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## Is Terrorism Distinctively Wrong?\*

*Lionel K. McPherson*

Many people, including philosophers, believe that terrorism is necessarily and egregiously wrong. I will call this “the dominant view.” The dominant view maintains that terrorism is akin to murder. This forecloses the possibility that terrorism, under any circumstances, could be morally permissible—murder, by definition, is wrongful killing. The unqualified wrongness of terrorism is thus part of this understanding of terrorism.

I will criticize the dominant view. Some philosophers have argued that terrorism might not be impermissible on either a rights-based or a consequentialist analysis.<sup>1</sup> But I will not pursue the question of whether terrorism could ever be justifiable. Rather, I will argue that the dominant view’s condemnatory attitude toward terrorism as compared to conventional war cannot be fully sustained. I propose that a version of the argument that terrorists do not have adequate authority to undertake political violence—and not the prominent argument that noncombatants should be immune from deliberate use of force against them—is the most plausible basis for finding terrorism objectionable. While the argument from authority does not show that terrorism is necessarily wrong, the argument does show that there is a distinctive sense in which terrorism can be wrong when it is wrong. By “distinctive” I do not mean unique; acts of political violence that might not count as terrorism, such as rebellions, can also be carried out by groups that might lack adequate authority. Yet the distinctive sense in which terrorism as compared to

\* I am indebted to Virginia Held, Erin Kelly, Jeff McMahan, David Rodin, George Smith, and the referees and editors for this journal, who were of great help through comments or discussion. Also I would like to thank Josh Cohen, Michelle Mason, Larry May, Sharon Street, Dennis Thompson, and those in attendance at my talks at the University of Minnesota and the 2005 American Philosophical Association Pacific Division conference, where I presented earlier versions of this article.

1. See, most notably, Virginia Held, “Terrorism, Rights, and Political Goals,” in *Violence, Terrorism, and Justice*, ed. R. G. Frey and Christopher W. Morris (Cambridge: Cambridge University Press, 1991), 59–85.

conventional war can be wrong helps to draw a qualified moral boundary between terrorism and war.

Too often, criticism of the prevailing discourse has been dismissed as an attempt to excuse terrorism.<sup>2</sup> I seek to offer no excuse for terrorism, any more than I would for war as such. The principal challenge for those who believe that terrorism is distinctively wrong lies in morally accounting for noncombatant casualties of conventional war. This challenge holds even when wars are fought according to international law, for example, as codified in the 1977 Geneva Protocol I on International Armed Conflicts.<sup>3</sup> Terrorism might be morally objectionable for reasons that hardly apply less to conventional war, for the laws of war are not beyond moral scrutiny. A credible argument that would demonstrate the distinctive wrongness of terrorism is not as obvious as proponents of the dominant view believe.

## I. DEFINITIONAL ISSUES

The dominant view finds characteristic expression in the following definition: “Terrorism is a type of political violence that intentionally targets civilians (noncombatants) in a ruthlessly destructive, often unpredictable manner. . . . Essentially, terrorism employs horrific violence against unsuspecting civilians, as well as combatants, in order to inspire fear and create panic, which in turn will advance the terrorists’ political or religious agenda.”<sup>4</sup> Much of this language is not helpful in morally distinguishing terrorism, since conventional war tends to be at least as “ruthlessly destructive,” “unpredictable,” and “horrific” for noncombatants and combatants.

I will define ‘terrorism’ as the deliberate use of force against ordinary noncombatants, which can be expected to cause wider fear among them, for political ends. My definition focuses on the aspect of terrorism—namely, targeting of ordinary noncombatants—that commonly is thought to characterize its distinctive wrongness as compared to conventional war. Left out of the definition, for instance, is the claim that noncombatants are “innocent.” The relevant understanding of innocence in war is a contested matter, and my argument will not depend

2. See, e.g., Michael Walzer, “Terrorism: A Critique of Excuses,” in *Arguing about War* (New Haven, CT: Yale University Press, 2004), 51–66.

3. See Adam Roberts and Richard Guelff, eds., *Documents on the Laws of War*, 3rd ed. (Oxford: Oxford University Press, 1982).

4. Louis P. Pojman, “The Moral Response to Terrorism and Cosmopolitanism,” in *Terrorism and International Justice*, ed. James P. Sterba (New York: Oxford University Press, 2003), 135–57, 140.

on how this is settled.<sup>5</sup> I will assume provisionally that ordinary non-combatants in general are innocent.



There are sophisticated, more expansive definitions. David Rodin defines 'terrorism' as "the deliberate, negligent, or reckless use of force against noncombatants, by state or nonstate actors for ideological ends and in the absence of a substantively just legal process."<sup>6</sup> While Rodin's fuller account of terrorism is compelling in significant respects, his definition of terrorism has difficulties that highlight advantages of adopting a less expansive definition. I will address these and related difficulties in the rest of this section. The discussion will help to set up my revisionist account of terrorism's distinctive wrongness.

The innocence of noncombatants underlies why Rodin considers his definition a "moral definition," that is, "an analysis of the features of acknowledged core instances of terrorism which merit and explain the moral reaction which most of us have toward them. These reactions are undeniably negative."<sup>7</sup> Actually, these reactions seem mixed. When we judge that certain political ends are just and urgent, many of us might concede that terrorism is not absolutely wrong or raise sudden doubts about whether the questionable acts constitute terrorism—if we also judge that the means are vital for success. Thus Michael Walzer, the influential just war theorist and ostensible proponent of the dominant view of terrorism, defends "overriding" the rules of war in a "supreme emergency," which is when "we are face-to-face not merely with defeat but with a defeat likely to bring disaster to a political community."<sup>8</sup> He admits that certain cases of terrorism could be (and have been) legitimate under such circumstances.<sup>9</sup> This lends credence to the saying "One man's terrorist is another man's freedom fighter." We have reason to be wary, then, about letting negative reactions to putative core instances of terrorism serve as our moral guide in analyzing terrorism.

More important now is to recognize that I am not working with a moral definition of terrorism. My nonmoral definition reflects common extension of the word to political violence that targets ordinary noncombatants, without carrying the connotation that this makes terrorism wrong. The motivation for my approach is to avoid phil-

5. For the revisionist view of the relevance of moral innocence and noninnocence, see Lionel K. McPherson, "Innocence and Responsibility in War," *Canadian Journal of Philosophy* 34 (2004): 485–506; and Jeff McMahan, "The Ethics of Killing in War," *Ethics* 114 (2004): 693–733.

