

Terrorism Always Unjustified and Rarely

Excused: Author's Reply

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I would like to express my gratitude to Professors Irfan Khawaja, Graham Parsons, and Theresa Fanelli for having read my work and for offering illuminating suggestions, comments and criticisms from which I have learned quite a bit. Irfan deserves special recognition for having taken the lead in organizing this event. I am also grateful to the dean of Arts and Sciences, Professor George Abanza, and members of the administration and faculty who have made this event possible.

By following the suggested order of speaker, I will address Professor Khawaja's comments first. I will then reply to Professor Graham's comments, and lastly, I will try to answer Professor Theresa Fanelli's pointed questions.

1. Reply to Professor Irfan Khawaja's comments

I am flattered to learn that Professor Khawaja finds some virtue in my argument against terrorism. Also, I am grateful for his insightful comments. In addition, I find his counterargument to my hard-core opposition to terrorism challenging. I define the term “terrorism” as “the use of political violence by individuals or groups who deliberately or recklessly inflict substantive undeserved harm or threaten to do so on those who can be conceived of as innocent noncombatants beyond reasonable doubt, aiming at influencing a domestic or an international audience” (p. 59).¹ Professor Khawaja argues, based on the letter and the spirit of my definition, that “since the infliction even of foreseeable harm requires stringent protection for the innocent, foreseeable harm becomes reckless (hence impermissible) when inflicted on those who are not believed beyond reasonable doubt to be guilty.”² Under my definition, foreseeable harm becomes reckless and hence morally impermissible when it is deliberately inflicted on those who can be conceived of as innocent noncombatants beyond reasonable doubt.

Professor Khawaja offers a counterexample by focusing on the possible use of foreseeable reckless violence, namely deliberately inflicting substantive harm, that, according to him, might be justified against an imperialist aggressor and the civilian population who support and/or benefit from the aggression. In his counterexample, he argues that one can reasonably justify using foreseeable terrorist violence against those who might be conceived of as innocent noncombatants but not necessarily “beyond reasonable doubt.” If his counterexample works, he would have then shown that that my hard-core definition of terrorism is too narrow because it does not capture one of the many complexities of war, be it an interstate or an intrastate armed conflict.

¹Vicente Medina, *Terrorism Unjustified: The Use and Misuse of Political Violence* (Lanham, MD: Rowman and Littlefield, 2015). All references to the book in this symposium are by page numbers in parentheses.

² Irfan Khawaja, “Terrorism Justified: Comment on Vicente Medina’s *Terrorism Unjustified*,” *Reason Papers* vol. 41, no. 1 (Summer 2019), p. 12

As some feminists have argued, Professor Khawaja underscores that part of my definition of the term “terrorism” as the “use of political violence” might be contested. Feminist scholars contend that domestic violence should be interpreted as terrorism too. He also indicates that the practice of cyberterrorism need not involved the use of violence. Since in my book I already addressed some of the feminist challenges to my definition of terrorism, I will not repeat my argument (p. 62-64). Nevertheless, I would like to underscore that while the practice of cyberterrorism does not necessarily inflict physical violence on its victims, it might inflict psychological or emotional violence on them just by the magnitude of the threat in question. Moreover, psychological or emotional violence takes its physical toll on its victims. So, while I concede that the concept of terrorism, as any political concept, is highly contestable, I am not convinced that one might do without the concept of violence when discussing the practice of terrorism.

Professor Khawaja also objects to my defining terrorism as “a use of violence” rather than as “an initiatory use of violence.”³ He claims that “there is a fundamental moral difference between an initiatory use of violence and a response to one.”⁴ Sometimes there might be such a fundamental moral difference, but that need not always be the case since oftentimes that would depend on whether those who initiated the violence were actually justified in doing so. Also, two points are worth making. First, in many political conflicts it is rather difficult to determine who is responsible for initiating the violence, and second, even if one can determine with reasonable certainty who the responsible person or persons are for having initiated the unjustified violence or aggression, it does not follow that the victims are justified in using any means to defend themselves from the aggressors. For example, during WW II the Nazis were responsible for initiating the aggression against Great Britain, but it is at least questionable whether the British were justified in deliberately using indiscriminate area bombing against innocent German civilians. One might raise the same objection against the fire-bombing of Tokyo by

³ Ibid, p. 13.

⁴ Ibid, p. 13.

US Bomber Command and the dropping of the two atomic bombs on Hiroshima and Nagasaki in 1945 at the end of the war.

