Abstract: Recently, a number of philosophers have argued that military personnel typically aren’t responsible for war crimes because situational factors such as battlefield stress and military training undermine their capacity to recognize morally relevant features of their environment, and thus they should be excused for their wrongdoing. In this chapter we challenge this conclusion and demonstrate that this account is inadequate as an explanation of war crimes and a theory of responsibility. Drawing on social cognitivist accounts of personality, we show how military training instills values, beliefs, and emotions in soldiers that inform their uses of violence in ways that can contribute to war crimes. Even though military personnel can’t fully control the dispositions they develop through military training, we argue that perpetrators of war crimes are responsible for their behavior if their actions express morally objectionable attitudes that justify their victims in blaming them. Our account of responsibility thereby respects the perspective of victims’ perspective in a way neglected by many competing accounts of responsibility.

Key words: war crimes, responsibility, character, situationism, blame

Introduction

In this chapter we address the following questions: Do war crimes result primarily from failures of character or from situational influences, and are those who commit war crimes morally responsible for their actions? In response to the first question, we argue that a certain type of situationist account of war crimes is mistaken, and we offer an alternative dispositional account of war crimes. In response to the second question, we argue in favor of a theory of
responsibility under which military personnel may be held morally responsible for war crimes in most cases regardless of whether situational forces or dispositions influenced their behavior.  

I. Situationism, War Crimes, and Responsibility

A large body of experimental research in social psychology is thought to support situationism: the view that human behavior is explained to a surprising extent by the situational factors to which an agent is exposed, rather than by the agent’s pre-existing temporally stable and cross-situationally consistent character traits. One of the striking findings of these experiments is that seemingly minor situational factors appear to disproportionately influence behavior in situations where we would expect even weak character traits to have a much stronger influence. For example, in Stanley Milgram’s famous experiments on destructive obedience, the experimenters were able to persuade normal adults to deliver what they thought were increasingly painful shocks to another person even when that person demanded to be released from the experiment. In another famous experiment, Philip Zimbardo and his colleagues placed willing, “normal, healthy American college students” (Haney, Banks, & Zimbardo 1973, 89) in a simulated prison environment housed on the campus of Stanford University. Very shortly after the experiment began, the students role-playing prison guards began to mistreat the students posing as prisoners. Zimbardo concluded that the behavior he observed was “the result of an intrinsically pathological situation which could distort and rechannel the behavior of essentially normal individuals” (1973, 90).

Experiments like those of Milgram and Zimbardo are often thought to tell us something about the commission of war crimes. It is therefore not surprising that a number of philosophers and psychologists (Doris & Murphy 2007; Roth 2004; Snow 2009b; Zimbardo 2004 & 2008)
have argued that situationism can explain how seemingly ordinary military personnel can become perpetrators of war crimes. According to Zimbardo, a situationist account of war crimes “propels external determinants of behavior to the foreground, well beyond the status as merely extenuating circumstances” (2004, 21). Unlike characterological accounts, situationist accounts of war crimes look to the external situational forces to which individuals are subjected for the explanation of their destructive behavior.

Situationist accounts of war crimes are not only characterized by a focus on the objective features of the situations in which agents act, such as whether a situation exposes agents to extreme stress. Situationist accounts also typically involve a particular conception of the relationship between an agent’s mental states such as beliefs, goals, emotional states (and so forth) and external situational forces. While some situationist accounts acknowledge that agents’ mental states can play an important causal role in the commission of war crimes, these mental states are themselves construed as the product of external situational forces, such as exposure to ideology. Thus it is sometimes claimed that because these mental states are imposed upon the agent, the agent’s moral responsibility may be called into question, a point we will discuss in Section 3.

John Doris and Dominic Murphy (2007) defend a situationist account of war crimes that explores the effects of both immediate and temporally extended situational factors on soldiers’ behavior. In addition, they explore the implications of their account for soldiers’ moral responsibility for war crimes, arguing that the strength of the situational forces to which soldiers are exposed supports: “a strong general presumption that perpetrators of wartime atrocities are not morally responsible” (2007, 28).
Doris and Murphy interpret the situationist experimental record as indicating, among other things, that confusing, stressful, and ambiguous stimuli—of the sort present in Milgram and Zimbardo’s experiments—can “adversely affect moral functioning” (2007, 35). Doris and Murphy argue that if this result occurs in the lab, then there is “good reason to think that the radical confusion of the battlefield will have related effects” (2007, 35). And if, as Doris and Murphy claim, soldiers who commit war crimes “manifest cognitive impairments that profoundly degrade their capacity for moral judgment” (2007, 26), then perhaps they are excused for their behavior. This conclusion follows from the belief—accepted by many philosophers—that an agent is morally responsible for her behavior only if she possesses “normative competence”: the capacity to assess and respond to moral reasons.5

According to Doris and Murphy, two kinds of situational forces cause cognitive and emotional6 degradation in soldiers: situational pressures on the battlefield itself, and “‘distal,’ or ‘wasting’ pressures,” which are “circumstances that may profoundly affect military personnel, beginning at considerable spatial and temporal distance from the point at which atrocity occurs” (2007, 39). Both these kinds of situational forces, they claim, degrade soldiers’ normative competence to the point that they can no longer appropriately exercise their capacity for moral reflection or recognise the moral impermissibility of certain kinds of behavior, factors that can increase the likelihood that they will be involved in the commission of war crimes.7

