

Phil 108, March 4, 2008
Self-defense

May we kill in self-defense? If the only way to avoid being killed by another person is to kill him, are you permitted to do so? Is it not simply *excusable* (i.e., not blameworthy or punishable), but permissible?

Three cases of self-defense:

Villainous Aggressor: Tries to run you down with his truck, because he has always hated you. Seems not wrong to blow up his truck.

Innocent Aggressor: Same as VA, but not at fault, because he has been drugged. Thomson: Also not wrong to blow up his truck.

However, some think that killing the VA is not wrong, whereas killing the IA is wrong. What is the difference?

- (i) The VA is a *worthless* person, whereas IA is not? But IA might be just as worthless. And are we really allowed to kill people just because they are “worthless”?
- (ii) The VA *deserves punishment* for what he is doing, whereas IA does not deserve punishment. But what gives *you* the authority to punish people? And if you do have the authority, then why aren't you also authorized to punish someone who isn't presently threatening anyone?

Innocent Threat: Fat man has been pushed off of a cliff. He will fall on you unless you move your awning to deflect his fall, which will kill him. Unlike the IA, the IT is not *doing* anything. Thomson: It is still not wrong to kill him.

Why may you kill the VA, IA, and IT? Proposal:

(A) You may kill someone if, unless you do, *he will kill* you.

The impermissibility of killing bystanders:

Notice that (A) does not say that:

(B) You may kill someone if, unless you do, *you will die*.

This is because:

(C) You may *not* kill a mere *bystander* even if, unless you do, you will die.

Examples:

1. *Substitution of a bystander*: You may not divert the trolley from yourself to another person. (However, you may divert the trolley from *five* (even if, presumably, you are one of the five) to one, so long as you do not violate the one's rights. But this is because the *numbers* matter.)
2. *Use of a bystander*: You may not shoot a bystander to fall on the trolley.
3. *Riding roughshod over a bystander*: You may not run away from a shooter if this will topple someone off a bridge.

Question: Isn't *using* somehow *more* wrong than substitution and riding roughshod? *Reply*: One fails to respect him as a person just as much when one substitutes him or rides roughshod over him. (Question: What would Quinn say?)

Does the Doctrine of Double Effect help?

Objection: Can't we kill a bystander, so long as we merely foresee and do not intend his death? Isn't this why Strategic Bomber is permissible?

Reply:

Irrelevance of Intention to Permissibility Thesis: It is irrelevant to the question whether X may do alpha what *intention* X would do alpha with if he or she did it.

“Well, it all depends on what your intentions would be in dropping the bombs. If you would be intending to destroy the munitions factory and thereby win the war, merely foreseeing, though not intending, the deaths of the children, then yes, you may drop the bombs. On the other hand, if you would be intending to destroy the children and thereby terrorize the Bads and thereby win the war, merely foreseeing, though not intending, the destruction of the munitions factory, then no, you may not drop the bombs.”... Can anyone really think that the pilot should decide whether he may drop the bombs by looking inward for the intention with which he would be dropping them if he dropped them?

Here is Alfred, whose wife is dying, and whose death he wishes to hasten. He buys a certain stuff, thinking it a poison and intending to give it to his wife to hasten her death. Unbeknownst to him, that stuff is the only existing cure for what ails his wife. Is it permissible for Alfred to give it to her? Surely yes.

Objection: “Wouldn’t Alfred be at fault for giving her the medicine?”

Reply:

The Irrelevance of Fault to Permissibility Thesis: It is irrelevant to the question whether X may do alpha whether X would be at *fault* in doing it.

If we accept this, then Strategic Bomber is just like:

Trolley Preemption: You can stop the trolley only by firing at it, which will kill a bystander. This is a case of riding roughshod over a bystander, except that SB occurs in the context of a just war.

So if Strategic Bomber is permissible, this must be explained by the context of a just war. Why does the context of war matter? Perhaps because the stakes are so much higher. Why, then, is Terror Bomber still impermissible? Perhaps because “it mostly is, or even in fact always is, unnecessary for the accomplishing of any morally acceptable wartime purpose.”

Explaining the permissibility of self-defense:

- (1) In the circumstances, you have a right that he not kill you.
- (2) If he kills you, he will violate your right that he not kill you.
- (3) If you do not kill him, then he will kill you.

Thomson: “It surely follows” that:

- (4) He does *not* have a right that you not kill him. This is why you may kill him.

Why does (4) follow? Is the tacit principle:

If I have a right to X, and X will occur only if I Y, then no one has a right that I not Y?

But this would mean that I have a right to kill the bystander. The tacit principle seems instead:

If I have a right *against you* that you not X, and *you will violate this right by X-ing unless I Y*, then *you* have no right *against me* that I not Y.

The IA is not at *fault* for what he will do to you. But this does not change the fact that you still have a *right* against the IA that he not kill you.

Alternatively, if one believes that there is no violation of rights without fault, one can still accept Thomson’s structural account, but deny that killing the IA is permissible.

The IT will not *do* anything to you. But this does not change the fact that you still have a *right* against the IT that he not kill you.

Alternatively, if one believes that there is no violation of rights without agency, one can still accept Thomson's structural account, but deny that killing the IT is permissible.

There seems reason to accept this alternative account. How is IT morally different from a bystander? Suppose in Trolley Preemption, the person we would kill is inside the trolley. He still seems a bystander, and it still seems impermissible to kill him. How is the IT different except that he is inside his own body, as it were? Granted, we will *say* that the *IT* killed you, whereas before we would say that the *trolley* killed you. But why should this matter? And if the trolley can kill you, even though it does not violate your rights, doesn't that cast doubt on the idea that because the IT kills you, he violates your rights? Isn't *agency* necessary for violating your rights?

If it is *not* permissible to kill the IT, should it be permissible to kill the IA either?

Fighting back:

Still,

(A) You may kill someone if, unless you do, he will kill you, is too strong. It implies that it is permissible for the VA to attack *you* in self-defense. We should accept instead:

(D) You may kill someone if, unless you do, he will *violate your right against him* that he not kill you.

The VA has no right against you that you not kill him, so he may not fight back.

Notice, however, that (D) means that the IA and IT also may not fight back (unless we deny that your killing them in self-defense is permissible).

Why not take the "Hobbesian line" that all bets are off when a person will otherwise kill you, i.e. (A)? If we do, then it is hard to see why we should not also accept, with Hobbes, (B).

Other-defense

What about other-*defense*? For it to be permissible, Thomson needs a third tacit principle (which implies the second):

If *someone* has a right against you that you not X, and you will violate his or her right by X-ing unless I Y, then you have no right against me that I not Y.

This gives us:

(E) You may kill someone if, unless you do, he will violate *someone's* right against him that he not kill them.

This explains why:

- (i) X may kill Y in self-defense iff
- (ii) Y may not fight back iff
- (iii) Z may kill Y in other-defense of X.