A part of my definition of terrorism that Professor Khawaja is objecting to can be formulated as a proviso, namely that the deliberate reckless infliction of terrorist violence might be justified against people (in his counterexample the imperialist aggressor and the civilians who support and/or benefit from the aggression) provided they are beyond reasonable doubt non-innocent or combatants. That is, they are in some substantive sense guilty or they are combatants by virtue of which the victims of the aggression can rightfully target them. The proviso refers to a necessary condition. That is, in an armed conflict one can deliberately or recklessly use terrorist violence against people only if they are beyond reasonable doubt non-innocent or combatants.

Since under Professor Khawaja's counterexample it would in principle be impossible to differentiate "beyond reasonable doubt" combatants from innocent noncombatants, there might be instances under which one could justify the deliberate use of reckless violence against a conglomerate of people, including civilians and/or innocent noncombatants, if the following conditions obtain: (1) That is the only effective way to stop the aggression or to bring the aggressor to the negotiating table to reach a reasonable and fair agreement, and (2) the imperialist aggressor has been so Machiavellian to make sure that those who try to use violence to stop them would be forced to use "reckless violence" against civilians or innocent noncombatants. By intentionally mixing combatants and noncombatants, they have become practically indistinguishable. In that way, if the natives decide to repel the aggressors by using deliberate reckless violence against them, they would be forced to kill innocent noncombatants since they could not differentiate "beyond reasonable doubt" between combatants and noncombatants. By doing so, the aggressor could automatically argue that the natives are terrorists because they are recklessly targeting those who are civilians or innocent noncombatants. As a result, they could charge the natives with violating LOAC (a.k.a. Law of Armed Conflict) and hence of committing war crimes.

Given his assumptions, Professor Khawaja's challenge to my proviso is well taken. According to him, in his counterexample the armed conflict is so messy that the standard of innocent or guilty

beyond reasonable doubt seems to be too demanding if one believes in giving a fighting chance to the natives, namely those who are victims of the aggression. He assumes that the natives are facing the following dilemma: either they honor my proviso, or they do not honor it. If they honor my proviso, they would remain subjugated. If they do not honor it, they would have a fighting chance against the aggressor. Hence, they either would remain subjugated or they would have a fighting chance against the aggressor. It is morally wrong for them to remain subjugated. Hence, they should have a fighting chance against the aggressor. Whether they should have a fighting chance against the aggressor would ultimately depend on the extent to which one could reasonably expect them to succeed in accomplishing their goal of defeating the aggressor or of bringing them to the negotiating table.

Professor Khawaja rightly underscore that the standard “innocent beyond reasonable doubt” is typically used in a court of law. War is generally described as an interstate armed conflict. But interstate armed conflicts are not decided in a court of law. Hence, the standard “innocent beyond reasonable doubt” is not applicable in war, or so Professor Khawaja assumes. Still, while the standard “innocent beyond reasonable doubt” is typically used in a court of law, it does not follow that it could not be used in a meaningful sense during an armed conflict to distinguish between justified and unjustified behavior of those engaged in it. That is, standards of reasonableness can be meaningful and useful in helping us to justify or excuse people’s behavior, including their behavior in extreme situations such as war. Also, strictly speaking, while the rightness or wrongness of wars is not typically decided in a court of law, there are historical examples, such as during the Nuremberg and Tokyo Trials, where the nature of the war was legally decided to some extent in a court of law. For many, the Allied were on the right beyond reasonable doubt. But, for others, at times they were not “innocent beyond reasonable doubt” because despite the initiatory use of violence by the aggressors, they also committed atrocities that could be described as morally equivalent to those committed by the Nazis and the Japanese. Moreover, some armed conflicts can be said to be decided in the court of public opinion, such as the Vietnam War, or the invasion of Iraq.

Let me move on to address Professor Khawaja's main argument. I do not think that I could do as good a job as he has done in presenting his interesting and challenging counterexample. So, I will try to present just a modified version of it that I hope does justice to his elaborate argument. Also, I will not try to argue against his interpretation of Machiavelli's *Prince* or Locke's *Second Treatise of Government*. I will, however, underscore that despite Professor Khawaja's ingenious counterargument, it is a bit of stretch to assume that Machiavelli's and Locke's political theories are compatible in any significant way. Nevertheless, I am accepting for the sake of argument his Machiavellian-Lockean playbook as described by him. Therefore, I will grant to Professor Khawaja virtually every premise of his argument or counterargument.

