

Enforcement Rights against Non-Culpable Non-just Intrusion

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The following paper does not explicitly address targeting killing, and most of it is probably not worth reading for the workshop. It does, however, have implications for targeted killing, and I will briefly identify those. These are the parts that you should focus on.

The paper defends a sufficient condition for forcible self-defense. Fairly uncontroversially, it holds that an agent has a liberty-right to kill an unjust lethal attacker under suitable circumstances (e.g., the lethal attack is imminent and the attacker is fully responsible for it). Much more controversially, it holds that there can such a liberty-right even where the lethal attack is in the distant future and has only a small chance of occurring (see Objection 3 for discussion). It all depends on how much harm the unjust attack will impose if it occurs. If the harm is great enough, the probability-weighted harm will be great enough to justify lethal defense.

In the paper, I address only a sufficient condition for self-defense against attack. In the larger project, I hope to argue:

- (1) A similar condition applies to defense of others.
- (2) The proportionality requirements for those who are culpable in the sense of being agent-responsible for acting wrongly are radically weaker (and perhaps non-existent) than those addressed in the paper (which assume non-culpability).
- (3) A necessary condition for having a liberty-right to defend forcibly (and harmfully) is that doing so suitably *reduces harm* from non-just attacks. Thus, there would be no such right for purely retributive reasons.

What does this imply about targeting killing by agents of the state? I don't address this in the paper, but like McMahan (e.g., 2009), I believe (controversially) that principles governing the military and other agents of the state are the same as those of everyday citizens, although the circumstances of application are quite different. Thus, I believe that there is nothing wrong in principle, under the right circumstances, with targeted killing by the state. This, however, leaves open two more difficult questions: (1) In practice, how common is it for an agent of the state to have a justified belief that a specific case of targeting killing is permissible? (2) Would a morally permissible legal system (legally) permit targeted killing (and if so with what safeguards)? These are the pressing practical questions, and I do not address them.