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3 STRENGTHENING MORAL DISTINCTION  
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7 ABSTRACT. The authors in this symposium on Sparing Civilians gave me much  
8 to think about; their criticisms have helped me to strengthen the argument for  
9 moral distinction, and enhance the moral protection of civilians in war. In this  
10 response I address their objections thematically, focusing in turn on each chapter of  
11 the book.

12 I. INTRODUCTION

14 Killing civilians is worse than killing soldiers. Who would think that  
15 such an uncontroversial claim, which I call ‘Moral Distinction’, stood  
16 in need of defence? And yet, as I argued in *Sparing Civilians*, and as  
17 the authors in this symposium have shown, sometimes even the  
18 most banal moral platitudes can be devilishly difficult to vindicate. In  
19 this response, I will try to show that their searching interrogations of  
20 my arguments leave Moral Distinction stronger than it was before. I  
21 thank them unreservedly for taking the book so seriously, and  
22 helping me see how to extend and improve – and in some cases  
23 change – its arguments.

24 Rather than respond to each author individually, I will proceed  
25 thematically. I will begin with a brief summary of the argument, as  
26 well as a discussion of the setup, before considering in turn their  
27 comments on each chapter of the book.

28 As long as there have been wars, there have been philosophers,  
29 lawyers, and theologians who have argued that death and destruc-  
30 tion in war must know *some* boundaries. And there have been mil-  
31 itary and political leaders, and other thinkers, who have argued the  
32 converse. As Cheyney Ryan points out, *Sparing Civilians* somewhat  
33 exaggerates when it describes a universal, transhistorical consensus



34 in favour of Moral Distinction. There have always been warmongers  
 35 who scorned all shackles. And there have always been bigots, who  
 36 have thought that some people are morally inferior to others, and  
 37 that the conduct of war need only be restrained between equals. But  
 38 morally serious thinkers across time and cultures long thought that,  
 39 between moral equals, Moral Distinction applies. Times, however,  
 40 have changed. Among theorists of the conduct of war, the last  
 41 twenty years amount to a revolution. Never before have so many  
 42 morally serious thinkers cast doubt on Moral Distinction, and on the  
 43 protection of civilians in war. Political and military practice too has  
 44 taken a worrying turn, most recently with the apparently indis-  
 45 criminate bombing of Syrian civilians by the Assad government and  
 46 its Russian allies. However, one should not exaggerate the novelty of  
 47 the present. Less than 50 years ago, it was considered accept-  
 48 able military strategy to bomb a country 'back to the stone age'. Less  
 49 than 25 years ago, 'Shock and Awe' was considered an appropriate  
 50 military aim. Leaders with their backs against a wall have always  
 51 sought to bust their way out over the bodies of civilians. But the  
 52 change in the philosophical consensus is genuinely novel, and to my  
 53 mind deeply disturbing.

54 Why is Moral Distinction in such a sorry state? Ironically, one of  
 55 philosophy's most fervent advocates of noncombatant immunity set  
 56 us on this path. Michael Walzer, in *Just and Unjust Wars*, argued that,  
 57 outside of 'supreme emergencies', one can be a permissible target in  
 58 war if and only if one has lost the protection of one's right to life –  
 59 that is, become *liable* to be killed.<sup>1</sup> Although Walzer's many critics  
 60 decisively undermined his account of *how* one becomes liable, they  
 61 endorsed his presupposition that, with only those very limited  
 62 exceptions, only the liable could be intentionally killed. They then  
 63 argued that liability to be killed is grounded in responsibility for a  
 64 wrongful threat, and noted that one can be responsible for a threat  
 65 that one does not oneself pose. And therein lies the problem: in  
 66 modern states, civilians are responsible, to at least some degree, for

<sup>1</sup> Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 2006). Rather than reproduce here all the citations from the first chapter of the book, let me instead point the reader to my overview of the debate, which provides a comprehensive introduction: Seth Lazar, 'War', in Edward Zalta (ed.), *Stanford Encyclopaedia of Philosophy* (2016). Walzer's 'supreme emergency' exception stated that when the stakes were high enough – on the order of averting the Nazi takeover of Europe – it could be permissible to intentionally target the innocent.



67 the unjust wars of their governments. And, at least in the idealised  
 68 cases in which philosophers so often deal, combatants fighting for a  
 69 just cause might not be responsible for *wrongful* threats. So they  
 70 would not be liable to be killed. The spectre then looms: perhaps  
 71 many noncombatants on the unjust side are liable, and many com-  
 72 batants on the just side are not. So there is no difference between  
 73 killing just combatants or noncombatants, and no difference between  
 74 killing unjust combatants, and at least some unjust noncombatants.  
 75 One might hope to forestall at least the second of these implications  
 76 by arguing that unjust noncombatants aren't responsible *enough* to  
 77 be liable to be killed. But then surely the corollary would be that  
 78 many unjust combatants are also insufficiently responsible to be  
 79 liable. After all, it seems highly plausible, as I argued in *Sparing*  
 80 *Civilians*, that a morally significant proportion of combatants and  
 81 noncombatants on the unjust side will be responsible to more or less  
 82 the same degree for wrongful threats. If we think that (outside of  
 83 supreme emergencies) it is permissible to intentionally kill only those  
 84 who are liable to be killed, then we face a dilemma. If we argue for a  
 85 low threshold of responsibility for liability, we can ensure that all  
 86 unjust combatants are liable to be killed, thus permitting us to fight  
 87 wars that are intuitively justified, but also ensuring that many more  
 88 noncombatants than is plausible are also liable to be killed. We can  
 89 ensure the protection of noncombatants by arguing for a higher  
 90 threshold of responsibility for liability. But then many unjust com-  
 91 batants will not be liable, so – assuming that we are not in a situation  
 92 of supreme emergency – we must not intentionally kill them, and we  
 93 must endorse a contingent form of pacifism.