The evidence for the extremely debilitating physical, cognitive, and emotional effects of combat is very strong (Fontana & Rosenheck 1999; Frésard 2004) and so we share Doris and Murphy’s view that “the presence of excusing conditions in combat is highly probable” (2007, 38).8 However, Doris and Murphy also claim that soldiers who are involved in non-battlefield war crimes (such as institutionalized torture) should also typically be excused for their crimes.
According to Doris and Murphy, the short and long-term effects of military training and culture shape soldiers’ behavior, emotional states, and beliefs in ways that compromise their exercise of normative competence (2007, 39). But unlike combat pressures, distal pressures impair soldiers’ normative competence by leading them to believe that objectionable behavior is morally permissible or even required. This occurs through a number of interrelated processes including (but not limited to): the inculcation of obedience to authority, group conformity, desensitization to the use of violence (some soldiers even learn how to “kill prisoners and how to sexually mutilate women” (2007, 39)), dehumanization of the enemy, and exposure to racist and other political ideologies justifying the use of extreme violence against perceived enemies. In summary, the combination of these processes “reconfigures the range of available behavioral options” (2007, 39) for soldiers. As a result, it may no longer be reasonable to expect perpetrators of war crimes who have been exposed to these forces to see their behavior as morally wrong. In Doris and Murphy’s view, this outcome arises because distal pressures restrict the scope of soldiers’ moral reasoning so that soldiers may cease to possess the ability to come to alternative judgments about how to behave. In the case of war crimes, this may mean that it is unfair to hold perpetrators responsible for their behavior because it is unreasonable to expect them to avoid such behavior since, through no fault of their own, they regard their actions as permissible. We will consider the plausibility of this view of responsibility in Sections 3 and 4.

2. A Dispositional Approach to War Crimes

One problem for Doris and Murphy’s approach is that it fails to account for the variety and degree of perpetrators’ enthusiasm for their tasks. It is difficult to explain these differences among perpetrators by reference to situational forces alone, since perpetrators exposed to what
appear to be the same situational forces vary greatly in their enthusiasm for engaging in war crimes, and in their attitudes toward their actions (Blass 1993, 34). In addition, Doris and Murphy’s account fails to recognise that military culture and training does not merely impose mental states on soldiers from without but cultivates *dispositions* that reflect and are shaped by soldiers’ unique individual sets of beliefs, emotional states, and behaviors.

For these reasons we propose an account of war crimes that is sensitive to the insights afforded by the situationist experiments but that emphasizes the way in which war crimes can be conceived of as expressions of soldiers’ character and moral agency. War crimes are crimes of character in the sense that perpetrators’ character traits play a significant role in explaining why certain kinds of war crimes occur.

By “character traits,” we mean behavior-informing dispositions that are relatively stable over time, and that are sustained by an agent’s beliefs, desires, and values. This conception of character traits is consistent with the social cognitivist view that personality is best construed as a complex interaction between external situational factors and agents’ internal psychological and affective processes. This theory of personality was first proposed by Walter Mischel (1973) and then significantly developed by Mischel and his colleagues over the next 30 years (see Mischel & Shoda 1996), and has gained support from both social psychologists (Ross & Nisbett 2011) and philosophers (Russell 2009; Snow 2009a). According to this theory, it is a mistake to see personality as comprised of a set of cross-situationally stable character traits that guide an individual’s behavior in a way that is largely independent from the specific situations in which she acts.

Instead, personality should be understood as a Cognitive-Affective Personality System (CAPS): “a dynamic system or organized network of interconnected and inter-acting cognitions
and affects” (Mischel & Shoda 1996, 417) that is activated in social settings. In CAPS theory a situation cannot be characterized without understanding how agents in that situation construe the meaning of the situation, and how that construal interacts with their pre-existing beliefs, goals, and self-conceptions. In fact, CAPS theory challenges the very legitimacy of the distinction between the person and the situation. As Mischel and Shoda explain, “the concept of ‘situation’ must go beyond external stimuli to encompass internal, intrapsychic conditions and states in which people’s experiences and actions are contextualized” (1996, 422). What the situation is for an individual therefore cannot be determined merely from the objective features of the situation but depends crucially on how agents interpret the meaning of that situation. This is in contrast to situationist theories that depict human behavior as resulting from a battle between the force of situations and the power of the person, where the former typically overcomes the latter (Mischel & Shoda 1996, 421). CAPS theory is therefore unique in rejecting the assumption that we can determine the meaning of situations independently from how agents’ construe the meaning of those situations.

In CAPS theory character traits can be conceived of as interconnected “social-cognitive” units involving beliefs, emotions, and judgments that are “activated in response to situational variables … or internal stimuli” (Snow 2009a, 31-33). Repeated “activation” of these cognitive-affective units leads to relatively stable behavioral patterns and traits. Nancy Snow illustrates this process through a discussion of how a person may develop the trait of irritability. Like other CAPS traits, the trait of irritability consists of “thoughts, affects, and representations of plans, strategies, and values, … ready to be activated through external stimuli or even through internal stimuli, such as thoughts or imaginings” (2009a, 32). When the irritable person is exposed to certain stimuli (for example, when someone bumps into her on the street) this
activates beliefs ("People are so thoughtless!") , emotions (annoyance) and goals ("I'm going to avoid busy streets") that reinforce the trait as a single unit and can lead the trait to become generalized across objectively different situations, such as crowded movie theaters and public transport. Thus, we must understand the subjective meaning that a situation has for an agent in order to understand that agent’s behavior in a given situation.

