight no wars. Sticking with UWP might have better results.

Suppose, what seems entirely plausible, that in the foreseeable future the vast majority of people are not likely to be brought to believe that we should never, ever wage war regardless of the circumstances (although they will, of course, continue to believe, as they do now, that war is terrible and ought to be avoided if at all possible). Imagine, then, that a nation finds itself in a situation similar to those that have in the past led nations to fight. There will certainly be people arguing for going to war on various grounds, moral and otherwise, sound and spurious. Suppose further that the war in question would indeed be morally unjustified. How is that war to be argued against effectively without looking at the facts, that is, without bringing UWP to bear? Simply to reaffirm one's categorical opposition to war, as our sophisticated pacifist does, and to say 'we don't have to look at the details to know that this war would be wrong' will be unconvincing when the war party is making arguments, giving reasons and pointing to facts. It is a strength of UWP that in requiring us to focus on the human costs and benefits of any possible war, to examine likely outcomes and to weigh alternative courses of action, it invites decision-makers to be specific and empirical. If a prospective war is indeed wrong (as we are now supposing), then the adherent of UWP can explain the reasons why. In modern times, most countries face the decision whether to wage war only at infrequent intervals when the circumstances seem exceptional, when what is at stake appears very important and when emotions run high. It is precisely here that the absolutist rejection of war that the sophisticated pacifist wants us to teach is likely to be ineffective and to be set aside as only a generalization open to exceptions (which, of course, is exactly what it is for our sophisticated pacifist).

Still, the sophisticated pacifist may worry that UWP invites us to adopt a way of thinking that is too congenial to war because it implicitly promotes an instrumentalist view of human beings as means

[13] In the final paragraph of 'The Contest in America', Mill writes, 'War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks nothing worth a war, is worse.'

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to the greater good, not as ends in themselves. With this calculative instrumentalism and an outcome-oriented, 'the end justifies the means' attitude, a utilitarian approach to war, it is alleged, makes it too easy to rationalize war. In this vein, Stuart Hampshire once blamed the Vietnam War on the 'coarse, quantitative, calculative Benthamism' of America's civilian leadership.[14] But an acceptance of UWP does not require a hawk-like mentality – indeed, as I have been discussing, it has rather pacifistic implications – and the reasoning that Hampshire rightly spurns 'as a counterfeit model of rationality' is also a parody of sensible, informed and judicious consequentialist thinking. Indeed, as Hampshire himself makes clear, America's foreign policy and defence experts viewed the whole issue entirely in terms of American interests: they were realists, not utilitarians. Rather than leading us to the coarse, benighted reasoning that Hampshire criticizes, UWP requires us to focus on concrete harms and benefits to real people. It does not bias ethical analysis toward war.

JUST WAR THEORY

Just war theory represents a more compelling alternative to UWP than pacifism does. It has a number of articulate exponents and is the site of much serious reflection on the ethics of war. Expositors of just war theory are quick to point out that it is really a family name designating a number of closely related theories because different thinkers have developed and elaborated the basic theory in different ways. (In this respect, it is rather like utilitarianism.) Nevertheless, among contemporary just war theorists there is, despite slight variations in presentation, broad agreement on the basic principles that govern the moral legitimacy of recourse to war – the principles of *jus ad bellum*. According to mainstream just war theory, then, a war is just if and only if meets the following six conditions:[15]

Legitimate authority: Only a competent, duly constituted or legally designated political entity, with authority to speak and act on behalf of its population, can

[14] Stuart Hampshire, 'Russell, Radicalism, and Reason', *New York Review of Books*, vol. xv, no. 6 (October 8, 1970), pp. 4–6, at 4.

