

The *jus ad bellum* calculation of proportionality partly determines whether the resort or continuation of a war is just. It is clear that the death of innocent non-combatants should be awarded substantial weight in such a calculation. But how should the death of unjust combatants be weighed -- i.e., combatants whose participation in a war is wrongful on the grounds that it does not promote any just aims? Though few think that the death of unjust combatants should receive no weight at all, I will argue that such deaths should receive substantially greater weight than has been thought. This makes satisfying the proportionality constraint problematic, even in just wars.

Many unjust combatants are *partially culpable threats*. A partially culpable threat (PCT) is someone who is responsible for posing or contributing significantly to an objectively wrongful harm, but whose culpability for the wrong is substantially diminished -- though not eliminated -- by mitigating circumstances. The indoctrination, manipulation, and coercion of young and consequently cognitively underdeveloped unjust combatants by their culture, state, and military, serve as partially excusing conditions combining to substantially diminish their culpability, thus rendering them PCTs.

On standard responsibility-based accounts of liability, a PCT who poses a lethal threat is morally liable to be killed in necessary defense; she has forfeited her right not to be preventively killed. Indeed, according to that account, a lethal threat whose responsibility does not rise to the level of culpability is morally liable to be killed in necessary defense. I will argue that this account is too draconian. Though it purports to leave theoretical space for culpability to determine the severity of the harm to which a threat is liable, it turns out on that account that anyone who is *at all* responsible for posing a lethal threat will be liable to be killed.

I will present an alternative responsibility-based account according to which a threat is liable only to the amount of harm concomitant with the degree of responsibility she bears for the harm she is imposing. So a PCT's diminished culpability also diminishes the severity of the harm to which she is liable. Anything above that amount of harm is justified as a lesser evil, relative to the alternative of allowing the harm she is posing to befall her victim. This means that killing PCTs will often be permissible, in that it is better for a *partially* culpable threat to be killed than it is for her innocent victim to be killed.

On this hybrid account, killing a PCT does not violate her rights, though it does *infringe* them. A right is infringed (rather than violated) when there is an all-things-considered moral justification for wronging the victim. A PCT's rights are infringed when she is defensively killed because she is thereby subjected to a harm exceeding the degree to which she is liable. If these rights-infringements are additive, then a war against an unjust aggressor -- even one in which we kill only unjust combatants -- will result in massive rights-infringements. Since these rights-infringements will count in the proportionality calculation determining whether the resort to or continuation of war is permissible, it will make justifying war even more difficult than has been appreciated.