So CAPS theory can explain both how an agent’s behavior across a variety of apparently different situations can arise from a stable individual profile if those situations contain a feature that is “psychologically salient” to the agent (Miller 2014, p. 117). Similarly, the theory offers an explanation for why an agent’s behavior might vary considerably across situations that seem (to the outside observer) very similar if those situations lack such a feature. To illustrate, suppose that, due to a traumatic childhood incident, Marissa is frightened of people in uniforms (police officers, fire-fighters, military personnel, and so forth) and consistently reacts to the sight of such individuals by actively avoiding them (walking the other way, for example). To an external observer, situations involving people in uniform might be very different from each other. It is only when we understand the meaning that “people in uniforms” has to Marissa that we can understand the consistency of her actions as arising from a stable disposition related to her unique personal history and psychological makeup.

On our view, CAPS theory provides the most promising framework through which to examine the causes of war crimes. In contrast to Doris and Murphy’s view, we suggest that the beliefs and attitudes (and resultant behavior) that are inculcated through military training and culture are not properly thought of as external or alien to individual soldiers. Instead, we argue that military training and culture leads to the development of CAPS traits in individual soldiers by interacting with and shaping their goals, actions, beliefs, and emotions related to their military
service and the justification of military force more broadly. At a general level, for example, military training and culture aims to cultivate beliefs (for example, that a particular war is justified), emotions such as group loyalty, and actions (for example, obeying orders) that lead to stable and predictable behavioral patterns in response to particular situations. This process engages soldiers’ self-identity, goals, and values so that military service has meaning for them. For example, it is important for military personnel to view their role and the causes for which they fight as morally justified, even righteous. To this end, military institutions frequently utilize language, rituals, and practices that present a consistent and constantly reinforced ideal of military service and the role of fighter as the embodiment of moral virtues including sacrifice, honor, loyalty, self-discipline, and integrity (Wolfendale 2007, 54). This process succeeds if and when individual soldiers successfully internalize these ideals in ways that have significance for them, given their own particular goals and self-conceptions. Thus while the closed environment of the military means that there is likely to be significant conformity in soldiers’ beliefs about how and why they fight, there are still important individual differences between soldiers that reflect the unique ways that soldiers understand the meaning and significance of their military service.

In relation to war crimes, this approach provides important insights into how soldiers can come to view war crimes as permissible and consistent with military values, being a good soldier, and with their own self-image. Research on the causes of war crimes (Bandura 1999; Frésard 2004) has found that war crimes are likely to occur when the following conditions apply: a specific act or policy, such as a policy of torture, has been authorized and rationalized by military authorities; those executing the policy see their role as requiring obedience; the policy’s intended subjects have been dehumanized; the practice has been “sanitized” (for example,
referred to by euphemistic terms); the act or policy is treated as legitimate routine behavior consistent with or even required by important military objectives; and the responsibility of those carrying out the practice in question has been displaced onto others. This combination of factors can lead to what psychologist Albert Bandura calls “moral disengagement” where an agent’s “moral self-sanctions can be dis-engaged from inhumane conduct” (1994, 194). This process of disengagement is essential in order for those involved in the commission of war crimes to be able to maintain an intact self-image and self-approval (Bandura 1994, 196).

The factors listed above have in common the aim of cultivating specific beliefs, emotions, goals, and self-conceptions in those who will carry out these actions. However, it would be a mistake to interpret the above list as representing a set of on-going external situational or distal forces that “imprint” soldiers with particular beliefs. Instead, these factors represent the ways in which military training and culture engage with the moral agency of military personnel. As noted above, military personnel develop CAPS traits related to their military goals and their specific duties. In the case of war crimes, perpetrators interpret wrongful conduct as permissible and even honorable as a result of the interaction between their own unique goals, values and beliefs regarding their actions and roles, and exposure to factors such as the rationalizations and justifications offered by military and political leaders.

This process is evident in the testimony and other personal documents of perpetrators of war crimes that reveal how they frequently aim to reconcile their actions with their particular individual self-conceptions, goals, and values in distinctive and individual ways. For example, in their analysis of the moral psychology of the Holocaust, Herlinde Pauer-Studer and David Velleman (2011) discuss a number of men who participated in the Nazi genocide, and who documented their experiences at the time in private journals and letters. ¹³ Felix Landau, an
Austrian who had been a member of the SS since 1934, served in an Einsatzkommando unit that carried out mass killings in occupied Poland. Yet although he was a long-time member of the SS, he did not see his role as motivated by racial hatred or ideology. Instead, he describes his experience as involving tasks that needed to be done because they were ordered but that he found both un-soldierly and unpleasant (he writes that he had “little inclination to shoot defenceless people—even if they are only Jews. I would far rather good honest open combat” (2011, 345)). He took pride in his hard work, writing, “Everyone admired my work” (2011, 347). These and other diary entries reveal that Landau’s self-image was tied closely to his perception of himself as a good worker and a good soldier, who did not behave excessively or sadistically in carrying out his orders. In fact, he was critical of overly “enthusiastic” shooters (2011, 348). In contrast, Karl Kretschmer, a German pharmacist who served in a unit operating in the Russian Front that carried out mass executions, suffered serious psychological distress at his participation in the killings. However, unlike Landau, Kretschmer interpreted the killings as necessary to protect the German race from the existential threat posed by the Jews (“My comrades are literally fighting for the existence of our people” (2011, 349)), and construed his distress as evidence of personal weakness rather than as evidence of any immorality in what he was required to do.

These examples illustrate how two individuals involved in essentially the same war crimes and exposed to similar situational forces in combat and during training interpreted the meaning of their actions in very different ways. These differences affected how and why they acted as they did. For example, Landau’s distaste for killing unarmed civilians and his focus on being a good worker meant that he did not pursue the killing of civilians if he was able to avoid it (by, for example, volunteering for other tasks), and when killing was required of him rejected any display of sadism or enjoyment in killing as simply unprofessional. On the other hand,
Kretschmer’s belief in an existential threat posed by the Jews to the German people allowed him to justify the Nazi’s genocidal project as a form of national self-defense. Thus, he saw his personal challenge as overcoming his revulsion and so he actively sought to become better at his work: “it is a weakness not to be able to stand the sight of dead people; the best way to overcome it is to do it more often” (2011, 349). Unlike Landau, then, Kretschmer’s beliefs about his role would have led him to at least attempt to seek out tasks involving killing.