[15] See Orend, 'War'; Lackey, *Ethics of War and Peace*; Coates, *Ethics of War*; Paul Christopher, *The Ethics of War and Peace: An Introduction to Legal and Moral Issues,* 3rd edn. (Upper Saddle River, NJ, 2004); Martin L. Cook, *The Moral Warrior: Ethics and Service in the U.S. Military* (Albany, 2004); Nigel Dower, *The Ethics of War and Peace* (Cambridge, 2009); Nicholas Fotion, *War and Ethics: A New Just War Theory* (London, 2007); Charles Guthrie and Michael Quinlan, *Just War: The Just War Tradition: Ethics in Modern Warfare* (New York, 2007); Anthony E. Hartle, *Moral Issues in Military Decision Making*, 2nd edn. (Lawrence, 2004); James Turner Johnson, *The War to Oust Saddam Hussein* (Lanham, Md., 2005); and Alexander Moseley, 'Just War Theory', *Internet Encyclopedia of Philosophy*, available at <http://www.iep.utm.edu>.

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authorize war. This condition is intended to rule out vendettas and private wars. Wars are supposed to aim at some publicly identifiable political goal sought by a political collectivity. Relatedly, wars fought by a legitimate authority are supposed to have been authorized or brought about by the appropriate public figures in a legally or politically pre-designated way. Historically speaking, legitimate authority has been assumed to be restricted to sovereign states, but many just war theorists today are prepared to expand the concept to include, in some circumstances, supra-state actors like the United Nations and sub-state actors such as secessionist or national liberation movements.

Just cause: A war cannot be just unless the cause for which a state fights is just. However, this is only a necessary, not a sufficient condition: a war with a just cause will be unjust if the other conditions are not met. What is just cause? Traditional examples of just cause include protecting the innocent, repelling invasion, restoring rights wrongfully denied or rectifying other injustices, and punishing wrongdoing. These days the only universally agreed just cause is defence against armed aggression. However, this is understood broadly to include not only national self-defence, but also the defence of other nations, the recovery of territory that has been wrongfully seized (e.g. the Falklands or Kuwait), and, in some circumstances, pre-emptive attack (but not preventive war). In addition, today many just war thinkers believe that humanitarian intervention can constitute a just cause for war.

Right intention: Having a just cause is insufficient; it must be the real reason a state goes to war, its underlying intention or motivating purpose. In other words, just cause cannot be a mere pretext. Although a state, like an individual, can have various motives and intentions, these must not be such as to subvert its claim to be acting morally and for a just cause. For some just war theorists, right intention also includes the requirement that when resorting to war, a nation must be aiming at peace or *jus post bellum*.

Last resort: War is a great evil, and nations must always take steps to avoid it, if at all possible – for example, through negotiation, diplomacy or boycott. Just war theorists agree, however, that 'last resort' should not be taken too literally because there may always be some further step short of war that a nation could take – even, perhaps, after it has been invaded – and sometimes waiting longer might make prosecution of the war, when it inevitably comes, even more destructive than it would otherwise have been. At the very least, though, war should be a nation's least preferred option.

Proportionality: Even if a nation's cause is just, for the war to be just the good which is at stake must outweigh the evils the war will inflict on all sides, combatants and non-combatants alike. The costs and benefits to be weighed and compared, in determining whether it would be just to fight, include not only such things as loss of life, destruction of infrastructure, the reclaiming of lost territory, or freedom of movement at sea, but also less tangible values and moral goods. Proportionality requires that, given the justice of the cause, the benefits of war are sufficiently weighty to justify its costs.

Reasonable prospect of success: A state should not wage war, even if its cause is just and proportionate, unless it has a reasonable chance of success. Given

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the horror of war, it cannot be right to fight when there is little or no possibility of succeeding. However, success is defined in terms of a nation's war aims, and these may be relatively modest (for example, forcing a negotiated settlement as opposed to totally destroying the enemy).

If these six conditions are not satisfied, just war theory holds that the war is unjust and should not be fought. If one side fights justly, then the other side fights unjustly. However, that one side fights unjustly does not entail that the other side fights justly: both belligerents may be fighting unjustly. Some just war theorists, however, are looser about these matters, allowing that a nation's resort to arms may be just on balance, even if not completely just, and that both belligerents may have some degree of justice on their side.

