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Starting and Stopping Wars

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ABSTRACT

If a warring side may fight in pursuit of an aim up to some proportionality-respecting limit, then an important question is whether that side is morally required to stop fighting when it reaches that limit, despite not yet having attained its aim. The 'Quota View' answers this question affirmatively, while other views hold that the fighting may continue just as long as the projected future losses fall within certain limits. I criticize some of these other views, as well as a further argument that can be distilled from these sources, and advance a qualified version of the Quota View.

1 | Introduction

The proportionality condition insists that defensive violence be proportionate, in the sense that the harms inflicted on the aggressor through defensive action should not be excessive compared to the harms that the aggressor would impose on the defender in the absence of defensive violence. Proportionality features prominently in both theories of individual self-defence and theories of war. For many, it is indispensable to the proper management of violent conflict.

There are, however, various puzzles to negotiate as we dig deeper into the proportionality condition. One of them concerns the relevance of past losses. Its particular flavour can be immediately conveyed in the following case:

Faulty Calculation: Oceania has a just cause, C, for fighting against Eurasia, and can permissibly go to war, provided that Oceania kills no more than 10,000 individuals. At time T_1 , Oceania's evidence suggests that C can be attained at the cost of no more than 10,000 killings. At the later time T_2 , it is revealed that the evidence on which the verdict at T_1 relied was faulty: as a result, 10,000 have already been killed, but C is not yet secured. Oceania's updated evidence at T_2 suggests that C may be achieved with the loss

of 2000 further lives, and thus no more than 12,000 lives altogether.¹

Should Oceania continue to fight at T_2 , or should it stop? Is the proportionality condition best understood as a sort of budget which has been exhausted by T_2 ? Is the proportionality condition still directing Oceania's operations after T_2 , or should other values now take charge? These are my central questions. I will contend that there is quite a lot going for the view that Oceania should stop at T_2 . Though various qualifications to that view will be issued in due course, Oceania will not go far wrong in regarding the proportionality condition as a sort of budget. Once that budget is exhausted, Oceania should stop fighting. The article builds on previous work by Cécile Fabre and Darrel Moellendorf,² but adds to the existing corpus of arguments for the Quota View by further investigating the significance of the proportionality condition and the various costs carried by views which do not properly accommodate it.³ Its distinctive accommodation of proportionality gives the Quota View strong advantages in relation to these rival views.

The paper unfolds as follows. Section 2 does some essential stage-setting and outlines the puzzle in further detail.⁴ Section 3 says more about proportionality and begins to build a preliminary case for what I call the 'Quota View'. This case for the Quota View will be deepened and enriched as the paper progresses. Across Sections 4–6, I explore some significant

objections to the Quota View, due mainly to Jeff McMahan and Victor Tadros. Section 7 examines, but ultimately rejects, a new and improved argument to which McMahan's arguments point. Finally, Section 8 defends the view that proportionality is always presumptively relevant to Oceania's calculations and ties some loose ends together.

2 | Faulty Calculations and Past Losses

Several more pieces of stage-setting and points of policy need to be in place before the critical discussion can begin in earnest.

First, there are different proportionality verdicts embedded in *Faulty Calculation*. There is, first, the *normative proportionality verdict*, issued at T_1 : This tells us that Oceania may pursue C, just as long as no more than 10,000 are killed. The function of the normative proportionality verdict is to set a maximal cost on the pursuit of a valuable goal, C, rather than to pronounce on whether this condition can be feasibly met.⁵ *Faulty Calculation* also features two empirical proportionality verdicts. The first of them, issued at T_1 , holds that Oceania can attain C at the cost of no more than 10,000 lives. The second of them, issued at T_2 , holds that C can now be attained at the further cost of only 2000 further lives. Both empirical proportionality verdicts are fallible, as they depend upon the factually imperfect evidence available at T_1 and T_2 . (But the second empirical proportionality verdict represents an improvement over the first.)

Second, the arguments I examine fit within a larger whole: They form part of the newly emerging literature on *jus ex bello*, which is concerned with when it is permissible to continue a war, having already permissibly started one.⁶ It has been seriously questioned in this literature how and to what extent *jus ad bellum* verdicts continue to hold as the war proceeds and factual circumstances change. My concerns lie with a relatively small part of this larger picture.

Third, there are different views about what, at T_2 , Oceania is morally permitted (or even obliged) to do. Since evaluating these will form the main business of the discussion, I introduce the two main contenders immediately. The *Quota View* insists that Oceania should stop fighting at T_2 on the grounds that it has 'depleted its allowance of permissible killings'.⁷ According to the Quota View, the original normative proportionality verdict bequeaths Oceania, in effect, with a budget of permissible killings. If Oceania's military activity exceeds that budget, then the proportionality condition cannot be satisfied, and the killing must stop.⁸ The *Prospective View* holds, by contrast, that the killings prior to T_2 may be disregarded, and that Oceania may continue fighting against Eurasia, given the updated evidence at T_2 . More generally, if the reissued empirical proportionality verdict falls under 10,000 deaths—the normative proportionality limit—then Oceania may renew the fighting after T_2 .

My fourth and final ground-clearing comment concerns sunk costs, which are often discussed as a problem for individual rationality. The 'sunk costs fallacy' allegedly consists in taking the costs you have already incurred in pursuit of a goal as itself a

reason to keep going. The usual remedy for this alleged fallacy is to cut your losses and recalculate, taking all the relevant facts into consideration at the time of recalculation. On this view, the fallacy is based on backwards-looking thinking, whereas the remedy for it is based on forward-looking thinking. Now, there has been active debate on whether the sunk costs fallacy is always a fallacy in prudential reasoning. I cannot pronounce on these wider issues here,⁹ but it may be helpful to consider whether, and to what extent, the commitments of the Quota View are similar to those who take sunk costs to be reasoning in the prudential domain.