One final example will further illustrate the importance of understanding how perpetrators construe the situations in which they act and their own behavior within those situations. A Brazilian torturer interviewed by Martha Huggins explained his actions as follows: “I don’t use ... violence outside the standard of my conscience as a human being. I’m a conscientious professional. I know what to do and when to do it” (Huggins 2000, 63). This quote suggests that this perpetrator construed his actions as a legitimate exercise of his professional duties and as consistent with his self-conception as a decent man and a good soldier—he only uses violence “on the job,” i.e. for legitimate military purposes. This torturer’s self-conception no doubt uniquely shaped how he performed his duties, in contrast to, say, a torturer who viewed torture as the infliction of punishment on worthless scum. These three examples illustrate the fact that perpetrators of war crimes are (like all agents) what anthropologist Alexander Hinton calls “meaning makers” who “comprehend and construct meaning out of their social lives” (2004, 28). Ignoring this fact leads to a failure to understand the differences in motivations and attitudes that can explain (at least partially) how and why individuals become perpetrators of war crimes.

The above discussion illustrates the differences between our theory of war crimes and the situationist account offered by Doris and Murphy and others. Our view differs from the situationist theory of war crimes in two important respects. Firstly, in our view in order to
understand the behavior of military personnel it is not sufficient to enumerate the different 
external pressures to which they are exposed. It is also important to understand how individual 
military personnel themselves construe and interpret the situations they encounter, and what 
meaning those situations have for them. Secondly, the situationist account offered by Doris and 
Murphy and others tends to give the impression that the beliefs, goals, emotions, and self- 
conceptions of military personnel are imposed upon them by external sources such as military 
culture. But this perspective ignores and minimizes the agency of military personnel and 
downplays the active role that military personnel play in ascribing personal meaning and 
significance to their actions.

In our account, by contrast, soldiers’ behavior can be understood as the result of a 
constantly evolving and unique interactive relationship between soldiers’ individual psychology 
and personal history, and the circumstances in which they act. Thus our view offers both greater 
explanatory power in relation to war crimes and recognizes military personnel as agents who 
shape and guide their behavior in unique ways.

3. **Excusing Perpetrators**

We will now consider the moral responsibility of those who commit war crimes. To say 
that someone is morally responsible for her behavior is to say, in part, that she is an appropriate 
candidate for various moral responses on account of that behavior. These responses will be 
positive or negative depending on the quality of the relevant action. Negative responses are 
associated with a judgment that the person is morally responsible for bad or wrong behavior. 
Such negative responses—for example, attitudes of resentment or indignation—constitute moral 
blame. If a person is a proper target of these responses, then she is morally responsible in the
sense of being open to moral blame; she is, in a word, blameworthy. Since war crimes are morally objectionable, questions about a perpetrator’s moral responsibility largely reduce to the question of whether it is appropriate to blame the perpetrator. A perpetrator would not be morally responsible for a war crime if she had an excuse that made blaming responses illegitimate.\footnote{It may seem obvious that if a soldier knowingly, and in the absence of direct coercive pressure, commits a war crime, then he is morally responsible and blameworthy for doing so. But as we saw above, Doris and Murphy argue that our default presumption should be that perpetrators of war crimes are not morally responsible for their conduct. This conclusion follows from their contention that because soldiers are exposed to certain situational pressures, they “manifest cognitive impairments that profoundly degrade their capacity for moral judgment, and such impairments . . . preclude the attribution of moral responsibility” (2007, 26).}

We have already conceded Doris and Murphy’s point that the extreme pressures of active combat can undermine a soldier’s moral responsibility for his behavior—in such circumstances, a soldier may be too confused and frightened for his behavior to be attributable to him in a way that makes moral blame appropriate. However, this concession does not address Doris and Murphy’s larger claim that factors that are generally present in military life and training undermine soldiers’ moral responsibility even when they are not in combat. These distal situational pressures are supposed to undermine moral responsibility because they impair moral functioning, and they impair moral functioning by encouraging soldiers to believe that morally objectionable behavior is in fact permissible or even required (2007, 39). When, due to his military training, a soldier comes to believe that an activity such as torture is permissible, it is difficult for him to grasp the moral considerations that speak against torture. But in this case—as Doris and Murphy might argue—isn’t it unfair to blame a soldier for his bad behavior and to
target him with negative emotional responses like resentment? After all, if a soldier, after undergoing training and enculturation processes over which he has little control, comes to believe that torture is permissible, then perhaps it is unreasonable to expect him to refuse to use torture. And we might think that it is only fair to blame a person when it is reasonable to expect that person to refrain from the actions for which he is blamed.

Doris and Murphy offer the most explicit and detailed argument of which we are aware for the blamelessness of those who commit war crimes. However, many other theorists accept the view that if, through no fault of her own, a wrongdoer regards her behavior as permissible, then it is unfair to blame her for her wrongdoing. In contrast to Doris and Murphy, these other authors generally do not appeal to the situationist experimental literature, but they do focus on the way that environmental factors can constrain one’s moral outlook. For example, Susan Wolf claims that

… we give less than full responsibility to persons who, though acting badly, act in ways that are strongly encouraged by their societies—the slaveowners of the 1850s, the Nazis of the 1930s, and many male chauvinists of our fathers’ generation, for example (1987, 56-57).