6. David Rodin, "Terrorism without Intention," *Ethics* 114 (2004): 752–71, 755.

7. *Ibid.*, 753.

8. Michael Walzer, *Just and Unjust Wars*, 3rd ed. (New York: Basic, 1977), 255, 268.

9. Walzer's account of "supreme emergency" is controversial. For criticism of this alleged exception to the laws of war, see, e.g., C. A. J. Coady, "Terrorism, Morality, and Supreme Emergency," *Ethics* 114 (2004): 772–89.

osophically unproductive and often politicized dispute over the definition. A familiar, nonmoral definition suits the purpose of addressing the substantive question of why terrorism might be distinctively wrong as compared to war. Given this purpose, it is not crucial which precise definition we adopt, among various alternatives, as long as the definition is nonmoral and provides a description of roughly the kind of conduct under consideration.

Acts of political violence that might not count as terrorism, for example, use of force that does not target noncombatants yet does not take due care to avoid harming them, could still be morally like terrorism. Acknowledging a non-morally descriptive difference between such acts and terrorism does not entail accepting that there is a deep moral difference in their character. For example, the September 11, 2001, attacks on the World Trade Center unambiguously count as terrorism, whereas the U.S. firebombing of Tokyo during World War II might count as, say, “quasi-terrorism” in its heavy and foreseeable, if technically collateral, infliction of noncombatant casualties. But my definition does not identify certain acts as terrorist on the basis of whether they are committed by nonstate actors. By contrast, the “political status” definition holds that only nonstate actors can commit terrorist acts.<sup>10</sup> When acts committed by states are otherwise indistinguishable from these nonstate acts, I see no reason to describe them differently, though nothing is morally at stake if we reserve a different label, such as “state terrorism,” for them.

The fear-effects clause of my definition restricts what counts as terrorism to political violence that not only targets ordinary noncombatants but also can be expected to cause wider fear among them. This helps descriptively to distinguish terrorism from other forms of political violence, such as assassination of political officials or police officers. In addition, while I have argued elsewhere that combatants on the unjust side of a war cannot legitimately attack just and thereby morally innocent combatants, not all political violence directed against the morally innocent need be thought to constitute terrorism.<sup>11</sup> We typically have in mind a more limited phenomenon: deliberate use of force against ordinary noncombatants where wider fear among them is warranted by the increased threat of harm to them.<sup>12</sup> Cases of violence against combatants, for example, the bombing of the U.S. Marine barracks in Lebanon in

10. See C. A. J. Coady, “Terrorism and Innocence,” *Journal of Ethics* 8 (2004): 37–58, 40.

11. See McPherson, “Innocence and Responsibility in War.”

12. Since the fear-effects clause is not tied to the intentions of the agents using force, there is no issue about assessing an intention to cause fear. The intentions motivating use of force can be irrelevant to the production of fear.

1983, have been described as terrorism. Nevertheless, deliberate use of force against ordinary noncombatants is widely acknowledged as the paradigm case. Extension of the word to include some cases of violence against combatants seems parasitic: agents who employ such violence are seen as generally being in the business also of deliberately attacking noncombatants. If these agents do not target ordinary noncombatants, they would not be terrorists, strictly speaking, on my definition.

It might turn out that deliberate use of force against noncombatants is wrong, in principle or practice. So why argue that terrorism is wrong by definition? Rodin anticipates this question when he claims that “the immunity of noncombatants is the foundational element in our moral thinking, and whether or not the just war theory is ultimately able to sustain the permissibility of killing combatants is irrelevant to this fact.”<sup>13</sup> Yet noncombatant immunity is not unequivocally a foundational element in our moral thinking, for there is no consensus about how such a principle ought to be understood. A version of noncombatant immunity that prohibits deliberate use of force against noncombatants is part of the roughly standard theory of the just war.<sup>14</sup> This represents a limited prohibition on use of force against them. As we will see, the prohibition is highly controversial in its permissiveness.

My point has been to question the merits of building a definition of terrorism around a moral judgment. I will go on to argue that a moral definition of terrorism, in concentrating on deliberate use of force against noncombatants, can exaggerate the moral significance of a distinction between intending and not intending harm.<sup>15</sup> The usual emphasis on this distinction marks a basic weakness in standard just war theory and the dominant view of terrorism. In sum, a descriptive, non-moral definition of terrorism is appropriate for thinking about the ethics of terrorism. It frees us for a levelheaded inquiry and has no real disadvantages. Our moral judgments about terrorism, as with conventional war, have to be substantiated through a fuller account.

## II. CHALLENGING THE DOMINANT VIEW

Moral evaluation of terrorism might begin with the question of what makes terrorism wrong. A better opening question, I believe, is whether use of force that leads to casualties among ordinary noncombatants is morally objectionable. The latter question prompts comparison of ter-

13. Rodin, “Terrorism without Intention,” 758.

14. For an account of the just war that is widely cited and accepted, see Walzer, *Just and Unjust Wars*.

15. See, e.g., Coady, “Terrorism and Innocence,” 39. Coady’s definition refers to “use of violence to attack non-combatants,” where “attack” means that the violence against them is deliberate.

rorism and conventional war. Judging by practice and common versions of just war theory, the answer is plainly no. The journalist Chris Hedges reports these facts: “Between 1900 and 1990, 43 million soldiers died in wars. During the same period, 62 million civilians were killed. . . . In the wars of the 1990s, civilian deaths constituted between 75 and 90 percent of all war deaths.”<sup>16</sup> Such numbers may seem counterintuitive. **More noncombatants than combatants have died in war,** by a sizable margin, and the margin has only grown in an era of the most advanced weapons technology. We must conclude that war generally is highly dangerous for noncombatants. I will characterize this as the brute reality of war for noncombatants. This reality cannot be attributed simply to the conduct of war departing from the laws of war.

There is an ambiguity in the data I have cited: they do not clearly support the claim that most noncombatants who died in these wars were killed by military actions, for example, through the use of bombs, artillery, and land mines. Many noncombatant deaths in war have been the result of displacement and the lack of shelter, inability to get food, and the spread of disease. At the same time, modern warfare is marked by a nontrivial number of noncombatant deaths that are the direct result of military actions. The ratio of war to “war-related” noncombatant casualties and the distribution of moral responsibility for these casualties will not be at issue here. I proceed on the assumption that evaluating the ethics of war involves recognizing that war, directly or indirectly, leads to a great many noncombatant casualties. Modern warfare and widespread harm to noncombatants are virtually inextricable. In fact, this motivates a strain of pacifist skepticism about the just war tradition.<sup>17</sup> Although I would defend a revisionist version of just war theory, I do not believe we can deny that modern warfare raises the moral stakes to a degree that calls for reevaluating the view that terrorism is intrinsically worse than war.

