
*Terrorism and the Ethics of War* is an extraordinary book: that rare work of political philosophy that is, at the same time, rigorous, fair-minded, attractively written and wholly relevant to the real world. Bringing the conceptual tools of analytic philosophy to some of the major debates in the ethics of war, the book is essential for reflecting critically on the appropriate definition of terrorism, the status of non-combatants and the manner in which collateral damage can and can't be justified.

Nathanson begins by proposing that terrorism be understood as a tactic of war – specifically the tactic that targets innocent civilians. Guerilla organizations can terrorize, but so can governments. Blowing up buses is terrorism, shooting rockets into civilian neighborhoods in retaliation is terrorism, and the bombing of German cities at the end of World War II qualifies too. As Nathanson urges, “we need to focus on the idea of a terrorist act, directing our attention to what is done, not who does it” (p. 14).

Such a focus helps us remain consistent in our moral judgments: if the intentional targeting of civilians is wrong, it is wrong no matter who does it. The popular agent-centered accounts of terrorism, which assume that guerillas and organizations can be terrorists while governments, by definition, cannot, is self-serving and philosophically indefensible.

The account of terrorism as a tactic of war also highlights the incoherence of our recent talk of a “war on terror.” Having a war on terror makes as much sense, to use one of Nathanson’s examples, as having a war on “poison gas” (p. 37). We can’t have a war on terrorism. We can have a war with Al Qaeda, or the Taliban or whoever, and in the course of such a war we should refrain from terrorist tactics.

Terrorism is wrong, then, because it intentionally targets non-combatants. What is our best argument for protecting civilians from the harms of war? Nathanson rejects the assumption that rights-language is especially promising in creating strong protections for non-combatants. The adjudication of different rights necessarily involves conflicts. Tensions exist even in the interpretation of a single right.

Instead, Nathanson, taking some of his bearings from Richard Brandt’s work on utilitarianism and the ethics of war, offers a rule utilitarian argument for absolute non-combatant immunity. That argument proceeds as follows (pp. 198-200): 1. “The correct moral rules for warfare are those that would be adopted by rational impartial people who expect that their country will at some time be at war” 2. “Rational, impartial people would adopt those rules of war whose acceptance would maximize overall utility.” 3. “To maximize utility, rules must allow effective warfighting while minimizing suffering and destruction.” This step involves the idea of a “fighting chance” to win. But, Nathanson tells us, winning is not all that matters to rational impartial people; reducing the harm and suffering of war matters too. 4. If absolutely prohibiting attacks on noncombatants meets the conditions described...
in step 3, then rational impartial persons will adopt the principle of non-combatant immunity. If absolute prohibition of attacks on civilians is justified on rule utilitarian grounds, then it ought to be followed even when people believe that they can do more good or less harm in particular circumstances by attacking non-combatants.

The grounds for endorsing absolute non-combatant immunity are straightforward: first, there are always more civilians than combatants; if civilians were immune that would diminish the destruction of war. Second, killing combatants is more likely to disable an enemy’s fighting capacity than killing civilians (Nathanson rejects the assumption that targeting civilians demoralizes the enemy; more often than not, he claims, such attacks serve to perpetuate vicious, endless cycles of violence and revenge).

Nathanson’s insightful analysis suggests some surprising philosophical connections. First, his argument for absolute immunity points to a similarity between rule-utilitarians and Rawlsians about how to formulate the rules of war. For Nathanson, when we assess such rules “we... evaluate them from the perspective of rational impartial people who know that their countries are likely to engage in war and want rules that will permit warfare while diminishing the suffering that warfare causes” (p. 204). The rules of war must be generated from an impartial point of view (even if they permit partiality once they are in place). This formulation turns on the equivalence of all utilities – we are not allowed to assign special weight to our own, contingent interests when we come up with principles that would maximize overall welfare. Given this stricture, Nathanson tells us that we would come up with absolute non-combatant immunity.

Similarly, the Rawlsian procedure for formulating rules of justice is to consider what kinds of standards we would settle on in the “original position,” behind a “veil of ignorance” – a position in which we are unaware of all of our contingent markers (race, gender, social position, or, when it comes to war, whether we belong to a stronger or weaker, richer or poorer political group). The Rawlsian would adopt a rule of absolute non-combatant immunity because that’s the kind of rule we would prefer behind the veil of ignorance (if we had no knowledge of our relative military strength we would simply be too worried to adopt any other rule). The key similarity between the two views turns, of course, on the idea of impartiality: an impartial legislator of the rules of war would come up with absolute non-combatant immunity: either on the grounds of self-interest behind the veil of ignorance, or on the grounds of promoting maximal overall utility. The rationales converge. Behind the veil of ignorance self-interest becomes the impartial promotion of overall utility.

Second, Nathanson’s account sheds light on the torture debate: are there not good reasons to see those whom we submit to “vigorous interrogations” as non-combatants? They certainly are non-combatants when we thus interrogate them. If there are strong rule utilitarian arguments in support of absolute non-combatant immunity, don’t they apply, a fortiori, in the case of torture where the attack on non-combatants is accompanied by a special affront on the dignity of both interrogated and interrogator? Furthermore, if, as Nathanson argues, Walzer’s famous “Extreme Emergency” exception to the protection of non-combatants does