94 On the terms that currently dominate discussion of the ethics of  
 95 war, Moral Distinction is doubly undermined. It seems not to apply  
 96 for the unjust side in a war, since all the killing they do is equally  
 97 wrongful. And it does not apply for the just side, insofar as many  
 98 noncombatants are as responsible as many combatants for their  
 99 state's unjust wars. If we want to protect civilians in war, we are  
 100 driven to contingent pacifism; if we reject pacifism, we seriously  
 101 undermine the protection of civilians. My task in *Sparing Civilians*  
 102 was to vindicate Moral Distinction. I began by arguing for a high  
 103 threshold of responsibility for liability, such that very few noncom-  
 104 batants are liable to be killed, but that a morally significant pro-



105 portion of unjust combatants are also not liable. Killing innocent  
 106 civilians is obviously worse than killing liable soldiers, since typically  
 107 killing liable soldiers is not wrong at all. So the task was to show that  
 108 killing innocent civilians is worse than killing innocent soldiers. A  
 109 secondary implication of my arguments was helping to avoid the  
 110 contingent pacifist horn of the responsibility dilemma: if it is easier to  
 111 justify killing innocent soldiers than killing innocent civilians, then  
 112 this would significantly expand the role of lesser evil justification in  
 113 war. Instead of applying only in supreme emergencies, we might  
 114 have a lesser evil justification for killing innocent unjust combatants,  
 115 which allows us to vindicate our ordinary judgments about which  
 116 wars are permissible.<sup>2</sup>

117 As I noted in *Sparing Civilians*, the first step in defending Moral  
 118 Distinction is to state it more precisely. Victor Tadros' comments  
 119 have helped me to see ambiguities that remain in the formulation of  
 120 the principle that I gave in the book. Here is a better one:

121 Moral Distinction: In war, with rare exceptions, killing civilians is intrinsically more seriously objectively  
 122 wrongful than killing soldiers, holding constant the numbers killed and the justice or injustice of the aim  
 123 sought.

124 The main difference from the statement of Moral Distinction in  
 125 *Sparing Civilians* is that I now think my target is better captured by  
 126 focusing on the *intrinsic* wrongfulness of actions that kill civilians  
 127 compared with those that kill soldiers. I avoided this locution in the  
 128 book out of caution, lest one thought that *intrinsic properties* of  
 129 noncombatant status made killing them worse than killing soldiers.  
 130 That was a mistake. 'Intrinsic' here refers to the properties of the  
 131 action. In particular, it focuses our attention on the action itself – by  
 132 which I mean, in Alec Walen's helpful terminology, both the  
 133 physical act and the reasons for which it is performed. This is what I  
 134 meant by 'pro tanto' in the book, but that locution is unfortunately  
 135 ambiguous, and allows Tadros to offer a number of counterargu-  
 136 ments that all focus on the *consequences* of killing civilians rather than  
 137 soldiers, but might plausibly be thought to affect the pro tanto  
 138 wrongfulness of those actions. These were simply not my focus, nor  
 139 do I think them essential to the ordinary, commonsense under-

<sup>2</sup> Note that Benbaji understates the extent to which my view departs from Jeff McMahan's revisionism on this point: I argue that killing innocent combatants is easier to justify than it is within the standard revisionist framework, which precludes targeting the nonliable except in supreme emergencies.



140 standing of the morality of killing in war. By focusing on the intrinsic  
141 wrongfulness of killing, this is made clear.

142 Tadros also points out that, in the original formulation, the phrase  
143 ‘the numbers affected’ is ambiguous. The new formulation makes  
144 this clearer: I aim simply to avoid the implication that it is intrinsi-  
145 cally worse to kill one innocent noncombatant than any number of  
146 innocent combatants. Yitzhak Benbaji regrets this feature of Moral  
147 Distinction, hankering after the numbers-insensitivity that one finds  
148 in the law of armed conflict. And yet I can see no good argument for  
149 total indifference to numbers, since innocent combatants are, after  
150 all, innocent. This element of international law is best justified  
151 pragmatically: absolute restrictions make for much better law than  
152 does a more nuanced balancing.

153 Tadros also notes that the contrast between eliminative and  
154 opportunistic killing seems to be a contrast between different kinds  
155 of aim (I say more about what these categories mean below). This  
156 draws out another ambiguity, which I have now clarified. I want to  
157 hold constant the justice or injustice of the aim sought. I don’t have  
158 anything to say in *Sparing Civilians* about the comparison between,  
159 for example, killing civilians in pursuit of a just aim, and killing  
160 soldiers in pursuit of an unjust aim. I also have nothing to say about  
161 the comparison between killing civilians, and letting our own sol-  
162 diers die. Again, Benbaji regrets this, but I meant for *Sparing Civilians*  
163 to be focused on Moral Distinction, and the issue of force protection  
164 (which I have discussed elsewhere) raises many other questions,  
165 most notably the moral significance of our duties to compatriots and  
166 to our combatants, that I did not want to broach here.<sup>3</sup>

167 Tadros also picks at the ‘in war’ and ‘with rare exceptions’ clauses.  
168 I think Moral Distinction will apply for any sensible understanding of  
169 what counts as war. I don’t have much to say on that score. I would  
170 definitely avoid resting anything morally important on that defini-  
171 tion. And what do I mean by ‘rare exceptions’? I mean that, in some  
172 cases, it is worse to kill soldiers than to kill civilians, but that such  
173 cases will be a small minority. Concentration camp commandants  
174 were almost certainly liable to be killed, as Tadros observes. But

<sup>3</sup> Seth Lazar, ‘Associative Duties and the Ethics of Killing in War’, *Journal of Practical Ethics*, 1 (1) (2013), 3–48; Seth Lazar, ‘Necessity in Self-Defense and War’, *Philosophy & Public Affairs*, 40 (1) (2012), 3–44. <https://doi.org/10.1007/s10982-012-9135-4>.



175 even if the opportunity had arisen to kill them all, that would have  
176 been a tiny minority of the killing done in the second world war.

177 So, this is how I should have stated Moral Distinction. But might  
178 Tadros reply that confining our attention to the intrinsic properties  
179 of killing civilians is a mistake, and that we should attend to its  
180 consequences as well? Unjust combatants who kill soldiers thwart  
181 the achievement of a just cause, potentially raise the probability that  
182 the unjust cause will be achieved, and prolong the conflict; killing  
183 noncombatants, by contrast, is less likely to do each of these things.  
184 So is it worse – in the sense that matters for the protection of  
185 civilians in war – for unjust combatants to kill soldiers than to kill  
186 civilians?

187 Clearly we can intelligibly ask about the intrinsic wrongfulness of  
188 killing civilians. A sense of this intrinsic wrongfulness both underpins  
189 the law of armed conflict and motivates people to comply with it. So  
190 while Tadros raises some interesting issues, his doing so does not  
191 impugn the project of explaining the distinctive intrinsic wrongfulness  
192 of harming civilians.