Immediately doubtful is the popular notion that terrorism is distinctively wrong because of the fear it usually spreads among ordinary noncombatants. Recall that my nonmoral definition of terrorism includes a fear-effects clause which descriptively distinguishes terrorism from other forms of political violence. However, this does not morally distinguish terrorism and conventional war. The brute reality of war for noncombatants indicates that in general they have more to fear from conventional war than (nonstate) terrorism, particularly since (nonstate) terrorists

16. Chris Hedges, *What Every Person Should Know about War* (New York: Free Press, 2003), 7.

17. See, e.g., A. J. Coates, *The Ethics of War* (Manchester: Manchester University Press, 1997), 80.

rarely have had the capacity to employ violence on a mass scale.<sup>18</sup> Non-combatants in states that are military powers might have more to fear from terrorism than conventional war, since these states are relatively unlikely to be conventionally attacked. But surely this situational advantage that does not extend more broadly to noncombatants cannot ground the claim that terrorism is distinctively wrong.

The laws of war recognize a principle that prohibits disproportionate or excessive use of force, with an emphasis on noncombatants. For example, Article 51 (5) (b) of the 1977 Geneva Protocol I rules out use of force “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”<sup>19</sup> Standard just war theory considers this the proportionality principle. Proponents of the dominant view might take the proportionality principle to illuminate an essential moral difference between conventional war and terrorism. They might claim that, unlike proper combatants, terrorists do not care about disproportionate harm to noncombatants. But the full impact of this charge is not easily sustained for two reasons.

The first reason is that terrorists could have some concern about disproportionate harm to noncombatants. This point is most salient when proportionality is understood in instrumental terms of whether violence is gratuitous, namely, in exceeding what is minimally necessary to achieve particular military or political goals, despite the availability of an alternative course of action that would be less harmful and no less efficacious. Terrorists may possess a normative if flawed sensibility that disapproves of instrumentally gratuitous violence, for the harm done would serve no strategic purpose. So the plausible charge is that terrorists reject the proportionality principle as conventionally construed (since it implicitly rules out deliberate use of force against non-combatants), not that they lack all concern for disproportionate harm to noncombatants.

The second reason is that the proportionality principle requires rather modest due care for noncombatants. Force may be used against them, provided that the incidental, or collateral, harm to them is not excessive when measured against the expected military gains. According to one legal scholar, “the interpretation by the United States and its allies of their legal obligations concerning the prevention of collateral casualties and the concept of proportionality comprehends prohibiting

18. I add the qualification “nonstate” since states have employed tactics (e.g., fire-bombing of cities) and weapons (e.g., chemical, biological, and nuclear) that could count as terrorist.

19. Roberts and Guelff, *Documents on the Laws of War*, 449.



only two types of attacks: first, those that intentionally target civilians; and second, those that involve negligent behavior in ascertaining the nature of a target or the conduct of the attack itself.”<sup>20</sup> Such an interpretation seems accurately to reflect the principle’s leniency. Indeed, the U.S. general and military theorist James M. Dubik argues that commanders have a special moral duty “not to waste lives of their soldiers” in balancing the responsibility to ensure that due care is afforded to noncombatants.<sup>21</sup> A commander may give priority to limiting risk of harm to his own combatants, for their sake, at the expense of noncombatants on the other side.

We find, then, that the proportionality principle does not express a commitment to minimizing noncombatant casualties. The principle more modestly would reduce noncombatant casualties in requiring that they be worth military interests. Perhaps my reading appears too narrow. A prominent reason for thinking that terrorism is distinctively wrong is that terrorists, unlike combatants who comply with the laws of war, do not acknowledge the moral significance of bearing burdens in order to reduce noncombatant casualties for the sake of noncombatants themselves. To reply that terrorists might well be motivated to reduce noncombatant casualties on strategic grounds, for example, to avoid eroding sympathy for their political goals, would miss the point. Basic respect for the lives of noncombatants seems evidenced instead by a willingness to bear burdens in order to reduce harm to them. Terrorists, the objection goes, do not have this respect for noncombatant lives, which is a major source of the sense that terrorism is distinctively wrong as compared to conventional war.

There are difficulties with this objection. It suggests that the laws of war are imbued with a certain moral character, namely, fundamental moral concern for noncombatants. These laws, though, are part of the war convention, adopted by states and codified in international law for reasons that seem largely to reflect their shared interests, at least in the long run.<sup>22</sup> We do not have to be political realists to see this. Given that

20. Judith Gail Gardam, “Proportionality and Force in International Law,” *American Journal of International Law* 87 (1993): 391–413, 410. To be clear, Gardam is not endorsing this interpretation. For a critical assessment of standard treatments of proportionality and an alternative approach, see Lionel K. McPherson, “Excessive Force in War: A ‘Golden Rule’ Test,” *Theoretical Inquiries in Law* 7 (2005): 81–95.

21. James M. Dubik, *Philosophy & Public Affairs* 11 (1982): 354–71, 368. Dubik is responding to Walzer’s more demanding requirement that combatants must accept greater costs to themselves for the sake of minimizing harm to noncombatants. See Walzer, *Just and Unjust Wars*, 155.

22. For criticism of the war convention as a source of moral obligation, see Lionel K. McPherson, “The Limits of the War Convention,” *Philosophy and Social Criticism* 31 (2005): 147–63.

noncombatants are vulnerable enough on all sides and no state generally has much to gain by harming them, states usually are prudent to accept mutually a principle that seeks to reduce noncombatant casualties. States usually are also prudent to comply with the laws of war, since this compliance is a benchmark of moral and political respectability on the world stage. Simply put, states, like terrorists, would seem contingently motivated to accept the proportionality principle on broadly strategic grounds.

Now the objection might go that, even if a realist analysis of the proportionality principle's place in the war convention is correct, this is no barrier to states' recognizing that the principle has independent, nonprudential moral standing. But the same can be true for terrorists. Familiar characterizations of them as "evil" or unconstrained by moral boundaries are an unreliable indication of moral indifference to harming noncombatants. As Virginia Held observes, "Terrorists often believe, whether mistakenly or not, that violence is the only course of action open to them that can advance their political objectives."<sup>23</sup> When terrorism is seen by its agents as a means of last resort, this provides some evidence that they acknowledge the moral significance of bearing burdens out of respect for the lives of noncombatants. Such agents will not have employed terrorism earlier, despite their grievances.