There is *some* similarity between these views, insofar as the Quota View invests the deaths before T_2 with *moral significance*. After all, these moral costs impede the permissibility of Oceania's fighting after T_2 . In that sense, previous losses matter. But there are also two notable dissimilarities that imply that the Quota View is not obviously committed to taking any particular stand on the sunk costs fallacy. First, sunk costs are not regarded by the Quota View as a reason for *pursuing* further violence, but rather for *desisting from* further violence. Second, the Quota View is concerned with the infliction of losses *on other people*. Ordinary sunk costs debates, by contrast, are concerned only with *self-inflicted* costs. The stakes are therefore very different.¹⁰

3 | The Quota View and the Sources of Proportionality

My argument rests, in outline, on two claims. First, proportionality is always presumptively relevant to what Oceania should do.¹¹ That claim can be defended more fully in Section 8, after exposure to various criticisms of the Quota View. Second, the Quota View offers a more convincing interpretation of what proportionality demands, when proportionality is indisputably relevant, than the Prospective View. This section aims to make some progress on the active normative ingredients of proportionality. These will do vital critical work when the criticisms of the Quota View are being considered, and also give us some further insights into the significance of the proportionality condition. They are vital building blocks for the Quota View, and create some sort of presumptive case for it. They also expose the Prospective View to a dilemma, which will be tested in the remaining part of the paper.

The first item of business is to eliminate a false lead. We might at first be tempted to think that the Quota View provides a better interpretation of proportionality than the Prospective View simply because it refuses to permit Oceania to go beyond the casualty limit of 10,000 set by the normative proportionality verdict. But this line of thought is inadequate. It is not as though Oceania's fighting up to T_2 is proportionate, while continuing to fight after T_2 suddenly *introduces* disproportionateness. As the facts stand at T_2 , proportionality is *already* violated, because 10,000 deaths have not secured C.¹² If C is not attained after 10,000 deaths, then the price is too high, and proportionality has not been satisfied. Ten thousand deaths may be a worthwhile price to pay for C, but not merely a failed attempt to attain C. A further implication of this point is that Oceania seems fated at T_2 to violate proportionality whatever it does next. By T_2 , it is too late for Oceania to avoid breaching proportionality. This

means that the first of my two claims—namely, proportionality is always presumptively relevant to what Oceania should do—is not, if it is true at all, an obvious truth. Again, I return to this argument in Section 8.

Why think that the Quota View provides a better interpretation of proportionality than the Prospective View when proportionality can still be satisfied? It would be useful to keep three considerations in mind.

The first input has a basically consequentialist character. The proportionality verdict tells us that the value of attaining C is commensurate with the disvalue of 10,000 deaths. The disvalue of losses that surpass 10,000 deaths exceeds the value of attaining C. We should, other things equal, ensure that value exceeds disvalue. Call this the *Consequentialist Claim*.

The significance of the proportionality condition is far from settled by the Consequentialist Claim. Consequentialism is non-hostile to recalculation if the prospect of greater gains relative to losses presents itself at any point. Consequentialism is usually construed, after all, as the paradigmatically forward-looking rather than backward-looking theory. Even if, at T_1 , C is deemed to be worth no more than 10,000 lives, that is just one verdict in a large collection of verdicts about the production of optimal outcomes. New verdicts are made all the time, and old verdicts abandoned. Circumstances change, time moves on and different possibilities for improving the world swing into view. Consequentialists will say that we should embrace these new possibilities, rather than trying to honour older proportionality verdicts.

For these reasons, the Consequentialist Claim does little to capture the full significance of proportionality, which also enjoys a distinct type of non-consequentialist importance. The deeper significance of disproportionate killing is that the life of each of these victims is not accorded the respect it is due. The lives of these victims were not given their proper weight. Each victim's blood has been shed too easily. Moreover, this lack of respect is distributed among all the eventual victims of Oceania's military efforts, from the first victim to the last. It is not as though, up to the first 10,000 casualties, each victim is accorded its proper significance, and that, by contrast, each of the victims after the 10,000th victim is then denied its proper significance. *All* of these victims are treated disrespectfully because they were all disproportionately sacrificed to achieve a certain end. Call this the *Individual Respect Claim*.

Now, some may have immediate suspicions about the Individual Respect Claim. Perhaps the ascription of disrespect is just a shadow cast by treatment that can only qualify as morally permissible or impermissible on other grounds. But the Individual Respect Claim is meant to have a thicker content than that. Even if, after T_2 , the consequentialist roadshow has moved on, it remains true of the normative proportionality verdict about *Faulty Calculation* that attaining C was worth no more than 10,000 lives. So everyone who is killed in order to obtain C when the casualty list exceeds 10,000 is treated with less than the respect she deserved. She is treated as expendable in ways that those who are sacrificed to achieve C when the casualty list is under 10,000 are not.

A third claim is that the proportionality condition must not be critically toothless: It must not be so easily revisable that it cannot count as a constraint on killing at all. Oceania cannot re-calculate at any time of its choosing and set the clock back to zero whenever it fancies. Call this the *Anti-Toothlessness Constraint*. The Anti-Toothlessness Constraint enjoys significant interaction with the Individual Respect Claim. The victims of Oceania's fighting are treated disrespectfully unless proportionality is satisfied. If there is, in effect, no limit to the number of individuals who may be killed in order to attain a certain goal, then we have no meaningful accommodation of proportionality, and no meaningful way of treating individual victims respectfully. No one's life will be protected by an appeal to any remotely robust form of proportionality.

The Prospective View says that we should disregard previous losses when the evidence is changed. In *Faulty Calculation*, Oceania fights between T_1 and T_2 with the evidence issued at T_1 . It does not reconsider its options before T_2 , and it fights up to then in a way that is supposedly answerable to the normative proportionality verdict. Now consider a more radical possibility: What if Oceania insisted that previous losses, *simply because they are previous losses*, can be disregarded? If that possibility is embraced, then Oceania can recalculate at *any* point of its choosing. A fresh start will always be available to it. It can stop the clock whenever it likes, simply announce that it is disregarding previous losses, and battle on with the proportionality meter set back to zero. The tally of dead individuals will be immediately subtracted from the number of people belonging to the proportionality ceiling issued previously by the normative proportionality verdict.

Call this the *pure discounting interpretation* of the Prospective View. It seems very unappealing. On this view, time's passage alone would see to it that the proportionality condition can never enjoy any purchase. This is because, as soon as any facts that are apparently relevant to it are instantiated, they can be dismissed as irrelevant simply because they have already been instantiated. The past can be dismissed as irrelevant *simply because it is the past*.

The pure discounting interpretation is immediately exposed to the Anti-Toothlessness Constraint, and it wholly realizes Cécile Fabre's fear that proportionality 'would lose most of its bite as a constraint against killing'.¹³ In effect, the pure discounting interpretation leads to the removal of the proportionality condition as a serious constraint on killing.