What excuses these wrongdoers is that they “falsely believe that the ways in which they are acting are morally acceptable” (1987, 57). Possession of these false moral beliefs tends to excuse the wrongdoers in question because the values that inspired these beliefs “may have been inevitable, given the social circumstances in which they developed” (1987, 57). Wolf concludes that “[i]f we think that the agents could not help but be mistaken about their values, we do not
blame them for the actions those values inspired” (1987, 57). Philosophers who accept a view like Wolf’s, and who also agree with Doris and Murphy about the impact of military training and martial culture on soldiers’ moral capacities, should accept the conclusion that those who commit war crimes are often not open to the full force of moral blame.15

4. **Blaming Perpetrators**

The argument presented in the preceding section is important and challenging, but we believe that there is little reason to accept its conclusion. On our view, military personnel may be blameworthy for their crimes even if it would be unreasonable to expect them to be aware of the moral status of their behavior and even if their behavior is informed by values and beliefs that they could not have avoided acquiring. Such perpetrators are potentially blameworthy because the fact that they regard their behavior as permissible is compatible with their behavior having the kind of interpersonal moral significance that makes blaming responses like resentment and indignation appropriate.

Emotional responses like resentment are reactions to the perception that one has been treated with contempt, ill will, or at least an objectionable sort of disregard.16 Such responses are inapt—and a wrongdoer excused from blame—in cases where harmful behavior is in fact not expressive of contempt, ill will, or lack of regard. This is why we typically do not blame people who injure us only because they were, through no fault of their own, ignorant of the harmful consequences of their behavior, or when their harmful behavior was justified.17 Similarly, we do not generally blame those whose harmful behavior was involuntary in certain ways (for example, because the agent was unconscious at the time of action, or because the behavior was the result of coercion, and so on).18 In each of these cases of excuse, something blocks the otherwise
natural inference that a person’s harmful behavior shows that she lacks an appropriate degree of concern for others’ welfare.

The fact that a perpetrator of war crimes believes that his behavior is permissible or justified does not provide him with any of the excuses just described. Obviously, the fact that a soldier has such a belief would not entail that his behavior is involuntary. And while a soldier who, for example, believes that torture is permissible may suffer from a form of ignorance, he is not ignorant of the consequences of his behavior. A torturer who thinks that he behaves permissibly is aware that he harms his victims (indeed, having that awareness is surely a necessary part of what it means to torture someone); he is only unaware that it is wrong to harm them. This moral ignorance—like that of the torturer interviewed by Martha Huggins who claimed to have acted within the bounds of his conscience—is fully compatible with the torturer having ill will—or at least a lack of appropriate regard—for his victims. Indeed, a plausible default assumption is that such a torturer’s behavior is evidence that he implicitly denies that his victims have the sort of moral standing that would make torturing them illegitimate. If we reject the torturer’s perspective on his victims’ standing, then we should conclude that the torturer does not treat his victims with the degree of respect that we believe that they could reasonably demand, and that he is therefore an appropriate target of his victims’ blame.

To take a somewhat more complicated example, consider the way doctors who served at Auschwitz rationalized their participation in the selection of prisoners for gassing and for medical experiments by reference to the moral goals of legitimate medical practice. One doctor stated that: “Of course I am a doctor and I want to preserve life. And out of respect for human life, I would remove a gangrenous appendix from a diseased body. The Jew is a gangrenous appendix in the body of mankind” (Lifton 1986, 427). This doctor understood that his profession
was founded on moral ideals such as respect for human life—in fact, he defended his actions by appealing to such ideals. But it is clear that his belief that Jews posed a threat to the health of mankind meant that he didn’t see the principle of respect for human life as entailing respect for Jewish human life. This doctor was ignorant of important moral facts, but his ignorance was clearly compatible with—indeed, we may even think of it as constituted by—disregard or contempt for the interests and welfare of Jews.

But perhaps the Auschwitz doctor can avoid blame by offering his belief that the Jews were like a diseased organ as a justification of his behavior. In general, if one behaves justifiably, then one is not open to moral blame, and even false beliefs can sometimes provide an agent with justification for her behavior. For example, if a police officer shoots a suspect who is threatening him with a gun, the police officer’s action is justified even if it turns out that the gun was fake, so long as it was reasonable for the police officer to believe the gun was real and that the offender posed a deadly threat that could only be averted through the use of force.

We can read the doctor’s attempted justification in different ways, but none of them are likely to be persuasive. We might, for example, interpret the doctor’s comparison of the Jews to a gangrenous appendix as just an expression of his bias against Jews: as if he were inviting us to believe that the Jews deserved harsh treatment because they are contemptible. But this clearly begs the question—we would hardly accept this as a justification of the doctor’s behavior unless we already shared his biased outlook on Jews.

But perhaps this is the wrong way to think about the doctor’s attempted justification. Perhaps the doctor’s position is like that of Karl Kretschmer, the German soldier discussed earlier, who thought that Jews were a mortal threat to Germany. On this reading, the doctor is not simply inviting us to share his contempt for Jews; he is (like Kretschmer) justifying his behavior
by reference to the supposed threat that the Jews posed. Now we might disagree with Kretschmer and the doctor as to whether the Jews really were a threat, but if they came by these false beliefs in a reasonable fashion, then we might think that they are not open to blame for their bad behavior. Of course, there’s good reason to doubt that Kretschmer and the doctor came by their beliefs reasonably. It seems to us much more likely that these two suffered from what Nomy Arpaly calls “motivated irrationality” (2003, 101-11). They were not making an “honest mistake” about the threat posed by Jews. Rather, their beliefs—which would have been transparently false to a person of good will—were nurtured and held in place by the kinds of objectionable attitudes and ill will that make blaming responses appropriate. We suspect, for example, that Kretschmer and the Auschwitz doctor did not fairly assess evidence that conflicted with their beliefs: they were, as Arpaly puts, “ready to believe anything about Jews, as long as it was bad” (2003, 103).

