

JUDITH THOMSON ON SELF-DEFENSE PHILOSOPHY 13

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Common-sense deontology holds among our most important moral rights is a right not to be killed. This right is complicated. One complication is that one can act in ways that render it the case that others have the right to kill the one in self-defense, which means that the one's own right not to be killed has, to some extent, vanished. Judith Thomson explores this moral right to self-defense and its limits. She presents some examples which she divides into Yes cases, in which you (the threatened person) do have a right to kill in self-defense, and No cases, in which you lack the moral right to kill another even though killing the other is the only means available to you to save your life.

YES CASES

Villainous Aggressor
Innocent Aggressor
Innocent Threat

NO CASES

Substitution of a Bystander
Use of a Bystander
Running Roughshod over a Bystander

Here an Aggressor is one who acts with the intention to kill you (or inflict serious bodily harm on you) and in this way endangers you life.

Those who are Innocent here are those not at fault, not culpable (blameworthy).

Villainous Aggressor wrongfully and culpably intends to harm you.

Innocent Aggressors are nonculpable aggressors. Thomson gives this example: Someone through no fault of her own has ingested a drug that makes her temporarily insane and causes her to attack you with homicidal intent. In such a case, the person who attacks with the intention of killing you is not responsible for this choice. Other cases will be different. We might divide the class of Innocent Aggressors into two subclasses, the one just mentioned and the subclass of Innocent Aggressors who at the time of acting are agents in control of their choices and who are responsible but blameless for making the choice to kill you. Example: A competent agent has through no fault of her own acquired the false belief that you are about to murder her and in response she acts with the intention of killing you (as she thinks, in self-defense). Call the two subclasses Nonresponsible Innocent Aggressors and Responsible Innocent Aggressors.

Innocent Threats are persons that pose a threat to your life but the threat is not of their making. The Innocent Threat is nonculpable, that's why he is called "Innocent." An Innocent Threat differs from an Innocent Aggressor in that the latter but not the former chooses to act toward you with the intention of killing (or seriously harming) you. The Innocent Threat does not make any such choice and may not be acting at all. Example: A gust of wind picks up a person who is in no way blameworthy for being lifted up in this way, and hurls the person at you, posing a lethal threat to you. Another example: A person nonculpably falls from an upper floor of a tall building and is falling toward you. If she lands on you, you will die and the Innocent Threat will survive.

In the NO cases, the bystander whom you might kill to save your life is not causally involved in the creation of the threat that endangers your life. You are at risk, but the bystander has not caused the threat that endangers you.

Thomson is discussing the issue of moral permissibility: when is it morally OK to kill to save your life? She is not discussing the issue, under what conditions are you blameworthy for killing another person to save your life. In some cases, what you do might be wrong, but excusable, or excusable to a degree, so you might not be blameworthy, or very blameworthy.

Thomson's diagnosis of what distinguishes the YES and NO cases: In the NO cases, the following is true: (1) In the circumstances, the one you kill has a right that you not kill him. In the Yes cases, the following is true: (2) In the circumstances, you have a right that the person who threatens you not kill you, (3) If that person kills you, he will violate your right that he not kill you, and (4) if you do not kill him, he will kill you (quoted from Thomson, pp. 299-300).

TWO ALTERNATIVE VIEWS OF SELF-DEFENSE AND ITS LIMITS

Thomson presents cases and reports her judgment about each case and in her diagnosis she provides an argument that supports her judgments. But she acknowledges that if someone disagrees with her about what it is morally permissible and impermissible to do in the cases she presents, she has not shown such disagreement to be mistaken. To decide whether we agree or disagree with Thomson, we might start by developing alternative responses to the cases. Here are two non-Thomson views about self-defense.

1. The right to self-defense emerges only when an agent who is responsible acts with intent to kill (or seriously harm) an innocent person. Here the idea is that the same reasons that render it the case that a threatened victim has no right to kill a bystander also render it the case that a threatened person has no right to kill an Innocent Threat. Nor does a threatened person have a right to kill a Nonresponsible Innocent Aggressor. The right of self-defense is triggered only when you are menaced by a person who is a responsible agent at the time of choice, and chooses to act toward you intending seriously to harm you. The self-defense right then is triggered only when one is confronted by Villainous Aggressors and Responsible Innocent Aggressors. On this view, Thomson includes too many cases among her Yes cases.

An adherent of this view might ask: Suppose a baby is falling on you, and either the baby by falling kills you or you kill the baby. Why should morality favor your living rather than the baby living in these circumstances? Perhaps it is excusable or anyway not too blameworthy if you act to save your skin in such a case, but surely what you do is morally wrong. Notice Thomson holds that if you have a right to kill the Innocent Threat, the Innocent Threat has no right to fight back and a third party observer is not morally entitled to intervene against the Innocent Threat now threatened by you.

2. Fault Forfeits First. Here the general idea is that when a predicament arises in which someone is going to be killed, it is morally better that of the parties involved, the one who is seriously culpable or blameworthy in some way should be killed rather than people who are fully innocent.

Consider Niche. An evil aggressor is pursuing you. He will certainly kill you unless you escape by jumping up to a niche alcove in a cliff. Smith is standing in this niche. He is blameless for being there. If he moves to the back of the niche, there will be room for both you and him, so you can jump up to the niche to save your life without harming him. However, he culpably fails to accommodate you in this way. He holds his ground. You can still jump up to the niche and save your life, but now if you do so, you will bump into Smith and cause him to fall to his death. Fault forfeits first holds that it is permissible for you in these circumstances to jump up to the niche saving your life but killing Smith.