193 But we can go further than this: focusing on Moral Distinction, as  
194 defined above, allows us to offer guidance to all sides of a conflict,  
195 whether they are pursuing just or unjust aims. It helps to furnish a  
196 second-best ought that is consistent with what combatants regard as  
197 their feasible option set – that is, the options that they will consider,  
198 given their aims. Tadros' alternative fails to offer this guidance, since  
199 it is predicated on the notion that those fighting for unjust aims  
200 should morally prefer actions that are less likely to achieve their  
201 aims. And obviously if that was part of their option set, then it would  
202 clearly be wrong to harm civilians rather than soldiers – instead they  
203 should just stop fighting altogether. If unjust combatants are pre-  
204 pared to countenance defeat, then they should stop fighting. If they  
205 are not, then they obviously won't be motivated to pursue tactics  
206 that they know to be ineffective. So Tadros' approach offers unjust  
207 combatants no more guidance than this: lay down your arms. This is  
208 important advice, to be sure, but we might hope for more, and  
209 Moral Distinction can say more. Even combatants who know their  
210 aims are unjust know that they will kill less wrongfully if they kill  
211 combatants rather than noncombatants. They will, of course, still  
212 advance their unjust cause. But they are already committed to doing



213 that. At least their means to that end will be less intrinsically  
 214 wrongful. This is undoubtedly a subsidiary, tainted ought – it identifies  
 215 what you ought to do, given that you have already decided to  
 216 act impermissibly. But it is nonetheless a morally crucial category,  
 217 especially in a domain as murky and non-ideal as the morality of  
 218 war.

219 The difference between these two approaches becomes especially  
 220 stark in morally heterogeneous conflicts, and conflicts in which one  
 221 is not certain that one is pursuing a just aim – that is to say, all  
 222 conflicts that have ever been fought. On my approach, you know  
 223 that whether your aim is just or unjust, you ought to target combatants  
 224 rather than civilians. On Tadros' approach, if your aim is unjust then  
 225 you would do better to target civilians. If you don't know whether your  
 226 cause is just or unjust, this will make targeting civilians easier to justify,  
 227 which seems like exactly the wrong result.

228 What of the objection that the necessity condition already refers  
 229 ineliminably to the consequences of one's actions? First: if so, then I  
 230 would drop the discussion of necessity from the argument for Moral  
 231 Distinction. It was important to test the claim that killing civilians is  
 232 ineffective, regardless of whether it ultimately supports Moral  
 233 Distinction, because so many philosophers lean on that claim  
 234 without offering any empirical argument in its favour.

235 And yet, I do think that breaches of the necessity constraint can  
 236 affect the intrinsic wrongfulness of an action, rather than simply  
 237 entailing that it has worse consequences than it would otherwise  
 238 have had. Killing someone pointlessly is intrinsically wrong in similar  
 239 ways to how opportunistic killing is wrong. When one person kills  
 240 another, knowing that doing so will serve no strategic end, only  
 241 satisfy a whim, or bloodlust, then they show an extraordinary degree  
 242 of disrespect for their victim. This disrespect is intrinsic to the action  
 243 of killing, so is admissible in the case for Moral Distinction. Also,  
 244 failure to satisfy the necessity constraint is intrinsic to the action of  
 245 killing for all those who think that necessity is internal to liability –  
 246 that is, that if the harm to which one is subject does not meet the  
 247 necessity constraint, one cannot be liable to that harm. On this  
 248 approach, in virtue of not meeting the necessity constraint, killing  
 249 potentially liable noncombatants in fact violates their rights, so is



250 intrinsically worse than killing equally responsible combatants whose  
251 deaths satisfy the necessity constraint.<sup>4</sup>

252 With Moral Distinction duly refined in light of Tadros' excellent  
253 objections, we can now turn to the arguments in its favour. A few  
254 points to begin with: *Sparing Civilians* claims that Moral Distinction  
255 has multiple overlapping foundations. It identifies a number of  
256 properties that are contingently but consistently present in actions  
257 that kill civilians and actions that kill soldiers, and which explain why  
258 the former actions are intrinsically worse than the latter. I  
259 acknowledge from the outset that each argument will have excep-  
260 tions; I noted, though, that when all the arguments are taken to-  
261 gether, they will afford a bright line distinction between killing  
262 combatants and killing noncombatants. In this sense, then, contrary  
263 to assertions by Walen and Benbaji, no single argument is at the  
264 heart of *Sparing Civilians*. They are intended to be complementary.  
265 And they are intended, in the long run, to help refine our under-  
266 standing of just who counts as a combatant, and who as a non-  
267 combatant. I intentionally began with a general characterisation,  
268 drawn from international law: combatants are members of the  
269 armed forces of an organised group at war, or others who directly  
270 participate in hostilities; noncombatants are not combatants. There  
271 are, no doubt, very tricky questions to answer about what counts as  
272 direct participation, which kinds of groups have the relevant military  
273 structures, and so on. I demurred from engaging with these ques-  
274 tions: ultimately what matters are the underlying moral properties. I  
275 think that when these are all taken into consideration, the normative  
276 implications of Moral Distinction will both track international law  
277 and inform its application to hard cases. But the 'easy' cases are  
278 challenging enough.

## 279 II. NECESSITY

280 The chapter on necessity contains what is to my knowledge the only  
281 systematic, morally-informed survey of the political science literature  
282 on the effectiveness of targeting civilians in war. I show that  
283 sometimes killing civilians is wholly ineffective – strategic aerial

<sup>4</sup> On whether necessity is internal to liability, see Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2009); Joanna Mary Firth and Jonathan Quong, 'Necessity, Moral Liability, and Defensive Harm', *Law and Philosophy*, 31 (6) (2012), 673–701. <https://doi.org/10.1007/s10982-012-9135-4>.





284 bombing in particular has not lived up to its ‘promise’. However,  
 285 sometimes this strategy does work, especially at achieving interme  
 286 diate goals short of victory, such as provoking a backlash that serves  
 287 to cement your organisation’s support among its primary con-  
 288 stituency. Cheyney Ryan largely agrees with this assessment. He  
 289 notes that, in an age of total war, it is more plausible than it ever was  
 290 before to hold a whole population accountable for the unjust wars of  
 291 their government. I want to make my views here clear: the kind of  
 292 authorisation provided by the members of democratic political  
 293 communities for the wars their governments fight is *not enough* to  
 294 make them liable to be killed. It might have some bearing on their  
 295 responsibility to bear costs to remediate their governments’ unjust  
 296 wars, as I argue elsewhere.<sup>5</sup> But it emphatically does not make them  
 297 liable to be killed. I insist on a high threshold of responsibility for  
 298 liability to be killed, and participation in a democratic political  
 299 community is not enough. I also want to stress that the type of  
 300 persuasive harming described by Ryan (to which I return below)  
 301 typically does not work when the harming is kinetic. Sieges and  
 302 concentration camps – slow strangulation – have been effective at  
 303 coercing populations into submission. Kinetic attacks tend simply to  
 304 increase their resolve, and to bind them to the only people able to  
 305 protect them. There are obvious rational choice explanations for  
 306 this: kinetic attacks are inevitably indiscriminate. But if you’re going  
 307 to be attacked regardless of what you actually do, then why do what  
 308 the attacker wants you to do?<sup>6</sup>

### 309 III. ELIMINATIVE AND OPPORTUNISTIC AGENCY

310 In writing the chapter on eliminative and opportunistic agency, I was  
 311 acutely aware of the danger of vanishing down the rabbit hole of  
 312 deontological moral theory, chasing after diminishing returns in  
 313 search of the one principle to rule them all, and explain just which  
 314 kinds of harmful agency are more seriously objectionable than which  
 315 others. My goal in this book was to use moral and political philos-  
 316 ophy to advance the protection of civilians in war. Distinctions that

<sup>5</sup> Seth Lazar, ‘Authorization and the Morality of War’, *Australasian Journal of Philosophy*, 94 (2) (2016), 211–26.