Now, the evidence from *Faulty Calculation* so far might suggest a different interpretation of the Prospective View. This is because the different verdicts at T_1 and T_2 in *Faulty Calculation* are responses to specific *changes in evidence*. Call this the *evidence-based interpretation* of the Prospective View. I suspect, given a choice between them, that proponents of the Prospective View will prefer the evidence-based interpretation to the pure discounting interpretation. But if we can establish that the Prospective View rests on the pure discounting interpretation, not the evidence-based interpretation, then it will become substantially less appealing. The evidence-based interpretation may not save the Prospective View, but the pure discounting interpretation risks sinking it.

I suspect that these two interpretations are more entangled than appearances first suggest. What *makes* the changes in evidence relevant to what Oceania should do next? As we shall see, it is natural to suspect that what makes the changes in evidence matter is that past losses no longer matter, and that past losses no longer matter simply because they lie in the past. The Prospective View is of course free to *stipulate* that only changes in evidence properly occasion recalculation. On this view, previous losses cannot be disregarded, merely because they are previous losses, whenever an agent chooses. But a policy of mere stipulation in this context seems suspicious. Something deeper must connect the discounting of past losses and the restriction of recalculation opportunities to changes in evidence. What is it, though?

The Prospective View risks exposure to a dilemma at this point. The question is whether or not, in *Faulty Calculation*, Oceania faces a fresh justificatory start at T_2 .

On the first horn of the dilemma, T_2 should be considered an entirely fresh justificatory start. If T_2 is a fresh start, then nothing stops Oceania from resetting the clock whenever it likes between T_1 and T_2 . A fresh start is available to it at any point. That will immediately expose proportionality, on the Prospective View's interpretation of it, to the Anti-Toothlessness Constraint. Proportionality will fail to have any action-guiding significance due simply to the fact of time's passage. That is an unacceptable result. At any given point after T_1 , proportionality enjoys only notional authority.

On the other horn of the dilemma, T_2 is not a fresh justificatory start. Even if a new decision about what to do needs to be made at T_2 , the mere fact that the losses between T_1 and T_2 lie in the past does not *settle* the case for disregarding them. This means that the normative proportionality verdict issued at T_1 is still in place and retains normative force at times after T_1 . If the normative proportionality verdict still holds after T_1 , then it will hold at and after T_2 . And if it holds at T_2 , then it is not easy to see why the faulty empirical proportionality verdict issued at T_1 , and then corrected at T_2 , should drain the original normative proportionality verdict of force. The normative proportionality verdict instructs Oceania that C can be permissibly attained for 10,000 deaths or under. If this verdict has any kind of forward-looking force at all, then it will not vanish just because the evidence concerning its feasible implementation has changed.

My strategy, in short, is to show that the Prospective View is marred by this dilemma. I will show this in the course of reviewing several arguments that, on the face of it, make the Quota View seem inadequate. Reviewing these arguments will also be necessary for reassuring us that the Quota View avoids ridiculous implications.

4 | The Detachment Argument

What I will call the *Detachment Argument* against the Quota View is due to Victor Tadros.¹⁴ To make sense of this argument, we need to enrol the distinction between *fact-relative* and *evidence-relative* justification.¹⁵ Though Oceania will violate proportionality in a fact-relative sense if it continues fighting at T_2 , it can still justify the difference in the attitudes it adopts at

T_1 and at T_2 , respectively. Fighting at T_1 was permissible in an evidence-relative sense, and thus respectful of the lives at stake, but continuing to fight after T_2 is also permissible. This is because the group of 12,000 prospective deaths at T_1 (10,000 up to T_2 and 2000 thereafter), which was indicted by the proportionality verdict issued at T_1 has now, in reality, been decomposed. More particularly, the group of 2000 living individuals has now been detached from the group of 10,000 dead individuals. Tadros explains:

At T_1 , the 2000 were part of a larger group of 12,000 people whose interests would all have been set back by the acts that [secure C], and because they were part of this large group, their interests would have protected them from being killed had [Oceania] known all of the facts. But at T_2 they are no longer in this group. The 10,000 are now dead, so killing the 2000 at T_2 no longer sets back the interests of the 10,000. So the interests of the 2000 no longer protect them.¹⁶

On Tadros's view, the 2000 are no longer part of the original group of 12,000 victims. Ten thousand members of that original group are now dead. The only living members of the original group of 12,000 prospective victims are the 2000 living individuals, and their interests now have to be weighed against the benefits of attaining C. At this point, the original calculations can simply be re-run. Since the prospective loss of 2000 further deaths at T_2 clearly satisfies the normative proportionality constraint of 10,000, Oceania may continue fighting.

The Detachment Argument receives oblique support from another source. Consider:

No Cost: As *Faulty Calculation*, except more than 10,000 lives—12,000 lives, say—have been lost between T_1 and T_2 . At T_2 , Oceania can attain C without incurring any further costs.¹⁷

No Cost looks like a straightforward case, but it yields a lesson that adds to the pressure on the Quota View. In *No Cost*, Oceania should surely attain C at T_2 . If C was worth pursuing in the first place, at the cost of 10,000 lives, then it is plainly important that C be attained. But had Oceania known at T_1 that C could be attained only by the loss of 12,000 lives, then the war would have been fact-relative disproportionate *and* evidence-relative disproportionate, thus making it impermissible to start fighting at T_1 . In *No Cost*, acting in order to attain C at a cost of 12,000 lives would have been impermissible at T_1 , but it is permissible at T_2 . It clearly follows, then, that what is permissible at T_1 differs from what is permissible at T_2 . And that point helps, in turn, to confirm that Oceania does indeed face a fresh justificatory start at T_2 . Nothing stops Oceania, armed with this updated information, from recalculating at T_2 , and the 2000 prospective deaths must be considered in relation to the disvalue of not attaining C rather than adding to the tally of 10,000 deaths.