A model case is the African National Congress (ANC) in its struggle against apartheid in South Africa. Nelson Mandela, during the 1964 trial that produced his sentence of life imprisonment, summed up the ANC's position as follows:

- a. It was a mass political organization with a political function to fulfill. Its members had joined on the express policy of nonviolence.
- b. Because of all this, it could not and would not undertake violence. This must be stressed.
- c. On the other hand, in view of this situation I have described, the ANC was prepared to depart from its fifty-year-old policy of nonviolence. . . . There is sabotage, there is guerrilla warfare, there is terrorism, and there is open revolution. We chose to adopt the first method and to exhaust it before taking any other decision.<sup>24</sup>

Mandela was implying that violence, including terrorism, became an option "only when all else had failed, when all channels of peaceful protest had been barred to us," which led the ANC to conclude that "to continue preaching peace and nonviolence at a time when the government met our peaceful demands with force" would be "unrealistic

23. Virginia Held, "Terrorism and War," *Journal of Ethics* 8 (2004): 59–75, 69.

24. Nelson Mandela, "I Am Prepared to Die," in *Mandela, Tambo, and the African National Congress: The Struggle against Apartheid, 1948–1990: A Documentary Survey*, ed. Sheridan Johns and R. Hunt Davis Jr. (New York: Oxford University Press, 1991), 115–33, 121.

and wrong.”<sup>25</sup> By the 1980s, at the height of government repression, the ANC did resort to acts of terrorism before reaffirming its earlier position on controlled violence that does not target civilians.<sup>26</sup> The case of the ANC demonstrates that those who employ terrorism can have and sometimes have had fundamental moral concern for noncombatants. Such moral concern, however, is overriding neither for terrorists nor for proper combatants.

Thus considerations other than proportionality and basic respect for the lives of noncombatants would have to show that terrorism is intrinsically worse than conventional war. Of course, a terrorist proportionality requirement would not exclude noncombatants as legitimate targets, whereas the standard proportionality principle prohibits deliberately attacking noncombatants. This prohibition, though, derives from another principle. Article 51 (2) of the 1977 Geneva Protocol I states: “The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.”<sup>27</sup> I will characterize this as the limited noncombatant immunity principle (LNI). Noncombatants, according to LNI, rightfully are immune from deliberate use of force against them. They are not broadly immune from use of force through legitimate acts of war that can be expected to harm them. That is, use of force against noncombatants—if they are not its intended targets—does not necessarily fail LNI.

Within the war convention, LNI is tied to a consequentialist aim to reduce noncombatant casualties. I have suggested that this reflects the shared, prudential interest that states have in avoiding gratuitous harm to noncombatants. While a commitment by states to LNI on this basis is presumably better for noncombatants than no commitment to LNI, the brute reality of war undermines the notion that the laws of war provide robust protection for noncombatants. Nor does the consequentialist orientation of LNI within the war convention fit well with the dominant view of terrorism, on which deliberate use of force against ordinary noncombatants appears to be intrinsically wrong—not wrong because this means of achieving political goals cannot be justified on strategic grounds. Within commonsense morality, LNI is tied to the nonconsequentialist Doctrine of Double Effect (DDE). The deontological orientation of this doctrine fits better with the dominant view of

25. *Ibid.*, 120.

26. Sheridan Johns and R. Hunt Davis Jr., “Conclusion: Mandela, Tambo, and the ANC in the 1990s,” in their *Mandela, Tambo, and the African National Congress*, 309–17, 312.

27. Roberts and Guelff, *Documents on the Laws of War*, 489. Also see, e.g., Walzer, *Just and Unjust Wars*, 145–46.

terrorism. So the question is whether intention is a cogent basis—as is widely believed—for morally distinguishing terrorism and conventional war.

### III. JUSTICE BEYOND THE DDE

Roughly, the Doctrine of Double Effect holds that one may never intend to cause an evil, even to achieve a greater good. One may pursue a good end through neutral means, even if foreseeing that this will have evil effects, provided that the evil is proportionate to the good and there is no better way of achieving the good.<sup>28</sup> On standard just war theory, the DDE rules out terrorism, since intending to harm ordinary noncombatants would be to aim at causing an evil. Acts of conventional war that unintentionally harm noncombatants are not necessarily ruled out, since such acts have only military targets. The DDE is applied in a manner internal to the standard theory's account of neutral means of fighting. Once a war is in progress, the issue of which side has a just cause would have virtually no bearing on the principles governing the conduct of combatants. The purpose of these principles is not to promote success on the side of a just cause for war. From this perspective, justice is irrelevant to the conception of a good end and neutral means: destruction of a military target is a good end, and conventionally legitimate acts of war are a neutral means of achieving the end, regardless of whether achieving the end would advance a just cause.<sup>29</sup> Justice in the most basic moral sense is left to fate, which makes justice hostage to the superior fighting force.

Purist advocates of the DDE could find this application of it dubious. They might object that the DDE is morally plausible to the extent that it considers only ends that truly are good. Suppose, for instance, that soldiers for Nazi Germany were acting within the rules of war in trying to repel Allied soldiers during the Normandy invasion. Nonetheless, the German use of force at Normandy did not have a morally good end: which combatants were killed made a moral difference, since justice clearly was on the side of the Allies. The notion that good ends in war must be understood solely in terms of the destruction of military targets is morally implausible, especially when the stakes for justice are high enough. In short, purist advocates of the DDE could argue that it is not a justice-independent test of the permissibility of acts. Hence the DDE would not operate squarely within the parameters of standard just war theory and rationalize its principles.

Rodin raises a different kind of root challenge to the DDE. He

28. See, e.g., F. M. Kamm, "Failures of Just War Theory: Terror, Harm, and Justice," *Ethics* 114 (2004): 650–92, 652–53.

29. See, e.g., Walzer, *Just and Unjust Wars*, 153.

argues that the laws of war overemphasize the moral relevance of intention and underemphasize the moral relevance of recklessness and negligence. The concepts of recklessness and negligence refer to conduct that has or could have unintended evil effects due to the agent's culpable failure to avoid the risk of causing such effects. While the DDE prohibits conduct whose evil effects are unnecessary and disproportionate under the circumstances, Rodin believes that this is too weak. On his view, "Persons have rights against being harmed or used for the benefit of others. . . . Because of this there is an additional element to the reasonableness test which goes beyond the necessity and proportionality requirements, namely: is it justifiable to inflict such a risk upon this particular person?"<sup>30</sup> This emphasis on a fundamental right of individual noncombatants not to be harmed through use of force—whether deliberate, reckless, or negligent—represents a major revision of common versions of just war theory. Noncombatants would have almost absolute immunity from uses of force that could be expected to harm them.