Consider maliciously disposed bystander. You are driving up a narrow mountain road in your car. Innocent Aggressor is driving a truck down the hill and will soon crash into you and kill you. You could save your life by turning your car to the side of the road in one spot, but the spot is occupied by a bystander who cannot move from it. If you turn your car, you will save your life but kill the bystander. You could instead fire your weapon at Innocent Aggressor and save your life by killing her. Thomson's position regarding this case is that it would be wrong for you to kill the bystander to save your life but permissible to save the Innocent Aggressor. But suppose the bystander is culpably gloating at the prospect of your death. He welcomes the fact that you an innocent person are about to be killed. Even worse, he is disposed to harm you if he could: He is throwing snowballs at you in an attempt to harm you (keep you from firing at Innocent Aggressor). These snowball throwings are not affecting you, but they show that the will of the bystander is set to harm you if he could. Fault forfeits first holds that it is morally permissible for you to kill the maliciously disposed bystander and that it is better for you to kill this bystander than to kill the Innocent Aggressor. (Fault forfeits first does not per se take a stand as to whether killing Innocent Aggressor in these circumstances is morally permissible or not; that is the issue between Thomson and View #1.)

Consider faulty victim. You were warned that there is a convention of epileptic meatcutters in the hotel you are staying at, and that you should not use the elevators, because it is very likely that an epileptic seizure might lead to something bad. You could easily take the stairs and avoid being in close proximity to the epileptic meatcutters, but you don't. You lazily and recklessly take the elevator. Sure enough, an epileptic holding a large knife has a seizure and his arm flails about, threatening your life. This person is an Innocent Threat (or perhaps, depending on further details of the case, an Innocent Aggressor). Suppose the epileptic meatcutters are taking extra medication to reduce the risk of seizures and in all other ways are doing everything they reasonably can to prevent incidents from occurring like the one that is now threatening you. In these circumstances, Fault forfeits first holds that it is morally better that you should be killed rather than the epileptic person who poses a lethal threat to you, so you have no right of self-defense to kill the person who is menacing your life even if that is the only way in which you can save your life.

OTHER FACTORS.

Other factors than those mentioned so far may affect our judgment in the sorts of case being considered.

One factor is the numbers of people who will be killed. If you must kill, not one but five or ten Innocent Aggressors to save your life, is there some threshold number beyond which on the Thomson view, according to which you have a self-defense right against an Innocent Aggressor, your right to self-defense gives way, and it is morally better that you die rather than that number of Innocent Aggressors? Notice that in cases in which an innocent victim faces Evil Aggressors, some will say the numbers do not matter, in the sense that it is morally permissible to kill any number of Evil Aggressors if that is the only way to save your life--one, ten, a million, whatever.

Another factor is degree of culpability, blameworthiness. Culpability varies by degree. If an agent is only a little bit faulty in her conduct in the situation in which the kill or be killed issue arises, that little bit of fault may prompt a different judgment on the case than should be made if the agent was very seriously faulty.

Some might think the Doctrine of Double Effect interacts with other factors and legitimately affects our judgments about what it is permissible to do. Example: Consider two versions of an Innocent Threat case. In one, Innocent Threat is falling on you from the upper floor of a tall building, and will kill you by landing hard on you unless you turn your anti-tank weapon on her and fire, causing her body to disintegrate in mid-air. In another case, everything is the same, except that you lack an anti-tank weapon but can save your self by pulling an iron shield over yourself quickly. This will prevent your being killed when the Innocent Threat lands on you. But if you do this, the iron shield will provide a hard landing pad for the falling Innocent Threat, and she will be killed by landing on it, whereas if she had landed on your soft body, she would survive. Arguably in the first version you intend to harm the Innocent Threat as a means to save your life, and in the second version of the case, you do not intend to harm the Innocent Threat even though you foresee that as an unintended consequence of what you do, she will die. Does this DDE distinction affect permissibility?

Another factor is the moral status of the being who threatens you and whom you might kill to save your life. For example, suppose a grizzly bear attacks you. Some will hold that you may kill the grizzly bear to save your life, basically for the reason that a bear has a lesser moral status than a human person, so it is morally better that you live and the bear die when both you and the bear cannot live. (So if the situation is reversed and through no fault of your own you are an Innocent Aggressor menacing a grizzly bear, you would according to this line of thought still retain your right to life, and it would be wrong for a third party to intervene on behalf of the grizzly bear, exercising its right to self-defense and killing you.) For another example, suppose you are attacked by a permanently deranged psychotic. The psychotic here is an Innocent Aggressor. But even if one believed, following View #1, that you do not generally have a self-defense right to kill Innocent Aggressors, in this case (one might hold) it is morally permissible for you to kill the psychotic, because a person who is permanently seriously crazy is a semi-person, not a full human person, and it is morally better that you live rather than the psychotic because you have higher moral status.

Another factor is degree and kind of causal involvement. For Thomson, in the Yes cases the person she thinks it is permissible for you to kill will be causing your death if you are killed in these circumstances. In the No cases, this causal factor is absent. But causal involvement might vary by degree along one or perhaps several morally significant dimensions. Holding that Innocent Threat, Innocent Aggressor, and Villainous Aggressor

are to be treated on a par as Yes cases, Thomson holds that a certain kind of causal involvement (one's body is menacing another person's body in a certain way) is the crucial make-or-break feature that determines this classification. Disagreeing with Thomson to varying degrees, some might hold that (1) causal involvement interacting with doing something, even if nonresponsibly, is the crucial factor, others that (2) causal involvement interacting with exercise of responsible agency is the crucial factor, others that (3) causal involvement interacting with culpable exercise of responsible agency is the crucial factor. Each of these positions alters where one draws the line between Yes and No cases. (Fault forfeits first more radically suggests causal involvement might not be necessary to being a legitimate target in the types of scenario that Thomson envisages.)