In expanding upon these principles and in illuminating them with historical examples, contemporary just war theorists have had valuable and insightful things to say about war although they differ somewhat among themselves in how they interpret and develop their shared principles and in what they take their implications to be for various historical cases. But how does their overall approach compare with that of UWP? UWP and the principles of *jus ad bellum* are obviously not logically equivalent. Depending upon precisely how the principles of *jus ad bellum* are interpreted, they might forbid some wars licensed by UWP or permit some wars that UWP would condemn. For all practical purposes, however, the two are close to extensionally equivalent for it is difficult to envision real-world scenarios in which a war condemned by the one would be approved by the other, and vice versa.

If this is so, then adherents of UWP should take a friendly attitude towards the received principles of *jus ad bellum*, accepting them as providing a potentially helpful way to begin analysing questions of war. Some of the principles (last resort, proportionality, reasonable prospect of success) draw attention to factors that are clearly relevant to UWP analysis, but one can also discern a consequentialist rationale for others, such as right intention and just cause, that appear on their face thoroughly non-consequentialist. For instance, although intention in and of itself is irrelevant to UWP, it is extremely likely that a government will fail to satisfy UWP if, when it goes to war, it is not sincerely trying to act on the basis of moral principle. The just cause principle appears even more clearly to conflict with UWP's consequentialism because the principle rules out waging war without a just cause even when doing so would maximize well-being. But such a case – a welfare-maximizing war that is not a matter of justice – is extremely unlikely in the real world. In adhering to the just cause principle we run little danger of failing to fight wars that UWP says we should fight, and by restricting ahead of time, in this way, those

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situations in which we may permissibly entertain the possibility of waging war, we reduce the risk of going to war based on an erroneous belief that doing so maximizes expected well-being.

THE PRINCIPLES OF *JUS AD BELLUM* AS INTERMEDIATE PRINCIPLES

In *Utilitarianism*, Mill speaks of the importance of following 'intermediate generalizations' or 'corollaries from the principle of utility' instead of 'endeavour[ing] to test each individual action by the first principle'. He continues:

> It is a strange notion that the acknowledgment of a first principle is inconsistent with the admission of secondary ones. To inform a traveller respecting the place of his ultimate destination, is not to forbid the use of landmarks and direction-posts on the way . . . Whatever we adopt as the fundamental principle of morality, we require subordinate principles to apply it.[16]

UWP is not a fundamental principle of morality in Mill's sense. Even so, there may be secondary or lower-level principles that could guide its application, thereby reducing the epistemic and other difficulties that can impede our employing it successfully.

My suggestion is that if we accept UWP, then we should adopt the principles of *jus ad bellum* as intermediate principles in exactly this sense. Although ultimately subordinate to UWP, these principles would be seen as providing the workaday framework in which the morality of resorting to war is to be examined. Not only do the *jus ad bellum* principles draw our attention to considerations that are extremely relevant from the perspective of UWP, but they are also principles that are widely known, utilized and taught (for instance, at our service academies) and that many people find intuitively plausible. I am not arguing, however, that UWP be abandoned in favour of the principles of *jus ad bellum*, for two reasons. First, those principles are not self-interpreting; they require elaboration and refinement, and UWP provides a vantage point from which this can be done.[17] Second, at present the principles lack theoretical foundation. Although originally grounded in a theological or natural-law framework, the principles of *jus ad bellum* are, it seems, implicitly endorsed by just war theorists today either on the basis of intuition or solely out of respect for tradition.

[16] John Stuart Mill, *Utilitarianism* (1861), ch. 2, paragraph 24.

[17] As things stand now, there is, writes George R. Lucas, Jr., 'a disturbing looseness, ambiguity, and *indeterminateness* in the formulation and interpretation' of the *ad bellum* principles. See his '"Methodological Anarchy" and the Case for Preventive War', *Gathering Threats: The Ethics of Preventive War*, ed. Dean K. Chatterjee (Cambridge, forthcoming).