I begin the critical evaluation of the Detachment Argument by addressing *No Cost*. *No Cost* is supposed to demonstrate that what

Oceania may do at T_2 differs from what it may do at T_1 . This is true, but the Quota View never pretended otherwise. The Quota View sets a limit on the costs that Oceania can inflict in the pursuit of C. It does not deviate from that position at any point. At T_1 , C is worth attaining at no more than 10,000 deaths, and that verdict endures at T_2 . But the Quota View easily combines with the point that if Oceania can attain C at *any* time without incurring *further* costs, then this is what it should do. In *No Cost*, that condition is actually met. Oceania can attain C without further costs even if the normative proportionality limit has already been breached. The 12,000 deaths may be relevant to Oceania's decision as to whether to renew the fighting when further costs will be incurred, but they are irrelevant to attaining-C-without-any-further-costs, which is the unusual possibility stipulated by *No Costs*. In short, *No Costs* makes little difference to the force of the Detachment Argument, and I will now put it aside.¹⁸

Now for the Detachment Argument itself. We can start with the point that, if Oceania renews the fighting at T_2 , its actions will differ markedly from those it performed between T_1 and T_2 . There will be *no* sense, whether fact-relative or evidence-relative, in which its actions now avoid disproportionateness. It will be fighting in the knowledge that the individuals it kills after T_2 exceed the proportionality limit. But there is more. For the policy Oceania adopts *before* T_2 , in effect, is that of respecting the 10,000 proportionality limit if it can, but of climbing above it if 10,000 casualties are not enough to get the job done. Oceania already knows before T_2 what it will do when the empirical proportionality verdict is updated. If 10,000 deaths have not attained C, then Oceania will continue killing. Even before it reaches T_2 , the 2000 individuals in the group of 12,000 are treated as sacrificable should their deaths be required to attain C.

In my view, the fact that the fighting before T_2 is evidence-relative proportionate does not suffice for Oceania's satisfaction of the Individual Respect Claim. Oceania also needs to avoid embracing a *conditional* commitment to going beyond 10,000 casualties after T_2 should it turn out that 10,000 deaths are not enough to attain C. If Oceania's stance before T_2 is such that it will continue to fight should its initial evidence prove faulty, then it does not display a respectful attitude to any of its victims: neither to the 10,000 victims killed before T_2 nor to the 2000 prospective victims after T_2 . None of Oceania's killings will have reflected its commitment to the principle that the attainment of C is worth no more than 10,000 deaths, which is what the proportionality condition demands.

Oceania's policy offends, then, against the Individual Respect Claim. The conditional commitment to going over 10,000 casualties if that proves necessary also offends against the Anti-Toothlessness Constraint, since Oceania's attitude to the 10,000 casualty limit amounts only to the commitment to not going over 10,000 casualties if it can avoid doing so. This policy does not, in fact, evince any particular concern with *proportionality*. It amounts only to a commitment to the *necessity* condition—to keeping costs down if you can.

The Anti-Toothlessness Constraint can be pushed a little further. When Oceania gets to T_2 , it may recalculate, according to the

Prospective View, because of the change in evidence. But upon closer examination, the case for the Prospective View given by the Detachment Argument appeals squarely to the pastness of the losses. Why can the 2000 prospective victims be detached from the group of 12,000 that would, at T_1 , have condemned the fighting as disproportionate, had the facts been known in advance? It is because the 10,000 other members of this group are already dead. Since they are dead, they no longer have interests to take into account. That is the deep reason why the interests of the 2000 prospective victims can now be weighed alongside the attainment of C instead of being added to the 10,000 who have already died. But if this the case, then Oceania could have stopped at any point between T_1 and T_2 , simply decided to set the clock back to zero, and restarted the proportionality count. In a nutshell, changes of evidence matter because past losses do not matter.

If this describes the underlying reasoning, then the Detachment Argument's defence of the Prospective View rests on the pure discounting interpretation. That is damning. Under this interpretation, it is unclear what Oceania's commitment to the normative proportionality verdict actually amounts to.

5 | The Problem of Small Costs

The second argument against the Quota View, also taken from Tadros, is the *Problem of Small Costs*. Imagine a variant of *Faulty Calculation*:

Very Faulty Calculation: As *Faulty Calculation*, but by the time Oceania gets to T_2 , 20,000 lives have been lost. At T_2 , the evidence suggests that Oceania can attain C at the cost of only one more life.

The Quota View would appear to forbid Oceania from adding even this modestly to its casualty list. Tadros thinks that this verdict is intuitively unacceptable, indeed absurd. Compare three claims about the options Oceania had at T_1 ¹⁹:

1. Kill no one, and fail to attain C.
2. Kill 20,001, and attain C.
3. Kill 20,000, and fail to attain C.

Had Oceania possessed adequate evidence at T_1 , it ought to have picked (1). Everyone can agree that 20,000 deaths exceed the proportionality limit. Alas, it is too late for Oceania to select (1) by the time T_2 comes along. Its options are now restricted to (2) and (3). Clearly, Tadros suggests, Oceania must now refresh its calculations. To sacrifice C out of regard for only one extra life is to fail to accord the proper value to C's attainment. If it was originally worth sacrificing 10,000 lives for C, then it must surely be worth sacrificing *one further life* to attain it when that casualty list is considerably higher, but it is no longer possible for Oceania to undo its original mistake. But the Quota View will favour (3) over (2) *because* it favours (1) over (2) or (3). Since killing 20,001 offends against the 10,000 proportionality budget to a

slightly greater degree than killing 20,000, the Quota View will regard it more unfavourably. But the fact that the Quota View apparently refuses to endorse (2) rather than (3), according to Tadros, teaches us that this view 'should be rejected simply on this basis'.²⁰

The Problem of Small Costs seems embarrassing for the Quota View. There are, in fact, two possible challenges to contend with here.

On one view, the underlying issue concerns determinacy and indeterminacy in the initial proportionality calculations. This is a large problem that does not affect the Quota View in particular. The deep question here is how any proportionality verdict can insist upon precise numerical figures. Why does the normative proportionality verdict in *Faulty Calculation* draw the line at 10,000 and not 10,001 deaths? Why, more generally, would the selection of N deaths mark any morally significant difference in the spectrum? Why is N and not $N + 1$ casualties the cut-off point? We can refer to this as the 'Precision Challenge' of the Problem of Small Costs.²¹

Consider two possible options facing Oceania at T_1 :

1. Kill no one, and fail to attain C.
4. Kill 10,001, and attain C.

If there was just one casualty less in (4), so that Oceania could attain C with 10,000 deaths, the war would be proportionate. Yet, as it stands, (4) is disproportionate. Oceania should therefore opt for (1) instead. The difference of just one life has made a decisive difference to what Oceania may do.