Machiavellian-Lockean Counterargument based on Asymmetrical Warfare

[P1] An imperialist aggressor acts according to the Machiavellian-Lockean playbook to try to justify their aggression against the native population.

[P2] Since an imperialist aggression is unjust, the native population has a right of self-defense against the imperialist aggressor and those who openly and/or tacitly benefit from the aggression.

[P3] Based on their right of self-defense, the natives can try several options to try to preserve not only their lives but also their livelihood, namely their land.

[P4] They can try to engage in bona fide negotiations with the aggressor.

[P5] They can resort to using violence only against the aggressor's armed forces according to LOAC (a.k.a. Law of Armed Conflict).

[P6] They can resort to using deliberate reckless violence, namely terrorism, foreseeing that culpable and inculpable members of the aggressor's population would be seriously harmed.

Professor Khawaja stipulates that [P4] & [P5] are futile because the natives will be unable to defend themselves successfully against the imperialist aggressor.

Professor Khawaja assumes that [P6] provides natives with the only real chance to successfully exercise their right of self-defense against the imperialist aggressor.

[C] Therefore, according to Professor Khawaja, natives have a right to resort to terrorism against the imperialist aggressor and those who openly or tacitly benefit from the aggression.

Let me make the following observation about [P6]. It seems that in his counterargument Professor Khawaja makes a substantive and questionable assumption, namely that by adopting [P6] the natives could have a real chance of defeating the aggressor. Two questions occur to me: (1) Is Professor Khawaja's assumption a reasonable and fair assumption? And (2) even if his assumption were reasonable, would a natives' victory be a worthwhile one or simply a pyrrhic victory? Since the natives, according to Professor Khawaja, are justified in engaging in terrorism against the aggressor and those who openly and/or tacitly benefit from the aggression, they might be able to defeat them by killing or seriously harming a disproportionate number of people who might be reasonably conceived of as innocent. If, however, Professor Khawaja were to insist that, strictly speaking, no members of the aggressor's community could be conceived of as "innocent beyond reasonable doubt," then I think his counterexample, while being philosophically stimulating, does not seem relevant for real case scenarios. He, however, admits as much.

Professor Khawaja states, "if [his] thought-experiment works, it offers a counterexample to Medina's claim that terrorism is categorically wrong."⁵ For Professor Khawaja's "either terrorism is not *always* wrong, or there are justifiable forms of warfare that closely resemble terrorism without quite being terrorism."⁶

I offer the following two observations. First, I argue in the book that while terrorism as I conceive of it is categorically wrong and

⁵ Ibid, p. 24.

⁶ Ibid, p. 24.

hence never justified, I also argue that terrorism might under extenuating circumstances be excused (p. 205-208). During extenuating circumstances like the one described by Professor Khawaja, the natives might be excused but not justified in using terrorism against the aggressor and those who openly or tacitly benefit from the aggression. For me, terrorism is permissible under extenuating circumstances because it could be excused. But it is not excused because it is permissible.

Of course, Professor Khawaja might object that he does not see a relevant moral distinction between a justification and an excuse. I agree that the distinction between justification and excuse is nebulous at times.⁷ But here are some thoughts about the distinction. I do think that justification can be offered in two different ways: (1) as offering sufficient reasons, and/or (2) as offering only deontic reasons. The same distinction does not seem relevant for the concept of excuse.

For example, an action is justified if one can offer sufficient reasons for it. Or an action is justified if I have not only a right but also a duty to do it. For example, consider how the first sense of justification is used in the following example. Assuming that X is a viciously imperialist aggressor, I have sufficient reasons for defending myself against the undeserved harm that X is deliberately trying to inflict on me. I might also justify my action by claiming that I have duty to defend myself from the aggressor. Both senses of justification might be intimately linked at times. But I do not think that it is ever “just” or “right” in the sense of having not only a right but also a duty to deliberately or recklessly kill or substantively harmed impeccably or objectively innocent people. We might, nonetheless, be excused in doing so under extenuating circumstances as the one illustrated by Professor Khawaja’s counterexample.