So far, we have assumed that moral excuses function primarily by demonstrating that an agent’s action was not expressive of objectionable attitudes like contempt. Thus, on our view, if a Nazi doctor treats Jews with contempt, it is for that very reason unlikely that he will have an excuse that allows him to avoid blame. However, this perspective on excuses can be questioned. Erin Kelly, for example, has argued that approaches like ours are too narrow since, as Kelly sees it, some agents whose behavior expresses contempt or ill will are not properly open to blame (2013). On Kelly’s view, “excuses function by undermining what normally are reasonable expectations about how a person should be motivated” (2013, 256). According to this approach, when it comes to evaluating a wrongdoer’s blameworthiness, we should consider to what degree it is reasonable to expect the wrongdoer to have behaved differently, and this will often depend on how difficult it would have been for the wrongdoer to avoid her bad behavior. For Kelly, then,
some agents who definitely treat others with contempt are still not blameworthy because of how difficult it would have been for them to behave differently.

There is certainly something appealing about the idea that it is unfair to blame a person for an action when she would have had great difficulty acting otherwise. However, we suspect that this perspective is most plausible in those cases in which the very thing that makes it difficult for the agent to act otherwise also undermines the attribution to that agent of the attitudes to which blame responds. On our view, what is really doing the excusing work in these cases is not simply the agent’s difficulty in acting otherwise, but the fact that the agent’s actions do not express blame-grounding attitudes like contempt. For example, suppose that a soldier is ordered to shoot unarmed civilians and finds it very difficult to disobey because he is physically forced to carry out the order or because he knows that he will be shot if he refuses to obey. These explanations for why the soldier finds it difficult to disobey the order make it much less plausible that his behavior can be explained in terms of his attitudes toward those affected by his behavior. Even if he obeys the order and shoots the civilians, it is still possible that the soldier had no ill will toward them. Depending on the details of the case, on our view the soldier might be excused for his behavior, but the reason why he might be excused would not be because he found it hard to avoid obeying the order, but because of the absence of ill will.

By contrast, imagine a soldier who has difficulty refraining from killing civilians because of the contempt he feels for them—he just thinks enemy civilians are scum who deserve to be killed. In this case, we would not be at all inclined to excuse the soldier’s behavior regardless of how difficult he might have found it to act otherwise.

We believe, then, that some agents who have difficulty avoiding wrongdoing are blameworthy: namely, those agents whose difficulty does nothing to call into question their
contempt or disregard for others. A perpetrator’s belief that bad behavior is permissible may make it difficult for him to avoid bad behavior, but that kind of non-exculpatory difficulty gives us no reason to think that his behavior doesn’t express contempt or disregard for others.

Another potential objection to our view involves the assumption that the point of blame is to initiate moral communication with a wrongdoer. For example, we might believe that the purpose of expressions of blame is to elicit a sincere apology from a wrongdoer and to inspire moral recognition on his part. On this view, any conditions that undermine a wrongdoer’s ability to take part in this sort of moral “conversation” will also tend to make him an inappropriate target for the responses involved in moral blame. It has been argued on these grounds that psychopaths, for example, are exempt from blame because of their inability to engage with moral reasons and in moral conversations in the way that non-psychopaths do.¹⁹ We do not believe that this objection tells us much about the case of most perpetrators of war crimes. For one thing, while we grant that military training can severely limit perpetrators’ ability to recognize certain moral considerations and claims, this does not make them unfit for or incapable of moral reflection and conversation. The average perpetrator is not a psychopath: he does not lack a moral point of view; rather, his inability to respond to certain moral considerations is a function of his commitment to a flawed moral point of view. This is evident from the words of the perpetrators discussed earlier, all of whom rationalized and justified their actions by reference to moral considerations and moral reasons.

Still, once a perpetrator is in the grip of a flawed moral perspective, he is not likely to respond to moral blame in the way that we might wish: he is unlikely to apologize, to alter his behavior, and so on. But we do not believe that this makes blame inappropriate. On our view, the purpose of blame is not exhausted by the possibility of eliciting certain responses from a
wrongdoer. Even if a victim cannot hope that her blame will inspire moral recognition in others, it can still be a means by which she stands up for herself and protests the treatment that she received.\textsuperscript{20} The validity of such a protest does not depend on anyone being converted by it, and insofar as we agree that a victim has not been treated with due regard, we should view her moral protest, expressed through her blaming responses, as appropriate.

Our view is that moral blame is fundamentally a response to the objectionable attitudes that a wrongdoer can have toward those harmed by his actions. Military training and martial culture may impair the sensitivity of military personnel to moral reasons and incline them toward the view that various forms of objectionable behavior are permissible. These factors may in turn make it difficult for military personnel to refrain from committing war crimes and may make them impervious to the moral entreaties of their victims. However, none of these things makes it impossible for military personnel to guide their behavior by their own judgments about how they ought to behave; thus, none of these things entail that the behavior of military personnel cannot express the objectionable attitudes to which blame properly responds.