The intention to harm noncombatants, then, might be only one manifestation of culpable failure to observe a reasonable standard of care in using force. This failure often is no less evident in acts of conventional war; the associated noncombatant casualties—being likely, foreseeable, and avoidable—cannot be construed merely as accidents. Rodin draws the conclusion that "the unintentional killing of some noncombatants in the course of military operations is morally culpable to the same degree and for the same reasons that typical acts of terrorism are culpable."<sup>31</sup> The DDE would be preempted by a more stringent standard of due care. Although I am sympathetic to this approach, I am skeptical of a fundamental right of noncombatants not to be harmed through foreseeable and avoidable use of force. Almost absolute noncombatant immunity is insufficiently responsive to the stakes for justice and to the available means of advancing a just cause.<sup>32</sup> I would argue for a less stringent view of what counts as reckless or negligent use of force, particularly when there is a just and urgent cause for resorting to violence.

Some philosophers directly challenge the DDE as a test of the permissibility of acts by challenging the relevance of intention. Judith Thomson presents the following case: A bomber pilot seeks advice from his superior officers about the permissibility of an attack that would destroy a munitions factory and an adjacent hospital in which noncom-

30. Rodin, "Terrorism without Intention," 764.

31. *Ibid.*, 769.

32. For arguments to a similar conclusion, see Kamm, "Failures of Just War Theory," 664.

batants would be killed.<sup>33</sup> The superiors assure the pilot that the military gains would be necessary and proportionate in relation to the noncombatant casualties. Still, the superiors want to know whether the pilot intends to destroy the factory or intends to destroy the hospital. Thomson finds absurd the notion that their advice would turn on which intention the pilot has. The properties of the bombing are known in advance and seem on their own to render the act impermissible or not under the circumstances.<sup>34</sup> The pilot's moral character or his disposition to act on objectionable motives in other situations is not at issue.

Perhaps Thomson's charge of absurdity against the DDE is overstated. If the pilot intends to destroy the hospital and not the factory, it would be better for his superiors to send a different pilot on the mission to destroy the factory. But if no other pilot is available, the DDE might not prohibit sending the pilot who intends to destroy the hospital: his superiors might exploit his bad moral character and wrongful intention in order to fulfill their acceptable intention to destroy the factory.<sup>35</sup> The intention of the pilot would make a moral difference but need not make a decisive moral difference to what his superiors could permissibly have him do, which could save the DDE from absurdity. Yet the cost of this save is high. If the pilot's superiors know that he would be acting wrongly due to his wrongful intention, it seems plausible to think that they would be acting wrongly in allowing him to act wrongly. Presumably, advocates of the DDE do not want to maintain that we can act permissibly regarding our own ultimate, acceptable intentions when the good ends would have to be brought about by exploiting the bad moral character and wrongful intentions of others. No less a friend of the importance of intention than Elizabeth Anscombe would scorn this as "double-think about double effect."<sup>36</sup> The proposed save looks like a moral responsibility shell game, marked by bad faith if not absurdity.

To clarify, I am not endorsing a sweeping rejection of the relevance of intention to permissibility. **I am expressing doubt more specifically**

33. Judith Jarvis Thomson, "Self-Defense," *Philosophy & Public Affairs* 20 (1991): 283–310, 293.

34. See also Kamm, "Failures of Just War Theory," 667–68; and T. M. Scanlon, "Intention and Permissibility," *Proceedings of the Aristotelian Society* 74 (2000): S301–S317, S310–S312.

35. This response to Thomson was suggested to me by Jeff McMahan.

36. G. E. M. Anscombe, "War and Murder," in her *Ethics, Religion and Politics* (Minneapolis: University of Minnesota Press, 1981), 51–61, 58. It is tempting to believe that Thomson-type cases are peculiarly unrepresentative and thus misleading about the DDE's application to conventional war. In typical cases, combatants do not have prior knowledge of the evil effects of their acts. Instead, they foresee the risk of harm to noncombatants, and even foreseeable high risk is not knowledge. Yet the DDE does not invoke a distinction between prior knowledge of evil effects and risk of evil effects. The agent's intention is supposed to make a moral difference in its own right.

about the moral significance of intention in cases where use of force can be expected to lead to extensive casualties among noncombatants. There are deontological and virtue-based accounts of morality that deem intention relevant to permissibility. Intuition rooted in commonsense morality also lends support to the notion that intention can be morally significant. Our moral judgments are often guided by assessments of intention when conduct that results in unwarranted harm prompts us to ask whether the harm is accidental. The driver hit the pedestrian. The policeman shot the bystanders. The parent caused bodily harm to the child. How we assess the agent's intention seems to make a moral difference in such cases.

Acts of conventional war, however, are not as susceptible to evaluation through this feature of commonsense morality. The harm done to noncombatants through many of these acts is likely, foreseeable, avoidable, and extensive—which would appear largely to overshadow the relevance of the combatants' intentions to permissibility. Commonsense morality recognizes that agents might not be morally culpable when, despite what they reasonably could expect, they do unwarranted harm. But when the unwarranted harm can reasonably be expected, commonsense morality is not committed to recognizing that the agents' intentions make a moral difference, at least in the manner that the conventional interpretation of the DDE allows. Against this background, commonsense morality hardly seems unequivocal about the relevance of intention to permissibility in the context of conventional war.

Prospective noncombatant victims, of course, will care much less about the distinction between intended harm and foreseen unintended harm than about not being harmed at all. Yet their point of view may reflect more than sheer self-interest. While they might acknowledge that the distinction sometimes makes a moral difference, they might ask the following question: are there just and urgent goals, which could not otherwise be achieved, that would offset the harm to us? The question focuses attention on whether the distinction between intended harm and foreseen unintended harm morally comes into play under the circumstances. A plausible answer is that if likely, foreseeable, avoidable, and extensive harm to ordinary noncombatants can ever be justified, or even excused, this must be relative to the stakes for justice—and not merely to a standard of acceptable intention that is internal to the conventional interpretation of the DDE. This claim does not depend on noncombatants' having almost absolute immunity from use of force but, rather, on their presumptive right not to be harmed representing a fundamental moral interest. Their presumptive right must prevail at least in the absence of a competing, fundamental, justice-based interest. This is consistent with the purist interpretation of the DDE and does not seem inconsistent overall with commonsense morality.