<sup>6</sup> Stathis N. Kalyvas, ‘Wanton and Senseless? The Logic of Massacres in Algeria’, *Rationality and Society*, 11 (3) (1999), 243–285. <https://doi.org/10.1177/104346399011003001>.



317 make no practical difference were not my focus. Throughout, I tried  
 318 to use hypothetical cases that were either drawn from actual con-  
 319 flicts, or were at least likely to occur. So, my account of the elimi-  
 320 native/opportunistic agency distinction is undoubtedly incomplete,  
 321 and there may be other distinctions in the neighbourhood that are  
 322 more general, insofar as they are extensionally equivalent with my  
 323 own in realistic cases, but deliver more plausible verdicts in other  
 324 scenarios. But my aim was to be ecumenical: as I noted in the brief  
 325 discussion of Jonathan Quong's views, any theory that agrees with  
 326 mine on the central cases that occur in war will serve equally well.

327 However, Walen rightly highlights my loose discussion of the  
 328 mixed agency involved in killing in war, in which the killing done is  
 329 to some extent eliminative, but also to some extent opportunistic.<sup>7</sup> I  
 330 do not think anyone had yet offered a detailed discussion of how to  
 331 understand such cases; Walen's is perhaps the first. He argues that, if  
 332 one person intentionally kills another, and her action could have  
 333 been justified had it been eliminative, then if she acts out of a  
 334 malicious intention, it is therefore wrongful. But if she acts from a  
 335 mixed motive, and only on condition that her action could be jus-  
 336 tified qua eliminative, then if her action is impermissible at all, her  
 337 sin is relatively minor. He grounds all of this in a general view that  
 338 the reasons for which we act – the motivating reasons – play only a  
 339 minor role in the evaluation of our actions.

340 How would this apply to war? Remember that I think that very  
 341 few civilians are liable to be killed, and that even eliminative  
 342 intentional killings of innocent people are very hard to justify – as I  
 343 wrote, though many think it permissible to intentionally kill an  
 344 innocent person who will otherwise take your life (as in the 'falling  
 345 man' case), I have not read any argument that offers a plausible  
 346 rationale for this conclusion. Intentionally killing civilians in war can  
 347 have an eliminative dimension. But I doubt how often that is suffi-  
 348 cient to justify intentionally killing them. Walen notes my tentative  
 349 thought that perhaps killing an innocent person eliminatively could  
 350 be justified if we could thereby save five lives. Suppose that is true: it  
 351 would still provide scant justification for killing civilians in war, as it  
 352 will be very rare that killing an innocent noncombatant would be  
 353 causally sufficient for saving five innocent lives.

<sup>7</sup> In the workshop from which this symposium is drawn, Yitzhak Benbaji, Cheyney Ryan, Kim Ferzan and Helen Frowe all helped me to see that I need to think about mixed agency more.



354 Additionally, in my survey of empirical research covering the  
 355 effectiveness of killing civilians in war, the most successful methods  
 356 were all opportunistic: consider, for example, the indiscriminate  
 357 bombing of Chechnyan villages by the Russians, or the concentra-  
 358 tion camps in South Africa and Cyrenaica, or the chaotic rebellion of  
 359 the Taliban in Afghanistan.

360 Conversely, I *do* think that the eliminative justification is typically  
 361 sufficient for killing innocent combatants in war. Innocent combat-  
 362 ants are typically indistinguishable from liable combatants, and one  
 363 cannot stop the liable ones without also killing the innocent ones.  
 364 Killing combatants is primarily eliminatively causally effective; killing  
 365 noncombatants is primarily opportunistically causally effective. So,  
 366 even if Walen is right that, if intentional killing could have been  
 367 justified qua eliminative, then an additional opportunistic motivation  
 368 does not seriously undermine its permissibility, this will have little  
 369 bearing on the permissibility of intentionally killing civilians in war,  
 370 because the antecedent of the conditional is so rarely met.

371 However, suppose for a moment that eliminative justifications for  
 372 intentionally killing noncombatants were more readily available.  
 373 Even then, it seems obvious that almost all intentional killing of  
 374 noncombatants in war is primarily not for eliminative reasons, but is  
 375 instead either opportunistic or – and this is to my mind still worse –  
 376 wanton. Even if an eliminative justification for intentional killing  
 377 were available, it is highly unlikely to be the justification on which  
 378 the killers are acting. We can use Walen’s counterfactual test here:  
 379 combatants would kill combatants even if doing so secured only the  
 380 benefits that could have been had in their absence; I do not think this  
 381 is true for killing noncombatants. Since Walen thinks it wrong to act  
 382 for bad reasons even in cases in which one’s action could have been  
 383 justified by good reasons, this also tells in favour of Moral Distinc-  
 384 tion. Walen thinks that the wrong involved in acting on bad reasons  
 385 is more about acting offensively than about committing a graver sin.  
 386 This relies on his more general view that our reasons for action are  
 387 not particularly relevant to the evaluation of our actions. I, like many  
 388 deontologists, reject that view: I think that the reasons for which we  
 389 act reflect our attitudes to those whom our actions affect, and that  
 390 those attitudes are morally fundamental.



391 There is much more to be said about the phenomenon of mixed  
392 agency, and I cannot hope here to do this complex topic justice. But  
393 here are some final observations that seem pertinent.

394 First, suppose that you can choose between two courses of action  
395 to achieve the same result. Both involve mixed modes of agency; one  
396 is more eliminative than opportunistic; the other is more oppor-  
397 tunistic than eliminative. Which should you choose? Clearly the  
398 more eliminative one. This tells in favour of killing combatants ra-  
399 ther than noncombatants.