Is this verdict implausible? Perhaps it is. But its implausibility does not embarrass the Quota View in particular. It reflects squarely the numerical precision of the original proportionality verdict. If the Problem of Small Costs boils down to the Precision Challenge, the Quota View should hold the line, provided that no one was embarrassed by numerically precise proportionality verdicts in the first place. If it was not embarrassing to issue a numerically precise proportionality verdict in advance, then it cannot be embarrassing to comply with it at the point of actual application. If we are not going to quarrel with the moral significance of the difference between N and $N + 1$ at T_1 , then neither should we quarrel with it at T_2 . And even critics of the Quota View such as McMahan and Tadros are not—at least in this work—in dispute with numerically precise proportionality limits.

Now, perhaps, the Quota View might urge instead a fuzzier and more lenient approach to the significance of the difference between N and $N + 1$ for each value of ' N '. Not every theorist of vagueness, after all, insists on precise borderlines.²² Perhaps, then, we should not attach a morally decisive difference to the choice between N and $N + 1$, for whatever value of ' N '. We should not insist on a hard limit of 10,000 rather than 10,001 in the normative proportionality verdict.²³ I cannot settle this issue here, but fuzzy borderlines remain a theoretical option for the Quota View.

In any case, the Precision Challenge does not seem to be Tadros's main concern. As he puts it: 'The problem of small future costs brightly illuminates the fact that past deaths that one has caused cannot make it wrong to achieve a very great good at very little cost'.²⁴ We can call this the *Small Costs Principle*, for short.

How should the Quota View deal with the Small Costs Principle? Consider again the choice between (2) and (3) facing Oceania at T_2 :

2. Kill 20,001, and attain C.
3. Kill 20,000, and fail to attain C.

Now, one truth about the comparison between (2) and (3) is that 20,001 is further away from the 10,000 proportionality limit than 20,000. But another truth about the comparison between (2) and (3) is that 20,001 deaths secure C, whereas 20,000 deaths do not. And we know that, by the time it reaches T_2 , Oceania has already violated proportionality, because 10,000 deaths have not delivered C. Given this truth, it is far from clear why, in Tadros's trio of claims, (3) provides a better overall way of honouring proportionality than (2). There will always be a strong presumption towards not exceeding the proportionality budget any more than it has been exceeded already. And yet the Quota View need not exclude opportunities for achieving huge benefits in exchange for small extra costs if this makes all the difference between attaining C and not attaining C. Thus, it may be defensible for Oceania to select (2) rather than (3) as a second-best accommodation of proportionality.

This response provides the Quota View, or a slightly modified form of the Quota View, with a source of flexibility in its theoretical armoury, which is a welcome advantage. One might add, though, that the appeal of the Small Costs Principle is less self-evident than Tadros supposes. Even this principle should not be endorsed without qualification. Defenders of the Quota View should not support indefinitely large accumulation of costs in pursuit of a valuable target, even if each renewed attempt to achieve that target is sanctioned by the Small Costs Principle.

Seth Lazar, for example, has pointed to a potentially disturbing implication of the Small Costs Principle when it is applied to a probabilistic version of an iterated 'Loop Trolley' case in which, whenever the trolley is sent round the loop, there is a very high probability of achieving a great good in exchange for a smaller cost (for example, one life).²⁵ Imagine that there is a probability of 0.99 that some great good, G , can be achieved in exchange for the sacrifice of one further life. The Small Costs Principle will instruct the rescuer to attempt to secure G whenever she is in a position to do so, regardless of how many lives have been sacrificed up to that point. These permissions are consistent with at least the possibility that repeated applications of the Small Costs Principle will generate indefinitely large costs.

It seems to me that, at some point, a backwards-looking concern for the costs that have already been incurred must impede the forward-looking appeal of the Small Costs Principle.

Tadros is not too worried by this problem. He is reassured by the fact that the possibility of open-ended iteration is 'tiny'.²⁶ McMahan, similarly, concedes that the possibility of multiple iterations of conflict and further accumulations of costs, given newly updated evidence, remains a theoretical possibility, but one which is 'vanishingly small'.²⁷ We should accept these points. Let me be clear: The occurrence of such iterated costs is *extremely* unlikely.²⁸ As a result, the Small Costs Principle is largely insulated against criticism. In my view, however, these responses do risk missing the point that the accumulation of such costs, in the extremely unlikely event that they actually transpired, would be so morally objectionable. It is not as though these costs would be nothing more and nothing less than the price worth paying in exchange for the benefits of having pursued G at such highly favourable odds. That is because these accumulated costs would offend so conspicuously against the proportionality condition, and the Individual Respect Claim in particular. The very readiness of the Small Costs Principle to tolerate these costs also indirectly suggests a commitment to the pure discounting interpretation of the Prospective View. (Again, though, given the tiny probabilities involved, I do not accord very much significance to this source of evidence for the pure discounting interpretation.)

In summary, the Quota View is not precluded from recommending courses of action that attain valuable goals at marginal additional costs, if it appeals to intelligent one-off applications of the Small Costs Principle in cases where proportionality has already been violated and we are seeking second-best accommodations of it. Moreover, the numerical precision of proportionality verdicts is an independent commitment, which the Quota View may or may not embrace.

6 | The Redemption Thesis

The third argument against the Quota View, owed to McMahan, is the *Redemption Thesis*. McMahan thinks that the redemption of past losses provides a positive case for continuing to fight. More particularly: '[T]he redemption of sacrifices made in the past is an additional good that weighs in the assessment of the proportionality of continuing a war'.²⁹ If C is not attained, the 10,000 deaths will be in vain, and the sacrifice of these lives will not be accompanied by any offsetting good. If, by contrast, C is attained by a series of further losses after T_2 which total less than 10,000, then the eventual achievement of C will help to make sense of the previous losses between T_1 and T_2 . These individuals will then have died in the course of a structured sequence of military activity that eventually achieved its aim. The value of C's attainment can then make better overall sense of their sacrifice. Though their deaths will still be deeply unfortunate, they are no longer futile. They will not have died in vain.

The Redemption Thesis is a significant argument. (It plainly carries *political* significance. States at war often dig in rather than abandon war due to early setbacks, and they do this partly in order to redeem the sacrifices already made.) A revised version of it has the potential to go even further, as we shall see in the next section. In its original form, however, it is open to serious objections.