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Neither of these rationales is entirely satisfactory. UWP, however, can potentially tie those principles together and provide them with needed theoretical underpinning. If so, then when asked why the rules of *jus ad bellum* are important, why they should be taken seriously, an adherent of UWP can argue that they are morally significant because they tend, on balance, to be welfare-maximizing.

Let us examine more closely how utilitarians and other friends of UWP should view the *jus ad bellum* principles. There are three main possibilities. The first is to consider them merely as pragmatic guidelines or 'rules of thumb'[18] that assist in the application of UWP but that lack any normative weight in their own right. Analysing a prospective war with the aid of a *jus ad bellum* checklist is helpful because it draws attention to various aspects of the issue that need to be considered, thus making it less likely that in deciding either to wage or to refrain from war we will contravene UWP. This 'rules of thumb' approach is sensible as far as it goes, but it ignores the normative force that those principles seem to have and that, on consequentialist grounds, it is good that people experience them as having. For instance, many of us feel intuitively that a war cannot possibly be right if the intentions behind it are sinister or if it is undertaken too eagerly and not as a last resort. We are strongly inclined to criticize leaders who wage war in violation of these or other *ad bellum* principles and would feel compunction or even guilt were we to violate them ourselves. Friends of UWP will want us to have these moral sentiments – more exactly, to have internalized the principles that these sentiments reflect – because people who have internalized them will be led to disapprove or even resist precisely those wars that UWP says they should oppose and to support only those wars that UPW says they should support.

This point is reflected in the second possible way of viewing these principles, which is to accept them as genuine normative principles, principles that, although subordinate to UWP, reflect certain widespread intuitions about morally justified recourse to war, intuitions that we want people to have and that we think they are justified in having.[19] In addition to structuring moral analysis and debate, they would – unlike mere rules of thumb – provide at least a prima facie basis of normative assessment and moral criticism. This is the option I support. Counting in its favour is the previously mentioned

[18] J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge, 1973), p. 42.

[19] This is similar to the two levels of moral thinking distinguished by R. M. Hare in his *Moral Thinking: Its Levels, Method, and Point* (Oxford, 1981). For further discussion of the role of rules in utilitarian thinking, see Shaw, *Contemporary Ethics*, ch. 5.

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fact that these rules are well known and widely accepted as reasonable and legitimate.

One could push beyond this, however, and recommend – our third possibility – that we replace UWP itself with the *ad bellum* rules on the grounds that eliminating UWP from the picture altogether will give us better results. By analogy with the move from act- to rule-utilitarianism, the *jus ad bellum* principles would, on utilitarian grounds, entirely supplant UWP as the criterion of morally justified war. As I have said, this is not my view. Friends of UWP would wish to see it entirely usurped only if they thought that doing so would yield better results in the long run, as judged by UWP, than would allowing UWP to retain ultimate normative authority. This would be the case only if we imagine both (a) that acknowledging the secondary moral status of the *ad bellum* principles would lead nations to rationalize wars that UWP, properly applied, does not authorize or to rationalize not fighting wars that UWP, properly applied, says should be fought and (b) that neither erroneous rationalization would have been possible if the issue had been decided purely on *jus ad bellum* grounds without any reference to UWP. This seems far-fetched.

Furthermore, the envisioned scenario overestimates the rigidity and univocality of those principles as they now stand, for their application to specific cases is often open to debate.[20] Rather than allowing UWP to be completely usurped by the current principles of *jus ad bellum*, a friend of UWP will want to use it to guide the interpretation and development of those principles, revising, refining or elaborating them as necessary to make them mesh better with UWP (while at the same time keeping them simple enough to teach and learn and to work with easily). However, even when those principles are refined and improved, weighing and applying them to certain situations may still prove difficult or controversial. Given this and given how much can hang in the balance, as well as the possibility of unusual or exceptional circumstances, it seems wisest not to suppress altogether the possibility of direct appeal to UWP.