400 Second, suppose that you're not sure, of a single action, whether  
401 it will involve eliminative or opportunistic harming. Surely then,  
402 your reason against taking the action will increase (*ceteris paribus*) in  
403 rough proportion to the probability that it is opportunistic. This too  
404 tells in favour of killing combatants rather than noncombatants.

405 Lastly on mixed agency: I suspect that insofar as all killing of  
406 combatants has an opportunistic dimension, that relates to the rea-  
407 sons of the commanders working at the strategic level. For the  
408 people doing the killing, combatants are killed eliminatively. This is  
409 highly unlikely to be the case for innocent noncombatants. Their  
410 deaths can count as eliminative only at the strategic level. For the  
411 people carrying out the killing, the primary motivation is likely to be  
412 merely murderous, or else opportunistic.

413 Two last thoughts on opportunistic agency: Ryan seeks to dis-  
414 tinguish opportunistic agency from 'persuasive harming', which  
415 seems to differ from opportunistic harming primarily if and to the  
416 extent that persuasive harming is directed against the person whom  
417 one seeks to persuade. This is an interesting sub-category of  
418 opportunistic agency (I think it is that, rather than something dif-  
419 ferent). But my focus in *Sparing Civilians* was on the ethics of killing.  
420 And obviously killing someone is not a promising way to persuade  
421 her to do something.

422 Finally, is wrongful opportunistic harming really worse than  
423 wrongful eliminative harming? Tadros in particular pushes me on  
424 this point. I go back and forth on this. On the one hand, treating  
425 someone as an obstacle in the pursuit of your wrongful end doesn't  
426 seem *that much* better than treating them as a means to the  
427 advancement of your wrongful end. But perhaps this is just the  
428 familiar problem of *swamping*: killing someone, knowing her to be



429 innocent, and knowing your ultimate ends to be unjust, is so  
 430 paradigmatically wrongful that subtle differences in the mode of  
 431 agency get swamped by the sheer malevolence of your plan. The  
 432 differences are still there, but they are much harder to register. And  
 433 it's important to remember that most of the killing in war is not like  
 434 this. Most often soldiers kill believing that doing so is necessary to  
 435 achieve a just cause. However self-deceptive that might be, it's  
 436 wrong to draw conclusions about the permissibility of killing in war  
 437 directly from hypothetical cases involving obviously and univocally  
 438 malicious killing. No doubt *some* of the wrongful killing in war is like  
 439 this. But for the most part killing in war is done with nobler  
 440 intentions.

441 But perhaps I can offer a further argument to the same conclu-  
 442 sion, at least for cases in which unjust combatants kill eliminatively  
 443 to save their own lives, and those of their friends. Given my argu-  
 444 ments in relation to risk, which I will discuss below, I think it really  
 445 matters whether one's action had a chance of being justified. If A  
 446 kills B, and there's no chance that that act could have been per-  
 447 missible, then other things equal that is a more seriously wrongful  
 448 killing than one in which there *is some* chance that it would have  
 449 been permissible. This is like the converse of an argument that I  
 450 make in chapter 6, that the status of just combatants is often  
 451 somewhat undermined by the fact that, for all they knew, they could  
 452 have been fighting impermissibly. They don't robustly respect the  
 453 unjust combatants' rights. Similarly, unjust combatants act some-  
 454 what less wrongfully than would otherwise be the case, if there was  
 455 at least some chance that they would have been acting permissibly  
 456 (because the circumstances that started the war would be different).  
 457 Now, when unjust combatants kill noncombatants opportunistically,  
 458 it's much less likely that their action could have been justified had  
 459 they been on the right side, for the reasons already described. So this  
 460 makes it worse, even when their cause is in fact unjust, for them to  
 461 kill opportunistically than to kill eliminatively, because at least in the  
 462 latter case there was some chance that killing would have been  
 463 permissible, but not in the former, and it's other things equal worse  
 464 to kill someone when there was no chance of your doing so being  
 465 objectively permissible.



467 In chapter 4 of *Sparing Civilians*, I introduce a new argument for  
 468 Moral Distinction, drawing on the moral significance of risk imposi-  
 469 tion. I argue that, when one kills an innocent person, other things  
 470 equal one's action is more seriously wrongful the more likely it was  
 471 that one's victim would be innocent. This bolsters Moral Distinction  
 472 insofar as civilians are more likely to be innocent than soldiers.  
 473 Benbaji and Tadros raise some very interesting cases for this **Risky**  
 474 **Killing** thesis which, I think, allow me to refine and to generalise it.

475 First, Benbaji helpfully distinguishes between 'danger risk' and  
 476 'liability risk'. The different valences of the terms are a little con-  
 477 fusing, so let's call these instead 'harm risk' and 'innocence risk' –  
 478 that is, the risk your action will harm someone, and the risk that the  
 479 person harmed (if there is one) will be innocent. In *Sparing Civilians* I  
 480 discussed this distinction only in passing, focusing almost exclusively  
 481 on innocence risk. I noted only that intuitions derived from cases of  
 482 harm risk carried over to cases of innocence risk – contra Benbaji, I  
 483 did not claim that the two kinds of risk had precisely the same moral  
 484 significance. Benbaji and Tadros's cases very clearly show that they  
 485 don't. In response, I suspect that the moral significance of harm risk  
 486 is directly proportional to the degree of harm risk to which a person  
 487 is subjected. That is, imposing a 1/100 risk of death on 100 innocent  
 488 people is morally equivalent, *in this respect*, to imposing a 1/1,000,000  
 489 risk of death on 1,000,000 innocent people. In the latter case, one  
 490 exposes many more people to a much smaller risk of death. The  
 491 greater number precisely cancels out the smaller risk. By contrast, at  
 492 least where intentional killing is concerned, the moral seriousness of  
 493 innocence risk is an increasing marginal function of the magnitude of  
 494 the risk. That is, as the probability that one's victim will be innocent  
 495 increases, killing him becomes disproportionately morally worse.<sup>8</sup>

496 Benbaji and Tadros offer variations on a case of Tadros' in which  
 497 this distinction will be important. Here's Benbaji's version of the  
 498 case:

<sup>8</sup> I first floated this idea in a paper from 2014, 'In Dubious Battle: Uncertainty and the Ethics of Killing'. Benbaji considers a variation on it, which deploys a probability threshold. In that paper I show that invoking stakes-invariant thresholds in such cases leads to a raft of counterintuitive implications (others have shown something similar). But setting that aside, the idea of a threshold is unmotivated: differences above and below the threshold clearly matter morally, wherever the threshold is. That paper came out in *Philosophical Studies*, 2017.