I am excused in doing X if it is wrong for me to do it, but I am not necessarily culpable for my action. For example, we typically excuse individuals based on their mental fitness, benign ignorance, duress, and I would like to add also when they are faced with a moral

⁷ For a classic discussion related to this distinction, see J.L. Austin, “A Plea for Excuses” *Proceedings of the Aristotelian Society*, 57, no. 1 (June 1956), pp 1-30.

dilemma not of their own making where no matter which way they choose to act innocent people will be seriously harmed. So, while Professor Khawaja argues that there are instances, like in his counterexample, where terrorism might be justified, I rather argue that terrorism is never justified but sometimes excused. It is not evident to me that the natives have also a duty to deliberately use reckless violence against the aggressor and those who openly and/or tacitly benefit from the aggression.

2. Reply to Professor Graham Parsons's comments

I am grateful to Professor Graham for his insightful comments and criticisms, and I am also happy to learn that we agree, at least in principle, that terrorism is more often than not unjustified. However, we seem to disagree at the practical level of whether there might be circumstances under which terrorism could be justified. My position is virtually an absolutist deontological position: terrorism is equivalent to murder or manslaughter in domestic law, or equivalent to crimes against humanity or war crimes in international humanitarian law (a.k.a. IHL). Murder or manslaughter as well as crimes against humanity or war crimes are categorically unjustified. Therefore, terrorism is categorically unjustified. Still I argue that under extenuating circumstances, like a supreme emergency, terrorism might be excused.

Professor Parsons views terrorism as analogous to “the common view of torture” where “it might be the case that there are possible circumstances where torture is understandable—so called “ticking bomb” cases—but nevertheless our laws and professional codes should absolutely prohibit it.”⁸ I think the analogy between terrorism and torture is a relevant one; however, I would not want to argue, as Professor Parsons argues, that “there are possible circumstances where torture is understandable,” as in ticking bombs scenarios.⁹ I rather argue that terrorism, like torture, is categorically

⁸ Graham Parsons, “Response to *Terrorism Unjustified* by Vicente Medina,” *Reason Papers* vol. 41, no. 1 (Summer 2019), p. 27.

⁹ *Ibid.*, p. 27.

prohibited and therefore never justified, not even under extenuating circumstances of supreme emergency. While for me terrorism, like torture, is never justified, under extenuating circumstances, such as a supreme emergency, it might be excused.

Since I adopt a virtually absolutist deontological position condemning the practice of terrorism, I think that the distinction between justification and excuse could be illuminating for discussions about the use of political violence, especially terrorism. When we try to justify an action, we typically appeal to reasons that we have some control over, such as having knowledge that is motivating us to act the way we do. But when we try to excuse an action, we typically appeal to reasons that we might not have control over, such as benign ignorance, accidental or unintentional behavior, or simply facing a serious moral dilemma where no matter which way we act objectively innocent people will be harmed.

For example, consider the farfetched trolley example.¹⁰ Suppose I see a loose trolley speeding towards five people that I can reasonably foresee will kill them if I do not divert the trolley to a different track. I can divert the trolley to a different track where I can reasonably expect that one person will be killed. Consequentialists will typically argue that I have not only a right but also a duty to divert the trolley that will kill one person rather than five. So, from a consequentialist perspective, I am justified in doing so. Even some nonconsequentialist scholars, like F. M. Kamm, argue that I am justified in saving the five persons rather than the one person because in doing so I am promoting a greater good.¹¹ In this scenario, I have control whether to act to save the five innocent persons or simply to save the one innocent person. Hence, according to Kamm and perhaps Professor Parson, I am justified rather than excused in doing so.

On the contrary, I argue that in the above example, I am not justified in deliberately killing one presumably innocent person to save five. However, in the face of such a serious dilemma, I am excused in

¹⁰ Philippa Foot, "The problem of abortion and the doctrine of double effect," *Oxford Review*, 5 (1967), pp 5–15.

¹¹ F. M. Kamm, *Intricate Ethics: Rights, Responsibilities, and Permissible Harm* (New York: Oxford University Press, 2007), p. 132.

saving the five rather than the one. I agree that the distinction between justification and excuse is precarious at times. But, in this example, I contend that I have a right in the weak sense that I can choose to save the five rather than the one, but it is not clear to me that I have a duty to save the five rather than the one. I do not think that it is ever “just” or “right” to deliberately kill objectively innocent people. We might, nonetheless, be excused in doing so under extenuating circumstances as explained in the trolley example.