As I see it, then, UWP and the principles of *jus ad bellum* are in a dynamic relationship. Friends of UWP should acknowledge the moral weight of the *ad bellum* principles and embrace them as legitimate, prima facie guides to the morality of war, and a suitable basis for public debate and moral assessment, while at the same time appreciating that, from a deeper perspective, they are principles of a secondary order and as such subordinate to UWP, which supplies their ultimate

[20] For example, in a 1991 meeting with Vatican officials the leaders of Iraq's Christian churches defended, apparently in good faith, their country's invasion of Kuwait on just war grounds (Coates, *Ethics of War*, p. 152).

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justification. Sometimes when trying to apply particular *ad bellum* principles in difficult or contested cases, adherents of UWP may have to rely on their foundational principle. (It is even conceivable that in some circumstances they may find it necessary to transcend altogether the *ad bellum* principles, whose normative weight is genuine but not absolute, and appeal directly to UWP.) At the same time, they should work to refine the *ad bellum* principles so as to make the verdicts they deliver align as closely as possible, consistent with the need to keep them relatively straightforward, with those that UWP would yield if applied directly by an ideal, impartial calculator.

For the reasons I have given, then, adherents of UWP will endorse the *jus ad bellum* principles, especially when revised in light of UWP itself, as the proper way to analyse the morality of war. They will want those principles to be reflected in people's thinking about war and to be embedded in international law and underwritten by other institutions, and they will criticize and seek to punish states that violate them. What about the possibility – almost entirely theoretical, in my view – of divergences between the *ad bellum* principles, suitably refined and interpreted, and direct appeal to UWP? In that case, what is a state to do, and how are we to judge what it does?

We can imagine two kinds of cases. In the first, we imagine that the *jus ad bellum* principles license a war that UWP would forbid. Sticking with UWP in this case is unproblematic because the *ad bellum* principles are traditionally understood to specify when a state would be justified in waging war, but not to require it to do so. So, a state would not be subject to censure for failing to wage war. On the other hand, there would be no unarguable basis for criticizing a state which, in adherence to a reasonable interpretation of the principles, waged war in the given circumstance. In the second type of case, we imagine that the *ad bellum* principles prohibit war, but a state believes, reasonably and with a high level of confidence, that direct utilitarian analysis either permits or requires it. If it merely permits waging war, a state should refrain from doing so in order to uphold and reinforce the *ad bellum* principles. If, however, a state believes, reasonably and with a high degree of confidence, that utilitarian calculation requires war, then it may feel morally compelled to wage war in violation of the *ad bellum* principles, even after taking into account the risk of error and the negative precedential effects that doing so would involve. Even if friends of UWP believe that the decision to wage war is probably correct, they may still criticize the war or withhold their support because of the importance of upholding and reinforcing the *ad bellum* rules. Again, however, it needs to be emphasized that all these are only hypothetical scenarios. In the real world we are extremely unlikely ever to find clear-cut opposition between *ad bellum* assessment and UWP assessment

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because both will be appealing to the same set of facts and probabilities and subject to the same empirical uncertainties.

CONCLUSION

Utilitarians have been remiss about war, moral discussion of which has been dominated by the just war tradition and has taken place largely in non-consequentialist terms (despite the significant consequentialist elements in just war theory itself). In this article I have taken some initial steps towards remedying this situation with respect to the question of when recourse to war is morally legitimate. I have identified what I call the Utilitarian War Principle, advanced some considerations in its favour, addressed certain criticisms of it and situated it with respect to pacifism and just war theory. With respect to just war theory, I have argued that adherents of the Utilitarian War Principle should view the principles of *jus ad bellum* as secondary moral principles and work with them accordingly. These are all spacious topics, about which more will need to be said than I have said here. Essentially, all I have done is propose a research programme. There are, furthermore, other crucially important moral matters that I have not discussed here, in particular the nature and rationale of the principles that should govern the conduct of war once it has broken out. I hope to address that topic on a future occasion.[21]

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