499 50% of the combatants (Cs) and 25% of noncombatants (Ns) on the unjust side are liable to defensive  
 500 harm. A just bomber (Defender) can either bomb a group of 1,000,000 noncombatants, out of whom  
 501 1,000 will certainly be killed, or bomb 10,000 combatants out of whom 1,000 will be certainly killed.

502 Now, it's important to note that on my high threshold of  
 503 responsibility for liability, perhaps half the combatants on the unjust  
 504 side in a war are innocent, but the proportion may well be  
 505 significantly lower. And I was clear in *Sparing Civilians* that *very few*  
 506 noncombatants are liable. So the probability of innocence for each  
 507 noncombatant should be ~~somewhere in the 90's~~. Since this should  
 508 affect our intuitions about the case, it is important to make it clear,  
 509 but for simplicity I will proceed with Benbaji's numbers.

510 Benbaji assumes that a proper extension of my view to deal with  
 511 such a case would treat innocence risk and harm risk identically;  
 512 *Sparing Civilians* was silent on this point, so it's an understandable  
 513 way to proceed. And yet I think it would be a mistake. We should  
 514 instead consider the two kinds of risks separately. We must also  
 515 remember that, according to Risky Killing, only those who are not  
 516 liable to be killed have a complaint against being exposed to risk.  
 517 Also recall that, though I focus on risks that *do* eventuate in harms, I  
 518 also argue that we have a complaint against being exposed to risks  
 519 that *do not* result in harms.

520 So, for each option we need to consider the number of people  
 521 who are innocent, and the ~~harm-risks~~ to which they are exposed.  
 522 5,000 combatants are innocent; they are all subjected to a 1/10 risk  
 523 of death. 750,000 innocent noncombatants are subjected to a 1/1,000  
 524 risk of death. Imagine we could quantify the strength of a complaint  
 525 against risk imposition with numbers. Let's just give the combatants'  
 526 complaint the same weight as the magnitude of the risk: 1/10. And  
 527 let's do the same for the noncombatants: 1/1,000. So, we have 5,000  
 528 people with a complaint weighing 1/10 each, total weight 500.  
 529 That's compared with 750,000 people with a complaint weighing 1/  
 530 1,000, total weight 750. So, with respect to ~~harm-risk~~ alone, one  
 531 ought to target the combatants rather than the noncombatants.

532 But now let's factor in innocence risk as well. In *Sparing Civilians* I  
 533 focused only on the role of innocence risk for assessing the wrong-  
 534 fulness of killing innocent people. I don't yet know how to assess this  
 535 dimension of the wrongfulness of risk imposition for those who are  
 536 exposed to risk, but ultimately escape harm. So let's just focus on  
 537 those who are actually killed. If Defender bombs the noncombatants,



538 then he kills on average 750 innocent people who were very likely to  
 539 be innocent (only 750, since on Benbaji's numbers 250 of the non-  
 540 combatants would be liable). If he bombs the combatants, then he  
 541 kills 500 innocent people who were as likely as not to be liable. The  
 542 first is clearly worse. Indeed, if we plug in more plausible probabili-  
 543 ties here, so that the noncombatants are, say, 95% likely to be  
 544 innocent, and the combatants are less than 25% likely to be innocent,  
 545 then the difference would be starker still: killing 950 innocent non-  
 546 combatants who were *very* likely to be innocent, against killing 250  
 547 innocent combatants who were likely to be liable. It would not be  
 548 'numbers insensitive', because I don't think any sensible moral the-  
 549 ory can be insensitive to numbers. But it would favour killing the  
 550 combatants unless the disparity between the number of combatants  
 551 who would die and the number of noncombatants who would die is  
 552 very high indeed.

553 Benbaji has a counterargument. He considers a case in which I  
 554 can either, now, kill two people of whom I'm sure that one is  
 555 innocent, or else wait until two more liable people arrive, and then  
 556 kill them all. He thinks Risky Killing implies that one should wait  
 557 until all four are in place, because then one would be killing an  
 558 innocent person with only a 25% probability that he was innocent,  
 559 whereas if one proceeds earlier the probability would be higher. I  
 560 like this case, but rather than a counterexample against Risky Killing,  
 561 I think it neatly illustrates Kamm's Principle of Secondary Permis-  
 562 sibility. If I know that it would be permissible for me to kill N at  $T_2$ ,  
 563 and I can kill him at  $T_1$  while killing fewer liable people (assuming  
 564 that killing the liable is bad), then it is permissible for me to kill him  
 565 at  $T_1$ . Perhaps no cases of this kind would ever arise in the real  
 566 world; insofar as they do, and the victim in each case is the same, *this*  
 567 is what accounts for the permissibility of proceeding at  $T_1$ , while still  
 568 preserving the plausible verdict in cases with different people on  
 569 either side.<sup>9</sup>

570 Tadros makes the further argument that, when one person in-  
 571 tends to kill another, variations in ~~harm-risk~~ are morally irrelevant.  
 572 The incompetent but successful murderer wrongs his victim no less

<sup>9</sup> Also, note that I mention the possibility, in chapter 4, that the victim's probabilities are relevant to Risky Killing. Adding more liable people affects only the agent's probabilities, but the victim's probabilities remain the same: in either case the ~~harm-risk~~ is close to 1, and the victim's liability risk is not affected by his being surrounded with more liable people.





573 than his more efficient counterpart. I do find Tadros' reasoning here  
 574 appealing.<sup>10</sup> And yet I suspect that this may be another case of  
 575 swamping. I also think that the case is muddied somewhat by con-  
 576 sidering those whose end is the death of their victims. If they are  
 577 aiming at something else, especially at something that could  
 578 potentially be worth killing for, then I think the intuition that harm  
 579 risk matters recurs. Again, it's important not to assimilate unjust  
 580 combatants in war to malicious, malevolent killers in hypothetical  
 581 examples.