The Redemption Thesis permits Oceania to continue fighting after T_2 . But McMahan's reasons for insisting that Oceania's war has already become disproportionate by the time we get to T_2 demonstrate that this reasoning must be flawed. The original normative proportionality verdict issued at T_1 was always predicated on the actual delivery of C: Oceania is permitted to attain C for a casualty list no higher than 10,000. Thus, the sacrifice of the 10,000 has already been factored into the redemptive quality of C's attainment. It follows that there is no more room for additional redemption-based goods when Oceania recalculates at T_2 . If Oceania gives the proportionality tree another shake, nothing else is going to fall out of it. The allowance is indeed depleted at T_2 , and the goal of redeeming past losses cannot justify further substantial additions to the casualty list.

A second problem with the Redemption Thesis is that the redemptive case for further conflict is strengthened in proportion to how grievously disproportionate the war has been up to that point. Imagine, as in *Very Faulty Calculation*, that there have been 20,000 deaths rather than 10,000 deaths by T_2 . *Very Faulty Calculation* will give Oceania weightier redemption-based reasons for renewing the fighting. A greater number of dead people will have sacrificed their lives for no evident gain at T_2 , and so the attainment of C will enjoy greater redemptive significance. This implication is unappealing. The flaws in Oceania's fighting up to T_2 in *Very Faulty Calculation* are rewarded, unacceptably, by a more emphatic endorsement of fighting after T_2 .

As Tadros notes, these commitments are tantamount to a departure from the Prospective View. Rather than taking previous losses to be irrelevant to future decisions, previous losses are actually highly relevant to future decisions, but in a surprising way: The higher the number of previous losses there are, the weightier the reasons Oceania has for continuing to fight.³⁰

Despite these problems, I believe that the Redemption Thesis may still give critics of the Quota View insights worth building upon. Though I will eventually argue against it, I think that this new argument is the most promising argument against the Quota View, and so I will explore it in detail.

7 | The Qualified Redemption Thesis

The fourth argument against the Quota View is, in effect, a revised version of the Redemption Thesis. We already know that

5. Kill 10,000, and fail to attain C.

is disproportionate. The second empirical proportionality verdict in *Faulty Calculation* now makes the following option salient:

6. Kill 12,000, and attain C.

Since 12,000 exceeds the proportionality limit, (6) seems condemned by the proportionality condition. But (5), which represents the position Oceania is in at T_2 in *Faulty Calculation*, is already disproportionate, and (6), while adding to the list of casualties and exceeding the proportionality limit, achieves something that (5) does not: it attains C.

When C is attained in (6), 10,000 of these deaths, though not all 12,000 of them, are rendered proportionate. By contrast, when C is not attained, as in (5), those 10,000 deaths remain disproportionate. It appears to follow that the 10,000 deaths in (5) *become* proportionate when, as in (6), C is attained.

The question, then, is this: Is the conversion of 10,000 disproportionate deaths into 10,000 proportionate deaths worth the price of 2000 additional disproportionate deaths if Oceania continues fighting? If Oceania sticks with (5), it will be responsible for 10,000 disproportionate deaths, whereas it will be responsible for only 2000 disproportionate deaths if it realizes (6). Choosing (6) over (5) will thereby minimize the total number of disproportionate deaths: It will shrink the overall number of disproportionate deaths by 8000. Mustn't that be worth doing? This proposal boasts two further advantages. First, it exemplifies a broader loyalty to the normative proportionality verdict. Second, it is protected against the possibility of indefinitely large costs accumulated in pursuit of a valuable target, which was a weakness of both the Redemption Thesis and the Prospective View.³¹

We can call this proposal the 'Qualified Redemption Thesis'. The Qualified Redemption Thesis is a more minimalist or qualified version of McMahan's Redemption Thesis.³² In the Qualified Redemption Thesis, deaths that were previously disproportionate are rendered proportionate when C is attained. They are thus 'redeemed' in a sense that would appear to be of interest to McMahan. But unlike the original Redemption Thesis, the Qualified Redemption Thesis is committed to strict limits in how many deaths could be rendered proportionate in any renewal of fighting after T_2 . There are only 10,000 deaths that can ever be rendered proportionate. If there have already been 20,000 deaths without attaining C, for example, as in *Very Faulty Calculation*, then any further fighting which eventually attains C can redeem only 10,000 of them. It follows that there could be no proportionality-respecting justification for climbing over 19,999 deaths. But can there be a justification for going *as high as* 19,999 deaths in exchange for the attainment of C?

If Oceania decides to embrace (6), the death toll of 12,000 deaths will be condemned as excessive by the normative proportionality verdict. That verdict is perfectly clear: Attaining C is not worth 12,000 deaths. But perhaps one might maintain, in response, that Oceania is licensed at T_2 to fight for a *new cause* in addition to the original cause. The new cause will be constituted by the aim of minimizing the overall number of disproportionate deaths. Oceania will then be pursuing two causes: first, attaining C, and second, minimizing disproportionate deaths. Call the first of these the 'old cause' and the second the 'new cause'. If Oceania has this new cause to pursue at T_2 , then it can perhaps deflect the accusation that it has ignored the normative proportionality verdict. Rather, it has simply supplemented the old cause with the new cause. And, as Moellendorf tells us, 'when a different end supplies a new just cause, new judgments, prospects for success, and proportionality regarding the new aim are in order'.³³

The Qualified Redemption Thesis can also respect the truth that past losses are morally significant. In fact, past losses are morally

significant in two senses. First, since the death toll can only be as high as 19,999, the previous losses will constrain how many further deaths Oceania may cause before the fighting ought to stop. Second, all 10,000 previous deaths are currently disproportionate. But when C is attained, these particular previous deaths *become* proportionate in exchange for a relatively small number of new deaths that, admittedly, remain disproportionate.

The Qualified Redemption Thesis has a number of strengths. Even so, the deaths up to T_2 are disproportionate, and the only way of altering this is to add to the death toll in order to reduce the overall number of disproportionate deaths. Doing so will impose further costs on those who have not yet died and whose deaths are destined to remain disproportionate. This gives rise to two serious concerns.

First, we should resist the thought that we may impose further wrongs in order to minimize the wrongs we have already inflicted or undo the mistakes we have already made. We are not obviously free to create a new moral blemish in order to offset the badness of a previous moral blemish, or to prevent our previous actions from acquiring a more blemished character. This is particularly the case when the blemish-reduction takes the form of killing new individuals to alter the status of the individuals who are already dead.