Finally, the DDE is susceptible to yielding dubious results. Frances Kamm describes a threshold deontological point of view. Suppose that it would be permissible to kill a million noncombatants as an unintended effect of tactical bombing in a war of just cause; a permissible alternative might be to kill a few hundred different noncombatants as an intended effect of terror bombing.<sup>37</sup> The DDE would not be an overriding deontological constraint, since the cost of acting within the constraint exceeds any reasonable threshold. **How could it be impermissible to kill through terrorism so many fewer persons of the same type, who otherwise would be killed through conventional war? We are not presupposing that the agent's intention makes an essential moral difference. A ready response comes from an objection to consequentialism: non-combatants have a right not to be harmed that cannot simply be traded off against the collectivized interests of a greater number of non-combatants or against some other greater good.**<sup>38</sup>

Whether or not this is seen as a viable objection to consequentialism, it is much less compelling in support of the DDE. The threshold deontological argument can be reformulated. Suppose that the few hundred noncombatants who would be killed intentionally are among the million noncombatants who otherwise would be killed collaterally. The presumptive right not to be harmed that the prospective terror bombing victims have would be violated anyway, since they are a subset of the prospective tactical bombing victims who also have this right. There is no consequentialist sacrifice of the lives of noncombatants who would not be harmed, only minimization of the loss of life among noncombatants who would be killed through the alternative. Still, **the DDE would prohibit the course of action through which fewer noncombatants would be killed, since the doctrine rules out intentionally killing them.** Even proponents of agent-centered moral theories might balk at this conclusion. Christine Korsgaard, for example, defends a Kantian view on which **"To treat someone as an end . . . is to respect his right to use his own reason to determine whether and how he will contribute to what happens [to him]."**<sup>39</sup> The prospective terror bombing victims may well elect to be killed intentionally if confronted with the narrow choice, in order to minimize loss of life among the larger set of noncombatants that includes them. To deny them this measure of influence over their fate suggests a doctrinaire refusal to share their sensible perspective. The

37. Kamm, "Failures of Just War Theory," 664.

38. A similar point, albeit against the DDE and its requirements of necessity and proportionality, is made by Rodin, "Terrorism without Intention," 765.

39. Christine M. Korsgaard, "The Reasons We Can Share: An Attack on the Distinction between Agent-Relative and Agent-Neutral Values," *Social Philosophy and Policy* 10 (1993): 24–51, 46.



DDE's overwhelming emphasis on the intentions of the harm-doing agents would amount to indifference to the victims' choice and their concern for the good of their people.

Standard just war theory's application of the Doctrine of Double Effect is all too compatible with the brute reality of war for noncombatants. The conventional interpretation of the DDE permits use of force against noncombatants once its prohibition on intending to harm them and its requirements of necessity and proportionality have been satisfied. If we believe that fewer noncombatant casualties is a goal morally worth striving for, we are led to the discomfiting conclusion that terrorism in some situations might better achieve this goal than use of force that satisfies the limited noncombatant immunity principle. While this conclusion does not require accepting that terrorism can be justifiable, it does call into question the moral integrity of standard just war theory.

#### IV. THE ARGUMENT FROM REPRESENTATIVE AUTHORITY

Earlier I was critical of the political status definition of terrorism, which maintains that terrorism can only be committed by nonstate actors. Acts of political violence committed by nonstate actors are not intrinsically worse than otherwise indistinguishable acts of political violence committed by states. Yet the political status definition does reflect that terrorism often is not backed by *representative authority*, by which I mean adequate license for acting on behalf of a people through their approval. The argument from representative authority that I will elaborate is related to a familiar argument from legitimate authority. While the latter is too restrictive, the former provides a qualified basis for the view that terrorism is a distinctively objectionable form of political violence.

The large and difficult topic of *legitimate authority* will have to be confined to a brief discussion for present purposes. One prominent approach draws from Hobbesian social contract theory: a state's authority depends on its ability to impose law and order on the persons within its domain.<sup>40</sup> They must fare better than they could expect to if left to their own devices. That is, the state would have legitimate authority by virtue of being able to mediate the aggressive pursuit of self-interest by individual members, who rationally would agree to be governed through coercive power for the sake of their mutual interest. Another prominent approach, which also utilizes a social contract model, regards members of a state as political constituents and moral agents, not mainly as subjects. This is exemplified when the members

40. See Thomas Hobbes, *Leviathan* (1651), ed. C. B. Macpherson (Harmondsworth: Penguin, 1968), chaps. 13–14. Also see Charles R. Beitz, *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979), chaps. 2–4; and David Rodin, *War and Self-Defense* (New York: Oxford University Press, 2002), 144–48.

of a state are organized around a substantially just and democratic government. Rawls gives the following characterization: "The government is effectively under their political and electoral control, and . . . it answers to and protects their fundamental interests as specified in a written or unwritten constitution and in its interpretation. The regime is not an autonomous agency pursuing its own bureaucratic ambitions. Moreover, it is not directed by the interests of large concentrations of private economic and corporate power veiled from public knowledge and almost entirely free from accountability."<sup>41</sup> The state's legitimate authority would derive from the people, whose government operates through and for them. At the same time, advancing their interests must be compatible with justice.

It might be thought, as the political status definition implies, that terrorism is distinctively wrong because terrorist groups by their nature lack legitimate authority. But this would presuppose that legitimate authority could be a decisive condition for permissible resort to political violence. A plausible argument for such a position is not obvious, especially on a view that grounds the state's authority merely on its ability to provide civil order. Indeed, authoritarian states are capable of achieving civil order. They do not thereby have moral standing, despite the claim they may have to political sovereignty under international law and custom. A decent state must do more than protect its members against internal anarchy and external threats: it also must protect their other fundamental interests and do so through acceptable means. That nonstate terrorism would offend against a morally weak, Hobbesian account of legitimate authority hardly seems a compelling reason for judging that nonstate terrorism is wrong.