582 Also, Tadros is forgetting all the people exposed to risk for whom  
 583 that risk does not result in harm. Suppose that A intends to kill 1,000  
 584 people, and subjects them all to a 1/2 risk of death. B, by contrast,  
 585 intends to kill 1,000,000 people, and subjects them all to a 1/2,000  
 586 risk of death. Assume that A and B know that their victims are all  
 587 innocent. Suppose that things pan out as the law of large numbers  
 588 suggests it would, and they both end up intentionally killing 500  
 589 people. Tadros has not indicated a stance on how to evaluate risks  
 590 that do not result in harm, but I imagine he would agree that each of  
 591 the people that A and B merely expose to risk has a complaint  
 592 against him. Suppose that he also agrees that the magnitude of one's  
 593 complaint is proportionate to the size of the risk. Again, let's rep-  
 594 resent this by just using the size of the risk as the magnitude of the  
 595 complaint. On Tadros' view, A and B wrong their actual victims  
 596 equally, because the magnitude of ~~harm-risk~~ to which you expose  
 597 your victim is irrelevant to how seriously you wrong her when you  
 598 violate her rights. But then A subjects 500 other people to a 1/2 risk  
 599 of death (total weight 250), while B subjects 999,500 other people to  
 600 a 1/2,000 risk of death (total weight 499.75). So B's action is nearly  
 601 twice as bad as A's. It's very hard to form an intuitive judgment on a  
 602 case as thinly described as this, but at a first pass, at least with respect  
 603 to harm risk, A's and B's actions seem equally bad. Perhaps A's is  
 604 slightly worse than B's, because he concentrates risk to a greater  
 605 degree. Certainly B's action is not twice as bad as A's, but that's the  
 606 kind of conclusion to which Tadros's view pushes us. My view lends  
 607 itself to the more natural interpretation of the case, since I think that  
 608 A's actual victims have a stronger complaint against him than do B's  
 609 victims against B, in virtue of the higher individual risk to which they

<sup>10</sup> I discuss this possibility elsewhere, in 'Risky Killing: How Risks Worsen Violations of Objective Rights', *Journal of Moral Philosophy*, online first (2017).



610 were each subjected, which counterbalances the greater number of  
 611 people subjected to the smaller non-eventuating risk by B. This is  
 612 also supported by the fact that A's victims are all subjected to risk by  
 613 him, so why don't they all have a complaint in virtue of that fact?  
 614 Some of them are also killed by him, which surely gives them an  
 615 additional complaint. But why would this additional complaint  
 616 cancel out their earlier complaint?

617 Tadros also claims that the argument from risk would not apply  
 618 to the unjust side in a war, since it is not more likely that just  
 619 combatants are liable to be killed than that just noncombatants are  
 620 liable. I dealt with this objection in the book: in every actual war it is  
 621 not only uncertain which side is just, it is also highly uncertain which  
 622 operations are just. So it is more likely that combatants will be liable  
 623 to be killed than that noncombatants will be.<sup>11</sup> Remember that on a  
 624 high threshold account of liability to be killed, even on the unjust  
 625 side in most wars, very few noncombatants are liable to be killed.  
 626 Again, it is really important when thinking about the ethics of war to  
 627 use examples that somewhat correspond to the reality of war. Wars  
 628 are not typically Manichean struggles between good and evil, in  
 629 which the good all know they're on the right side, and the evil all  
 630 know they're being evil. Even the second world war was consider-  
 631 ably more ambiguous, when it was being fought, than is typically  
 632 acknowledged. Most German soldiers did not know, at the time,  
 633 about the concentration camps; towards the end of the war many  
 634 were fighting to protect their friends and families from being over-  
 635 run by vengeful soviet soldiers. Many fighting for the allies were  
 636 involved in morally dubious (to say the least) operations such as  
 637 bombing of civilians. It's charitable to assume that most people were  
 638 trying to do the right thing in incredibly confusing circumstances.  
 639 Consistently comparing them to malevolent killers who know they  
 640 are acting impermissibly is philosophical malpractice. If you want to  
 641 know whether these arguments for Moral Distinction have purchase  
 642 on all sides in a war, you have to think about whether they apply in

<sup>11</sup> Benbaji offers another objection that I anticipate in the book, concerning whether moral beliefs can affect the wrongfulness of killing. He declares himself unpersuaded by my arguments, but does not say why. Let me reiterate, then, that the central case against allowing moral beliefs to determine the objective permissibility of our actions is simply that it makes morality too malleable, in exactly the way he too clearly thinks is counterintuitive. We could alter our own beliefs, and those of others, to make moral constraints more convenient.



643 circumstances of radical moral confusion, when people are trying to  
644 do the right thing. I think that they do.

645 Benbaji raises a further question about how *Risky Killing* applies to  
646 asymmetric conflicts. But he fails to distinguish between two dif-  
647 ferent kinds of uncertainty that such conflicts might induce: uncer-  
648 tainty proper, in which for any given person, one cannot assign a  
649 credence to whether she is a combatant or a noncombatant; or a  
650 more probabilistic kind of doubt, in which any given person is as  
651 likely to be a combatant as a noncombatant. I argued that killing  
652 someone when you have no basis for assigning a probability to  
653 whether she is a combatant or a noncombatant is equivalent to  
654 killing her when you know that she is innocent. And the other kind  
655 of case is handily dealt with by my principle. It simply means that in  
656 some asymmetric conflicts, it is much more likely, for any given  
657 noncombatant, that she is a combatant. In other words, it is more  
658 likely that she is liable to be killed. And, on my view, this would  
659 make killing her less seriously wrongful in this respect than if she  
660 were less likely to be liable. But that strikes me as the right verdict. I  
661 also noted that combatants in asymmetric conflicts are *more* likely to  
662 be liable to be killed than they are in regular conflicts because they  
663 are more likely to actively contribute to threats. What's more, if the  
664 combatants fail to distinguish themselves adequately from non-  
665 combatants then that too can diminish their claim against being  
666 killed, even when they don't contribute to wrongful threats.

667 Lastly, Benbaji offers some insightful comments on the relation-  
668 ship between the contemporary just war debate and what I have  
669 elsewhere called the 'Combatant/Command Ethics' distinction.<sup>12</sup>  
670 Contemporary just war theorists focus primarily on the ethics of  
671 killing. We have had less to say about the morality of command.  
672 Many of my and others' arguments focus on considerations to do  
673 with the specific agency involved in inflicting harm, on the part of  
674 the people doing the harming. Nor is this novel; just war theory has  
675 long relied on a distinction between intentional and merely foreseen  
676 harming, in which it is not entirely clear whether the intentions that  
677 matter are those of the person doing the killing, or the commander  
678 who set her on that path.

<sup>12</sup> Seth Lazar, 'War's Endings and the Structure of Just War Theory', in Samuel Rickless and Saba Bazargan (eds.), *The Ethics of War* (New York: Oxford University Press, Forthcoming).