5. \textit{Luck and the Victim’s Perspective}

The role of luck in explaining perpetrators’ behavior can raise concerns about their moral responsibility. In \textit{The Lucifer Effect}, Philip Zimbardo cites a number of situational factors to explain why US Army reservists abused prisoners at the Abu Ghraib prison in Iraq: the reservists were untrained for their specific tasks, they were under pressure from military and civilian authorities to help produce intelligence, and they lived in a stressful and often dangerous environment. As a result, their conception of what was acceptable behavior began to shift from
what it had been in civilian life. The following statement from Ken Davis, an MP at Abu Ghraib, sums up the situation:

We were never trained to be guards. The higher-ups said, ‘Use your imagination. Break them. We want them broke by the time we come back.’ As soon as we’d have prisoners come in, sandbags instantly on their heads. They would flexicuff ‘em; throw ‘em down to the ground; some would be stripped. It was told to all of us, they’re nothing but dogs […]. So you start breeding that picture to people, then all of a sudden, you start looking at these people as less than human, and you start doing things to ‘em that you would never dream of. And that’s where it got scary (Zimbardo 2008, 352).

As with the students in his Stanford Prison Experiment, Zimbardo doesn’t think that the behavior of the soldiers at Abu Ghraib is explained by their possession of antecedent dispositions toward cruelty. The behavior was caused, rather, by the kinds of factors described in the quotation from Ken Davis and by what Zimbardo elsewhere describes as the “intrinsically pathological” prison environment (Haney, Banks, and Zimbardo 1973, 89).

But how did the reservists end up in these circumstances? This was largely a matter of luck. The reservists voluntarily enlisted for military service, but prior to their enlistment they had no way of knowing that they would end up at Abu Ghraib and that they would be subjected to the situational pressures that Zimbardo describes. Similarly, as Zimbardo notes, “[c]hance ruled” in determining the outcomes for the subjects in his Stanford experiment (2008, 206). It was “by virtue of random assignment” that “these good people were … assigned to the role of guard or
prisoner” and subjected to pressures that elicited either objectionable or unobjectionable behavior (2008, 206).

When we focus on soldiers’ lack of control over their exposure to situational pressures, it may seem unfair to hold them morally responsible for the behavior fostered by these pressures. This worry can also be put in terms of the CAPS approach that we outlined above. Soldiers have little control over the external forces that help to shape their acquisition of CAPS traits, so, again, it may seem unfair to hold them morally responsible for the behavior that these traits inform.

Our response to these concerns echoes the reasoning we employed above. If someone is unlucky enough to have been exposed to pressures that make him unaware of the consequences of his behavior, or unable to control his behavior in light of his judgments about reasons, then he is excused from blame because his behavior is not likely to express the sort of contempt or disregard to which blame responds. However, the perpetrators we have been considering are not unlucky in this way; they remain fully capable of expressing contempt or disregard for others through their behavior.

But perhaps considerations about luck make it unfair to blame perpetrators even if they are capable of treating others with contempt. An argument for this conclusion might go like this: If luck plays a sufficiently large role in explaining why a perpetrator has bad moral values (or bad dispositions), then he is not at fault for possessing these values, and if he is not at fault for possessing these values, then it is unfair to blame him for the behavior that these values inspire. We do not accept this argument. Imagine a committed Nazi soldier—perhaps one trained from a young age in the Hitlerjugend—who regards Jews as vermin. Obviously, this soldier has objectionable attitudes toward Jews. However, it might plausibly be said that he is not at fault for
having these attitudes; perhaps the fault lies with the institution of the *Hitlerjugend* and with those responsible for it. On our view, this hypothetical lack of fault for his objectionable attitudes would not exempt the soldier from blame. What is required for blameworthiness is that the soldier’s behavior is informed by his values and judgments in such a way that it has (or could have) blame-relevant significance for those affected by his behavior. And it is possible for the soldier’s behavior to have this sort of significance even if unchosen external influences shaped him into the sort of person that he is.

Still, to some it may seem unduly harsh to blame perpetrators given that many perpetrators are also often victims. It’s worth bearing in mind, then, what it would mean to deny that perpetrators are blameworthy. Consider Doris and Murphy’s observation that perpetrators are sometimes trained to use sexual violence against women. Suppose that a woman was raped by a perpetrator who acted freely and who was fully aware of the woman’s distress and of the effects of his actions on her. So far, the perpetrator does not seem to have an excuse. But now suppose that the perpetrator was trained in such a way that—through no fault of his own—he came to regard sexual violence against women as a legitimate way of achieving political or military goals. Should we now conclude that the perpetrator is excused and that blame would be inappropriate? If we accept this conclusion, then we must say not only that it is inappropriate for *us* to blame the rapist, but that it is also inappropriate for his *victim* to blame him. We find this conclusion very unpalatable.

On our view, the perpetrator’s (perhaps unavoidable and nonculpable) belief that he behaves permissibly does not excuse him from blame because nothing about the content of his belief or how it was acquired makes it unreasonable for his victim to resent him. Her claim to
have been treated with unjustifiable contempt and disregard is not undermined in any way by these facts about the perpetrator’s beliefs.

A person harmed by another should withhold blame if the harmful behavior did not express ill will or disregard of his moral standing. This would be the case if the harm was accidental, justified, the product of coercion, and so on. But none of this applies to the above example. To say that the rape victim shouldn’t blame her rapist asks her to view her rape as if it were the kind of treatment that does not warrant resentment, as if it did not constitute a direct and profound attack on her moral standing—in short, it asks her to accept her rapist’s perspective. This asks the rape victim to accept an inaccurate interpretation of what happened to her and fails to adequately account for the wrong done to her. Thus, to suggest that moral blame is off the table fails to do justice to the victim because it misdiagnoses the moral quality and inter-personal significance of the treatment to which she was subjected.

