

## Combatants, non-combatants and opportunistic killings

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Reductive individualists typically believe that how we may treat an individual who is involved in a war is primarily determined by her moral responsibility for the unjust threats of that war – that is, for threats of harm to people who have rights against suffering such harm. A person who is morally responsible for an unjust threat of harm forfeits her usual rights against attack, becoming liable to harm that can avert the threat(s) for which she is responsible. It is an upshot of the reductivist view, then, that the distinction between combatants and non-combatants is not, in itself, morally significant.

Since many non-combatants on the unjust side of a war are morally responsible for unjust threats, it looks like many non-combatants are liable to defensive harm. Jeff McMahan has argued that, despite this implication of the reductivist view, non-combatants usually evade liability to defensive killing in war in part killing non-combatants generally makes harmful use of them rather than directly averting a threat, and that such indirect killings are of only uncertain effectiveness.<sup>1</sup>

I argue for a distinction between exploitative killings and what I call *merely opportunistic* killings. A person is killed merely opportunistically if she is killed in a way that uses her to avert a threat for which she is responsible. I argue that non-combatants can be liable to merely opportunistic killing, and that this means they can be liable to the sort of harmful use that McMahan is considering. I further argue that the likely ineffectiveness of killing an otherwise liable person does not show that she is not liable to be killed.

I then use the distinction between exploitative and opportunistic killings to explore the implications of two rival accounts of liability: broad liability and narrow liability. The narrow account of liability holds that one can be liable only to harm that averts the particular threat for which one is responsible. The broad account of liability holds that once one is liable to be harmed, one may be harmed to avert any proportionate threat. I argue that the broad account would permit exploitative killing and is therefore incorrect as an account of liability. That one is liable to opportunistic killing does not entail that one is liable to exploitative killing. However, this does not mean that exploitative killings are all-things-considered impermissible. One can have a lesser evil justification for exploitatively killing a person who is liable to defensive harm. Moreover, contrary to what we might expect, adopting the narrow account of the purposes for which a person is liable to be killed does not afford non-combatants significant protection from attack in war.

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<sup>1</sup> McMahan, *Killing in War*, p. 213