679 *Sparing Civilians* is about Combatant Ethics. It focuses on the  
 680 moral reasons that apply to the people who do the killing. The Law of  
 681 Armed Conflict also does this, though not exclusively. But Benbaji is  
 682 entitled to ask how I would extend the view to take Command Ethics  
 683 into account. Here is a rough thought: I think we should regard  
 684 armed forces as group agents, acting together.<sup>13</sup> Those who pull the  
 685 trigger are proxies for the rest of the armed forces.<sup>14</sup> When intentions  
 686 and probabilities are relevant to the ethics of killing, I think the salient  
 687 intentions and beliefs are group intentions and group probabilities.  
 688 Now, giving a proper account of what these would be is no easy task,  
 689 especially for group intentions. But matters are a little simpler for  
 690 probabilities. I think the probabilities relevant to evaluating the  
 691 wrongfulness of a particular act of killing in war are the probabilities  
 692 derived from the evidence available to the group agent that does the  
 693 killing. As I argued in chapter 4, a moral standard applies to the  
 694 gathering of evidence. The same also seems true for the sharing of  
 695 evidence among those who are acting together as a group agent.  
 696 Groups ought to share their evidence (and ought to develop insti-  
 697 tutional structures for gathering and sharing evidence). But the evi-  
 698 dence that ultimately determines the objective wrongfulness of a  
 699 particular act of killing is the evidence available to the group as a  
 700 whole. This means there is no possibility for commanders to  
 701 manipulate the evidence available to their subordinates, to alter the  
 702 objective permissibility of their actions. As I said, this is just a pre-  
 703 liminary suggestion, not a fully worked out view, but I think Benbaji's  
 704 cases put pressure not on my arguments for Moral Distinction, but on  
 705 the individualist focus of contemporary just war theory.<sup>15</sup> I have  
 706 argued elsewhere that more attention must be paid to the collective  
 707 dimensions of warfare, and this is another good example.<sup>16</sup>

<sup>13</sup> Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011).

<sup>14</sup> Kirk Ludwig, 'Proxy Agency in Collective Action', *Noûs*, 48 (1) (2014), 75–105. <https://doi.org/10.1111/nous.12013>.

<sup>15</sup> The same argument would apply for any agent-relative considerations. Suppose, for example, that commanders can encourage or enable their subordinates to intentionally kill noncombatants, thereby reducing the overall death toll. The basic issue, I think, is that the relevant agent for the assessment of agent-relativity is the organised armed forces as a whole. The person at the tip of the spear is just that. In general the person at the tip of the spear has the best evidence; certainly unless there's some specific reason why evidence can't be shared, he should receive all relevant intel that higher-ups have, and then have additional information that they don't.

<sup>16</sup> E.g. Seth Lazar, 'Method in the Morality of War', in Seth Lazar and Helen Frowe (eds.), *The Oxford Handbook of Ethics of War* (New York: Oxford University Press, 2016).



709 Some of Tadros's criticisms of my account of vulnerability have been  
 710 dealt with already, in distinguishing between harm- and innocence-  
 711 risk. I think, though, that in analysing vulnerability I buried the lead.  
 712 I noted at one point that conditional vulnerability should often be  
 713 thought of as vulnerability conditional on a *range* of threats occurring  
 714 (105), writing, for example, that 'when we speak about the special  
 715 vulnerability of children in war, we are considering their vulnera-  
 716 bility to threats that are caused by the conflict'. Instead of empha-  
 717 sising this kind of vulnerability to a range of threats, I focused on  
 718 vulnerability to specific threats. Although I think the harm-risk  
 719 argument still applies in those cases, the more general duty to pro-  
 720 tect the vulnerable is owed, I think, to those who are vulnerable in  
 721 the more general sense.

722 Tadros suggests that perhaps we should view vulnerability as a  
 723 dispositional quality, like fragility, but then he demurs on grounds  
 724 that the former but not the latter seems sensitive to context. For  
 725 what it's worth, I think this is a promising suggestion, and that both  
 726 dispositional qualities are sensitive to context. When we judge  
 727 something fragile we are presupposing many different contextual  
 728 factors – what kind of thing it is, what the standard expectations of  
 729 strength are for that kind of thing, what kind of circumstances it will  
 730 be exposed to, a comparison class and so on. All this is just the same  
 731 for vulnerability. Indeed, expected harm conditional on a set of  
 732 threats occurring should precisely track some dispositional properties  
 733 of the victim. Either way, the counterexamples are all problems for  
 734 an analysis of vulnerability that is relative to a specific threat. Shifting  
 735 to the more general conception of vulnerability avoids these prob-  
 736 lems.

737 What of defencelessness? I'll let Pettit defend himself against the  
 738 Happy Island case, which doesn't seem quite pertinent to my use of  
 739 the concept. I think that killing someone who is defenceless disem-  
 740 powers them, on top of everything else that it does. That, I think, is  
 741 an additional harm to the victim. Nothing in the Happy Island case  
 742 speaks to that claim.



744 None of the responses really dealt at length with the final chapter of  
 745 the book, though Tadros and Ryan raised the former's argument  
 746 that we have reason to harm noncombatants rather than combatants  
 747 in virtue of the fact that the combatants are doing something noble  
 748 (putting themselves at risk to achieve what they believe to be a just  
 749 cause) while the noncombatants are not. Combatants are already  
 750 making a big sacrifice, so we should redistribute risk to those who  
 751 are not yet exposed to it.

752 The very nobility and sacrifice of combatants comes from their  
 753 readiness to take additional risks in order to save others. Responding  
 754 to this by exposing the very people they seek to protect to risk is  
 755 perverse. It also amounts to viewing killing in war as a means of  
 756 achieving some kind of global distributive justice. War obviously  
 757 cannot be used for that end.

758 Tadros is right to point out that just combatants probably don't  
 759 conditionally waive their rights to be killed, insofar as their being  
 760 killed might thwart their objectives. It would be better to say that  
 761 they conditionally waive their right not to be attacked: as I said in the  
 762 book, the underlying idea is that they say to their opponents  
 763 something like this: 'look, you should just lay down your arms and  
 764 stop fighting; but if you're going to fight, then *fight us*'. Tadros  
 765 distinguishes artificially between the just aims of the war, and the  
 766 aim of protecting the noncombatant population. In fact, the latter  
 767 aim is very much one of the central goals of soldiering. Insofar as  
 768 they successfully draw fire away from noncombatants, combatants  
 769 are achieving part of their purpose.

771 I have not tried to address every criticism, nor endorsed every  
 772 constructive suggestion. And yet I think that Moral Distinction  
 773 emerges from this discussion stronger than it went in. My critics  
 774 have helped me to refine and extend the principle in a way that  
 775 better enables me to achieve the intended goal of *Sparing Civilians*: to  
 776 do morally serious philosophy that makes a positive difference in the  
 777 world. As a philosopher writing about the ethics of war, I am acutely  
 778 aware that some of the people who will read these words will act on



779 them, and their doing so can be a matter of life and death. I remain  
 780 convinced that vindicating Moral Distinction is crucial to tram-  
 781 melling and ameliorating the conduct of those who fight. This  
 782 symposium has strengthened the case for Moral Distinction, and for  
 783 that I again thank the authors who generously contributed to it.

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