Again, we have argued that what is crucial for blame is the expressive significance of the actions for which a wrongdoer is blamed. A wrongdoer is excused from blame in those cases in which his behavior does not convey blame-grounding attitudes towards others. However, just because a wrongdoer is not at fault for having objectionable attitudes does not mean that these attitudes are not attributable to him and cannot be expressed through his behavior. If a soldier has the bad luck to be exposed to factors that corrupt his values, then this can make him an appropriate object of pity in certain respects, but this fact will not by itself make him an inappropriate target of blame.

Conclusion
In this chapter we have argued for two central claims. Firstly, we have argued that situationist accounts of war crimes such as that offered by Doris and Murphy are inadequate and fail to account for the ways in which the behavior of perpetrators of war crimes is informed and shaped by their unique goals, beliefs, and self-conceptions. Our dispositional theory of war crimes, based on the CAPS theory of personality, recognizes the impact of situational forces on individuals but also reveals how important it is to view perpetrators’ behavior through the lens of their individual CAPS traits. Without such a perspective, important and distinctive differences between perpetrators are ignored. Secondly, we have argued that certain arguments in favor of excusing perpetrators of war crimes fail. The behavior of many perpetrators of war crimes reflects objectionable attitudes regarding their victims’ moral standing, and negative reactive attitudes like resentment are appropriate responses to such behavior. In addition, to hold that perpetrators of war crimes should be excused is to deny that the victims of war crimes may reasonably feel resentment regarding the way they were treated. Such a consequence disrespects the experiences of victims and privileges the perpetrators’ moral standpoint.

The claims that we defend in this chapter are separable. That is, one could accept our CAPS account of war crimes and still think that soldiers are often blameless for war crimes because one thinks, for example, that a soldier is excused if he believes that he acts permissibly. Or one might accept our account of the moral responsibility of perpetrators yet reject our dispositional account of war crimes. However, the two claims fit together naturally: our approach to moral responsibility argues for the centrality of wrongdoers’ orientations toward others, and the dispositions hypothesized by CAPS theory play this role. Our application of CAPS theory emphasizes the ways in which perpetrators’ behavior is typically not a product of internal states that have been “forced” upon them by external circumstances, but rather reflects their individual
moral beliefs, emotional states, self-conceptions, and judgments. Such perpetrators are well
positioned to express through their behavior the kind of ill will, contempt, or disregard for others
that make blaming responses appropriate.
Bibliography


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2 We recognize that there are several different views that could be described by this term. In this chapter we use “situationism” to refer to the cluster of philosophical theories that interpret the social science experiments referred to in Section 1 as demonstrating that external situational forces explain and determine human behavior to a far greater extent than any pre-existing character traits (if such traits exist at all). (Doris 2002; Harman 2000). See Miller (2014), Chapter 4 for a helpful review of the different situationist claims in psychology and philosophy.

3 The learner was a confederate of the experimenter. For a complete discussion of the experiments see Stanley Milgram (1974).
We intend “mental states” to refer broadly to an agent’s psychological states, including cognitive states such as beliefs and judgments, desires, and emotional states.

For influential accounts of responsibility that emphasize the capacity to respond to moral reasons see Wolf (1990), Wallace (1996), and Watson (2004).

Cognitive degradation (such as referred to by Doris and Murphy) refers to the effects of combat on the capacities for rational deliberation of military personnel, whereas psychological degradation refers to the emotionally deleterious impact of combat.

Doris and Murphy use the phrase “degrade,” but this is misleading since at least some of the distal pressures they discuss are better described as obstructing soldiers’ exercise of cognitive capacities, rather than as degrading those capacities.

Emphasis added.

Note that this definition does not make cross-situational consistency a requirement of character traits. That said, this definition would still include traditional character traits such as honesty. For example, a person would possess the trait of honesty under this definition if her disposition to tell the truth informed her behavior over time and was sustained by her beliefs, emotions, and desires (for example, her belief that good people don’t lie and her desire to be a good person).

For a critical discussion of the CAPS theory, see Miller (2014), Chapter 5.

See also Miller (2014), Chapter 5.

See Dyer 2004), Chapters 1 and 2 and Wolfendale (2007), Chapter 6 for detailed discussions of the aims and impact of basic training in the military.
Pauer-Studer and Velleman use these examples to illustrate how moral values can become inverted through social and other processes, leading to the acceptance of wrongful behavior as consistent with deeply held moral principles.

There are other ways of conceptualizing moral responsibility, but many philosophers accept an account along roughly the lines just described. Strawson (1962) is the classic source for this influential perspective; see Wallace (1996) and Watson (2004) for important discussions of, and elaborations upon, Strawson’s basic themes.

For defenses of views related to Wolf’s, see Zimmerman (1997), Levy (2003), Rosen (2004), and Fricker (2010). For criticisms of such views, see Talbert (2013).

Following Strawson, many philosophers reserve the term “indignation” for the third-personal analogue of resentment; in other words, it is the negative reactive attitude that we direct toward a wrongdoer on account of how he has treated a third party. We will speak mainly of resentment in what follows but our position should be understood to apply to cases in which we blame a wrongdoer on behalf of his victims.

The “through no fault of their own” caveat is important: it is often argued that if a person is at fault for her ignorance of the likely consequences of her behavior, then her ignorance will not excuse her from blame for these consequences. For an important discussion of these issues, see Holly Smith (1983).

Angela Smith (2005) argues persuasively that our involuntary actions and states of mind are not always blameless; this is because some things that are not under our control (such as what we forget or fail to notice) can indicate our degree of concern for others.

20 For more on the relationship between protest and blame see Talbert (2012) and Angela Smith (2013).

21 For a detailed account of how luck interacts with moral responsibility, see Levy (2011).

22 For example, many torturers in military dictatorships were subjected to extremely harsh training methods involving brutalization and humiliation (Haritos-Fatouros 1988).