The appeal even to morally robust legitimate authority has limits. Walzer's influential version of just war theory, for example, supports a two-level account of moral responsibility: combatants bear no responsibility for fighting a war of unjust cause (the level of *jus ad bellum*), but they are responsible for how they fight (the level of *jus in bello*). Given a state's legitimate authority, Walzer believes, any choice combatants have about whether to fight "effectively disappears as soon as fighting becomes a legal obligation and a patriotic duty."<sup>42</sup> Moral responsibility for their fighting would lie solely with the executives of the state, namely, its political leaders. The state's legitimate authority would be for combatants a decisive condition for the permissibility of their fighting. I have argued elsewhere for rejecting this two-level account of combatant

41. John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 24.

42. Walzer, *Just and Unjust Wars*, 28.

moral responsibility.<sup>43</sup> Legal obligation and patriotic duty do not have moral weight that could permit or completely excuse fighting in the service of a war of unjust cause, no matter how outrageous, whenever the state sponsoring that war has legitimate authority. The dictates of law and morality can come apart.

Thus I contend that legitimate authority is not sufficient to permit combatants to fight at the state's behest. Two issues can be separated in order to avoid confusion. First, legitimate authority provides no justification for combatants for an unjust war to inflict casualties on bystanders to or just combatants against the unjust aggression.<sup>44</sup> Second, legitimate authority does not best explain why combatants should not be punished for fighting in the service of an unjust war. A more plausible explanation is that punishing such combatants is generally not feasible or constructive *post bellum*.<sup>45</sup> The summary point is that appreciating the significance of a state's morally robust legitimate authority does not entail accepting the normative consequences found in common versions of just war theory.

A limited appeal to adequate license does help to draw a moral boundary between terrorism and conventional war. In the ideal scenario, a democratic state functions with a considerable degree of control by its people and transparency regarding political processes. This provides no guarantee that political decisions will be substantively just. Nor am I suggesting that the ideal scenario of decision making in democratic states is closely approximated in real-world scenarios. There are no official referenda about decisions to go to war, let alone about how a war is fought, and political leaders can shape public opinion through selective dissemination of information and appeals to national interest that have a chilling effect on public debate. Yet political representatives in a democracy are under pressure from their constituents to justify going to war and to maintain support for a war that is already under way. Reasonable institutional procedures can provide checks and balances on the exercise of political power, presumably with a tendency to yield political decisions that are not egregiously unjust. What about states that are not democratic? Consider Rawls's proposal that their regimes might have a "decent consultation hierarchy": although the citizens are

43. See McPherson, "Innocence and Responsibility in War," 494–97.

44. The fact that combatants for an unjust war fight under domestic legal and patriotic duress and in personal self-defense is immaterial to the permissibility of conduct that otherwise would be objectively unjust. This is not at odds with acknowledging that their conduct typically is excusable to some degree.

45. This is compatible with recognizing that punishment can be appropriately imposed on the political leaders, who, in administering the state's authority and sending combatants to fight an unjust war, bear primary moral responsibility for the injustice done by the combatants on the battlefield.

not granted equal political representation as individuals, they could belong to groups represented in a consultation hierarchy, having by proxy “the right at some point in the procedure of consultation (often at the stage of selecting a group’s representatives) to express political dissent.”<sup>46</sup> Substantial political representation of a people and accountability to them are possible in the absence of democracy. Representative authority is not exclusive to democratic states.

The deeply distinctive problem for nonstate terrorists now emerges. That they lack legitimate authority is only a rough indication of the problem. Political violence by nonstate actors is objectionable when they employ it on their own initiative, so that their political goals, their violent methods, and, ultimately, their claim to rightful use of force do not go through any process of relevant public review and endorsement. Nonstate terrorism’s distinctive wrongness does not lie in the terrorism but rather in the resort to political violence without adequate license from a people on whose behalf the violence is purportedly undertaken.

We must recognize a distinction here between legitimate authority and representative authority. For nonstate actors, representative authority is the crucial kind of authority. While states are usually treated as the entities that have legitimacy in international relations, lack of statehood does not strictly indicate the deeper problem with political violence by nonstate actors. A nonstate group may have representative authority: the group not only would take itself to act on behalf of a people but also would be acting on the people’s behalf given credible measures of approval by that people. Such measures, for example, mass demonstrations, general strikes, and polling, might lie outside formal political procedures. This raises concerns about the reliability of the measures and their interpretation by actors unfettered by the responsibilities of formal political leadership. These concerns are less of an issue when the right to resort to political violence belongs only to the state, that is, when the state has morally robust legitimate authority. Viable states function with established lines of authority for political decision making, which undergirds domestic stability and practicable international relations. In addition, states are more susceptible than nonstate actors to inducements and deterrents (e.g., economic cooperation, political sanctions, the threat of military action) aimed at promoting justice at home and abroad. Considerations of this sort motivate the prevailing view that statehood is prerequisite to permissible resort to political violence.

But the argument from the importance of statehood seems mainly pragmatic. The tendency that a state monopoly of political violence has to yield morally salient advantages does not indicate that political vio-

46. Rawls, *The Law of Peoples*, 71–72.

lence by nonstate actors is always morally objectionable. That a nonstate group does not have control of a state, does not exercise the full functions of a government, and has not conducted elections or put into place a just consultation hierarchy is not a sufficient basis for denying that the group has representative authority as a condition for permissible resort to political violence. The representative authority that nonstate groups may have, if in fact they often lack it, can be morally analogous to the legitimate authority of states. For instance, the FLN (National Liberation Front) came to have representative authority in relation to the Algerian people during Algeria's fight for independence from France, whereas Al-Qaeda does not have representative authority in pursuing militant Islamist goals in the name of the Muslim people. Appropriate wariness about nonstate groups claiming to have representative authority does not warrant rejecting all such claims *tout court*.

There is an apparent difficulty with how to construe a people. Individuals may be thought of as a people when they collectively identify on the basis of their self-ascribed nationality, ethnicity, culture, or religion, or on the basis of being victims of common oppressors (e.g., members of non-Arab ethnic groups in the Darfur region of Sudan vis-à-vis the Janjaweed militia). This differs from an understanding on which "the concept of 'people' belongs to the same social category as 'family' or 'tribe,' that is, a people is one of those social units whose existence is independent of their members' consciousness."<sup>47</sup> The former, more expansive understanding is at work in my argument from representative authority, which leads to a worry. If individuals can collectively identify to comprise a people, there could be a proliferation of peoples, with the result that all kinds of groups could have gerrymandered representative authority.<sup>48</sup> Al-Qaeda could have representative authority that derives from the support of militant, fundamentalist Muslims in particular rather than of Muslims generally.