Exceeding the proportionality limit by 2000 will not make these new deaths proportionate. It will only reduce the overall number of disproportionate deaths. The disproportionate deaths before T_2 are regarded by the Qualified Redemption Thesis as precisely a strong reason for pursuing further violence. This looks like a form of the sunk costs fallacy, and one, moreover, which is committed to the expansion of harm from individuals who are already dead to presently unharmed individuals as a means of reducing the incidence of wrongdoing to which Oceania would otherwise be exposed.³⁴

The second concern is that there would appear to be some conflict between the two causes. Ascending to 12,000 deaths will satisfy the new cause but not the old cause. The attainment of C is disproportionate, according to the normative proportionality verdict, and so the additional disproportionate deaths cannot justify attaining C. Or so says the old cause. But the new cause depends precisely upon the attainment of C in order to convert the 10,000 disproportionate deaths into proportionate deaths. Without C's attainment, there can be no such conversion from disproportionate deaths into proportionate deaths. So attaining C both fails to justify the number of deaths that are required to produce C, according to the old cause, but also justifies that tally of deaths, due to the shrinkage in the overall number of disproportionate deaths, according to the new cause. This combination of causes risks incoherence.

It may be protested—and this point has already been made—that the new cause is entitled to make demands that are non-coincident with the demands imposed by the old cause. But in truth, there is rivalry, not just difference, between these two causes. The old cause records every death between T_1 and T_2 as a further erosion of the original proportionality budget. By contrast, the new cause records every death between T_1 and T_2 as a further enlargement in the proportionality budget

prospectively allotted to it.³⁵ There is a one-in, one-out relationship between these movements in the respective proportionality budgets. This makes it difficult to see how the old cause can genuinely co-exist with the new cause. A better description of what is going on is that the Qualified Redemption Thesis supplants the old cause and replaces it with a new cause that is incompatible with it.

Is that problematic? It will mean that the original normative proportionality verdict is abandoned. I think it is problematic. I explain why in the final section.

8 | Beyond Proportionality?

A brief summary of the argument so far. In Section 3, I distinguished between two claims that the Quota View will wish to make. First, proportionality is always presumptively relevant to what Oceania should do. Second, the Quota View offers a more convincing interpretation of what proportionality demands than the Prospective View. I have now largely concluded my business with the second of these claims. In this final section, I will say something more about the first claim. Why should proportionality continue to be relevant to Oceania's calculations by the point when the original proportionality demands can no longer be satisfied?

On one interpretation of it, the Prospective View holds that, because there is no way of satisfying the proportionality condition at T_2 , Oceania's search for a solution must now appeal squarely to values other than proportionality. Call this the 'extra-proportionality interpretation' of the Prospective View. On another interpretation, the Prospective View holds that proportionality can still be satisfied to a second-best degree at a later time. Call this the 'intra-proportionality interpretation' of the Prospective View.

The extra-proportionality interpretation may seem tempting. After all, it would be understandable for Oceania to be torn by the choice between the two following options:

5. Kill 10,000, and fail to attain C.
6. Kill 12,000, and attain C.

Again, both these options are disproportionate. If both of them are destined to fail the proportionality condition, but a choice between them still has to be made, it would be understandable for Oceania to conclude that it must now consult other values to settle the issue. If so, then Oceania will not be guilty of appealing to a critically vacuous version of proportionality in which it invites the ascription of the pure discounting interpretation. Rather, it will have recognized that the proportionality condition has now bowed out of proceedings. Other values must now direct its operations.

Though superficially tempting, I do not think this picture of what is going on achieves a satisfactory integration of the proportionality condition into our moral reasoning. If it would be permissible to opt for (6), given Oceania's arrival at (5) at T_2 , it is difficult to see why 10,000 possesses any special significance at *any* time, including the times before T_2 . Why is 10,000 a significant number, if, as soon as Oceania arrives at it, it should carry

on fighting anyway? A regret for going over 10,000 will just be another instance of regret for a casualty list which, in better circumstances, might be smaller. In other words, it will amount to little more than a generalized expression of commitment to the necessity condition. It offers no particular accommodation of proportionality.

The likely reply will be that 10,000 deaths may indeed define the limit of *proportionality*, but that there can be decisive moral reasons for pursuing C even if Oceania's fighting is disproportionate. There can be a cleavage between what *proportionality* recommends and what *morality* recommends when it is too late to satisfy proportionality. But the proportionality condition must be more integrated into our moral decision-making than that, unless its role is destined to be purely cosmetic, or notional. Two further, related points flesh out this thought.

First, we should admit that attaining C is desirable. That is why the pursuit of C justified death and injury in the first place. But the function of the proportionality calculation is, once again, to determine which costs can be reasonably borne in pursuit of a goal. This is what the Individual Respect Claim demands. If these costs are discounted *just when and if they are behind us*, then defenders of the Prospective View are, in effect, allowing their favoured view to collapse into the pure discounting interpretation, with all its over-tolerant and unappealing implications.

Second, if ascending to 12,000 casualties when Oceania has already reached 10,000 casualties is still permissible, then it is less clear what the very content of the claim that it would be disproportionate to go higher than 10,000 casualties to attain C actually amounts to. That claim is supposed to be true at T_1 . But another truth at T_1 , according to the Prospective View, is that the casualty list can ascend to 12,000 deaths (or higher) in the future to attain C. The Prospective View takes a basically symmetrical attitude to the deaths before T_2 and the deaths after T_2 . Before T_2 , it is permissible for Oceania to pursue C, as long as there are no more than 10,000 casualties. After T_2 , it is permissible for Oceania to pursue C, as long as there are no more than 12,000 casualties. Each collection of prospective deaths, both before T_2 and after T_2 , is permissible. But if that is so, the very notion of proportionality as a stable, morally significant action-guiding principle begins to lose purchase. So, even if (5) and (6) are both disproportionate, it will be difficult to alight on any normatively stable approach to proportionality if, having reached (5), Oceania may fight on until it reaches (6). The Anti-Toothlessness Constraint is simply not provided for in this picture. In fact, there is no particular provision for proportionality at all. If proportionality is critically vacuous, then proportionality cannot be satisfied.³⁶ There is only a general necessity-shaped concern for avoiding needless casualties in pursuit of a valuable goal. The fact that Oceania pays no attention to the proportionality condition *after* T_2 helps to demonstrate that it was not paying adequate attention to it *before* T_2 . In short, the dilemma for the Prospective View which I outlined in Section 3 remains in full force.