While my account of representative authority seems open to such a possibility, the worry is not as pressing as it may seem. Nonstate actors usually purport to represent as broad a constituency as possible in undertaking political violence. The reason is clear: the broader and less gerrymandered the constituency, for example, "the Muslim people" or "the nation," the greater the appearance of representative authority that is morally compelling. "In a verse applicable to all Muslims," contends Zayn Kassam, "Quran 5:32 states, 'whosoever kills a human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all humankind. . . .' Can the assertion of what constitutes 'man-

47. Yael Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993), 65.

48. Sharon Street pressed me on this point.

slaughter' or 'corruption' be left to the judgment of individuals not accountable to civic institutions? Surely not."<sup>49</sup> While I would substitute **accountability to a people in place of accountability to civic institutions**, Kassam's point is well taken. Any morally serious claim to having adequate license to employ political violence, namely, through having representative authority, will not come from a parochial source that answers only to the edicts of leaders who lack relevant public approval.

**I have suggested that accountability through approval by a people is necessary for resorting to political violence on its behalf.** This kind of license can be a practical means of keeping violence under control. But if political violence is objectively justifiable under the circumstances, perhaps concerned actors permissibly could employ it without being backed by either legitimate authority or representative authority.<sup>50</sup> When there is an indisputable humanitarian disaster, for example, such as the Rwandan genocide, no appeal to the victimized people's express approval seems necessary to permit violent intervention to protect its members. My view can accommodate such cases, since the victimized peoples almost certainly would accept any helpful intervention. In cases where political violence may seem objectively justifiable but the humanitarian situation is not as dire, we cannot be as confident about the warrant to intervene. For instance, Indians may well have had just cause for resorting to violence in their anticolonial struggle for independence from British rule. It would have been objectionable, though, to disregard the Indian people's ethical and strategic commitment to pursuing independence through nonviolent resistance under Gandhi. To recognize that there is just cause for resorting to political violence is not simply to permit concerned actors to employ it without the approval of the people on whose behalf the violence would be undertaken.

**All of this invites the basic question of why representative authority is as important as I have claimed. On my view, a people must have the opportunity to determine what its significant interests are and how those interests are to be pursued within the boundaries of justice.** The value of this kind of autonomy is partly instrumental. We should assume, analogously to the case of individuals, that a people is most motivated and best situated to evaluate its own interests. Further, we should assume that a people has the capacity to act accordingly, by enlisting its own members or seeking assistance from others, unless there is strong evidence to the contrary. But the value of autonomy is not merely instrumental: its value is fundamentally tied to treating individuals or a people with respect that is due rational, reasonable agents. In concrete terms,

49. Zayn Kassam, "Can a Muslim Be a Terrorist?" in Sterba, *Terrorism and International Justice*, 113–34, 130.

50. Jeff McMahan pressed me on this point.

autonomy means that a people must have a substantial say over actions that would be done in its name and for its sake. When the matter is as serious as the resort to political violence, whether this takes the form of terrorism or conventional war, the value of autonomy is heightened. False or unfounded claims to representative authority are especially objectionable in this context.

The requirement of representative authority as a condition for employing political violence on behalf of a people expresses the value of autonomy. Typically, nonstate actors engaged in terrorism do not meet this requirement, though there have been notable exceptions that include the ANC, the FLN, and the PLO (Palestinian Liberation Organization) at some periods in their histories. Tyrannical regimes, despite having control of a state, never meet this requirement, though dictatorial regimes that have the majority support of their people might. A state that lacks legitimate authority is also likely to lack representative authority to act on behalf of the major substate groups or peoples within its territory, such as Kurds, Shiites, and Sunnis in Iraq. More precisely, then, my claim that there is a distinctive sense in which terrorism can be wrong holds with regard to a defeasible perspective from which nonstate actors lack representative authority and states have it.

The ultimate source of the value of autonomy as expressed by the requirement of representative authority is internal to a people on whose behalf political violence would be undertaken. It is true that, in order to meet this requirement, the goals and methods of political violence must go through a process of relevant public review and endorsement—a process that seems more likely than some nonrepresentative route to yield courses of action that are, at least, less unjust. To this extent, outsiders to a people have moral reason to care about representative authority. But the requirement of representative authority is not driven by the interests of outsiders, even as prospective victims. The internal moral importance of representative authority might make no difference to them. If the cause for political violence is just, victims on the other side would not be wronged with respect to the fact that the violence does not meet the representative authority requirement. When the cause is unjust, the representative authority requirement is morally moot from any perspective.

## V. CONCLUSION

Let there be no misunderstanding: nonstate groups that have representative authority do not thereby have *carte blanche* to employ political violence. The same is true for states that have legitimate authority. Representative authority for nonstate groups, like legitimate authority for states, is not sufficient to permit resorting to political violence without just cause. Also worth emphasizing is that the argument from represen-



tative authority belongs to my moral evaluation of terrorism. Political violence that has adequate license through relevant public approval may descriptively constitute terrorism, and I have not argued whether terrorism could ever be justifiable. However, when nonstate actors lack morally compelling representative authority, as is often the case, this preempts the possibility of their resort to political violence of any kind being justifiable, except in cases of indisputable humanitarian disaster. States that have morally robust legitimate authority do not face this hurdle—but adequate license is only one condition for permissible resort to political violence. While nonstate groups often fail at the level of representative authority and often would subsequently fail at the level of just cause, states often directly fail at the level of just cause. The distinctive wrongness of much nonstate terrorism does not support the dominant view that terrorism is necessarily wrong and intrinsically worse than conventional war.

I have argued that terrorism is not distinctively wrong as compared to conventional war in the following respects. Both types of political violence may be waged for just or unjust causes. Both types employ use of force against noncombatants, with conventional war usually causing them many more casualties. War and terrorism hence can be expected to produce fear widely among noncombatants where force is used. Further, states do not necessarily have and nonstate groups do not necessarily lack an adequate kind of authority that is a condition for permissible resort to political violence.

If we believe that terrorism is an evil because of the harm it does to ordinary noncombatants, we should be prepared to accept that the brute reality of war for noncombatants is an evil that is at least on par. The notion that an essential moral difference lies in whether the agents using force intend to harm noncombatants is, in the context of political violence, misplaced. If we believe that war can be justifiable on grounds of just cause and the unavailability of less harmful means, despite the harm it does to noncombatants, we must take seriously whether these same grounds could ever justify terrorism. The failures of the dominant view of terrorism should lead us to adopt either a more critical attitude toward conventional war or a less condemnatory attitude toward terrorism.