To be clear, the Quota View is no guarantor against moral failure. At T_2 , Oceania has already violated proportionality. The basic story from that point onwards, then, is one of failure.

Sometimes—perhaps even usually—when you have experienced a moral failure, you ought to stop, make amends, apologize, and refuse to make things worse. You should avoid digging a deeper hole for yourself. In this case, Oceania should not dig itself a deeper hole; it should not continue fighting to achieve C. If it renews its fighting at T_2 , then it can be accused of never having been committed to proportionality in the first place. And that, I think, would be even worse.³⁷

Endnotes

- ¹ *Faulty Calculation* is adapted from cases outlined independently by McMahan (2015, 703) and Tadros (2018, 10). One more point: *Faulty Calculation* is concerned with ‘wide proportionality’, concerning losses among individuals who are not liable to be harmed, rather than ‘narrow proportionality’, which is concerned with losses among individuals who are liable to be harmed. See McMahan (2009, 20–21), for this distinction. Uzan (2021, 369–373) helpfully explores the puzzle in connection to narrow proportionality.
- ² See Fabre (2015) and Moellendorf (2015).
- ³ See, especially, McMahan (2015) and Tadros (2018).
- ⁴ See McMahan (2015), Tadros (2018) and also Lazar (2018) and Uzan (2021). The puzzle was largely anticipated by Rodin (2008).
- ⁵ Compare Fabre (2015, 635) and Moellendorf (2015, 662).
- ⁶ For some broader discussions of *jus ex bello*, see Fabre (2015), Moellendorf (2008, 2015), Rodin (2015), Schulzke (2015) and Steinhoff (2021, 68–73). (Moellendorf [2008] coined the term.)
- ⁷ McMahan (2015, 702).
- ⁸ For the term ‘proportionality budget’, see Moellendorf (2015, 661).
- ⁹ See, for example, Kelly (2004), Kauppinen (2020) and Doody (2020), for work in this vein.
- ¹⁰ A point noted by Tadros (2018, 12).
- ¹¹ I say ‘presumptively’ relevant because I do not exclude, for the purposes of my argument here, the possibility of catastrophic situations calling for actions that override the usual constraints.
- ¹² This point is emphasized in both McMahan (2015, 706) and Tadros (2018, 14).
- ¹³ Fabre (2015, 637); see also Moellendorf (2015, 663).
- ¹⁴ Tadros (2018, esp. 13–17).
- ¹⁵ See Parfit (2011, ch. 7) for this distinction.
- ¹⁶ Tadros (2018, 15–16); similar remarks are offered by McMahan (2015, 706–707).
- ¹⁷ Tadros (2018, 17). I adapt the details of Tadros’s case in order to cohere with *Faulty Calculation* and will enlarge in what follows on what I take to be Tadros’s implicit reasoning.
- ¹⁸ What about *very small* additions to the casualty list? See Section 5 for a discussion.
- ¹⁹ Tadros (2018, 23). The contents of Tadros’s claims have been minimally adjusted to fit the details of my particular cases.
- ²⁰ Tadros (2018, 22).
- ²¹ See also Moellendorf (2015, 667–668).
- ²² See, for example, Fine (1975), Keefe (2000), Graff (2000), Shapiro (2006) and Raffman (1996), for a limited sample of a vast literature.
- ²³ Moellendorf (2015, 667–668) also outlines this sort of theoretical possibility.

- ²⁴ Tadros (2018, 22).
- ²⁵ See Lazar (2018, 845–848).
- ²⁶ Tadros (2018, 18); see generally the discussion at pp. 17–20.
- ²⁷ McMahan (2015, 707).
- ²⁸ See also Uzan (2021, 365–369) for a highly sophisticated formal demonstration of this point.
- ²⁹ McMahan (2015, 703).
- ³⁰ Tadros (2018, 32–35). See also Uzan (2021, 363–365).
- ³¹ This sort of worry is noted by Fabre (2015, 663–665), Moellendorf (2015, 637) and Lazar (2018, 847).
- ³² Certain echoes of the Qualified Redemption Thesis are contained in the ‘Impersonal Value Conception’ of proportionality, discussed in Moellendorf (2023, 152–159). Moellendorf contrasts the Impersonal Value Conception with the ‘Personal Value Conception’ (Moellendorf 2023, 159–162), which models proportionality in a more explicitly non-teleological way.
- ³³ Moellendorf (2015, 661).
- ³⁴ See Rodin (2015, 686–692) for an insightful discussion of ‘sunk-cost dilemmas’ and the proposal that sometimes it is better to continue acting wrongly in order to save ourselves from acting even more wrongly. In some cases, Rodin’s proposal seems appealing. It seems to me, however, that Oceania’s killing of new individuals in order to render its previous killings proportionate rather than disproportionate is a much less attractive application of that proposal.
- ³⁵ True, that budget will not be activated until after T_2 , as the new cause associated with the Qualified Redemption Thesis cannot be pursued until then. The budget that will eventually be donated to the Qualified Redemption Thesis is nonetheless being amassed before T_2 .
- ³⁶ Moellendorf (2015, 663) distinguishes between these complaints: on his view, rejections of the Quota View risk (a) not providing for proportionality at all and also (b) draining proportionality of its critical force. As I see it, these complaints are connected: It is *because* proportionality lacks critical force that no genuine provision for it has been made. I thank a referee for encouraging me to think about these points further.
- ³⁷ For their perceptive and valuable comments on previous iterations of this material, I thank audiences at a trio of seminars over the course of a couple of years in Leeds, and also the audiences at the Philosophers in the Field VI Workshop in Öland, Sweden, a PEAK Online Workshop, and the Jerusalem Political Theory Seminar. For either written comments or further conversations or both, I am very grateful to Gustaf Arrhenius, Joe Bowen, Ed Elliott, Helen Frowe, Iwao Hirose, Jess Isserow, Kieran Oberman, Jonathan Parry, Daniel Schwartz, Shlomi Segall, Victor Tadros, Patrick Tomlin, Pekka Väyrynen and Robbie Williams. I also thank the editors and anonymous referees for this journal for comments that improved and sharpened the penultimate versions of it.

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