Professor Parson offers two reasons why he thinks it is rather difficult for me to defend a categorical objection against terrorism. “The first reason is that the concept of terrorism is too vague and laden with normative content to be categorically rejected in a nonquestion begging way.”¹² “The second reason is that, even if we accept [my definition of terrorism], it is unclear that we can categorically distinguish terrorism from conventional wartime violence.”¹³ He underscores that my appeal to the impeccably innocent “to distinguish the victims of terrorism from the victims of non-terrorist violence is unpersuasive as it fails to appreciate the extent to which typical victims of conventional war, i.e. combatants, are innocent.”¹⁴

I agree with Professor Parsons’ objection that the concept of terrorism is highly contestable, and it is quite challenging to offer a nonquestion begging definition that could be universally accepted. I have tried to highlight that point in my work. That is why I write in the postscript that “I do not pretend that my definition of terrorism will be universally accepted. I hope, nevertheless, that I have succeeded in making the definition philosophically sophisticated and politically acceptable to those who share certain basic moral intuitions. That is, those who view morality primarily as determined by agents’ intentions and subsidiarily by the consequences of their actions” (p. 204). Nevertheless, I agree with Professor Parson’s legitimate observation that “different commentators on terrorism [might] end up talking past each other.”¹⁵ I guess that is a risk commonly present in philosophical and political circles when discussing not only issues about political

¹² Parsons, “Response to *Terrorism Unjustified* by Vicente Medina,” p. 27.

¹³ *Ibid.*, p. 27.

¹⁴ *Ibid.*, p. 27.

¹⁵ *Ibid.*, p. 28.

violence but also highly contestable issues such as issues about human rights, democracy, and justice, to mention only a few.

I am somewhat flummoxed, however, about Professor Parson's second objection, namely that I fail "to appreciate the extent to which typical victims of conventional war, i.e. combatants, are innocent."¹⁶ It is important to note that combatants by the mere fact of being so are in the business of war. Regardless whether they voluntarily enrolled or were conscripted into the armed forces, during war soldiers are a threat to those who are conceived of as their enemies. Hence, they are not harmless to their enemies. Therefore, they can be rightfully targeted. That is not the case with noncombatants. They are presumed to be innocent until proven otherwise. Of course, noncombatants or civilians could be guilty in other ways, such as being vicious informers of a tyrannical regime, being an innocent threat such as unknowingly or inadvertently carrying a weapon of mass destruction, or they might present an involuntary objective threat such as being in the wrong place at the wrong time.

Professor Parson argues that I and those whom I call apologists of terrorism, be they hard-core or soft-core ones, might not be disagreeing about the nature of terrorism. He writes that "perhaps Medina and the apologists are just talking past each other."¹⁷ There is a sense in which we are talking past each other because we offer different conceptions of terrorism. But there is also a sense in which we are not talking past each other, but we are rather trying to present arguments that any reasonable person could assess as more or less compelling depending on their morals and intuitions.

I am not sure how to interpret Professor Parson's claim that because of the normative baggage that the term "terrorism" presupposes, he thinks that the use of the term is "partisan."¹⁸ If one were to follow Professor Parson's reasoning, one could argue that a term such as "murder" also has normative baggage. Hence to be consistent Professor Parson must argue that those who use the term "murder" are always partisans too. Afterall, one who kills another

¹⁶ Ibid., p. 27.

¹⁷ Ibid., p. 29.

¹⁸ Ibid., pp. 29-30.

person with malice aforethought can always think of a justification or at least an excuse for having done so. Of course, what needs to be determined is whether those who are charged with having committed murder did it with malice aforethought.

I understand that the meaning of the term “murder” seems to be less contestable and more stable than the meaning to the term “terrorism.” That is because the term “murder” is legally entrenched virtually everywhere. But the contemporary lack of consensus about the meaning of terrorism does not exclude the possibility that in the future the international community might agree on an international definition of terrorism that would become *jus cogens* in international law. After all, the concept of crimes against humanity, which was and perhaps for some still is rather contestable, became part of international law and hence legally binding after the Nuremberg and Tokyo Trials in 1945-1946 after WWII.

Also, it is evident that many pundits, journalists, social scientists and scholars complain about the lack of consensus about the meaning of the term “terrorism.” But there seems to be nothing exceptional about the contestability of this term. As any political term, the term “terrorism” is rather polemical. Some might express its polemical meaning by using the trite expressions: “one person’s terrorist is another person’s freedom fighter,” or “one person’s terrorism is another person’s patriotism.” Others who use these expressions might convey a kind of connotative indeterminacy, be it morally, politically and/or contextually. Still, others might want to describe the cynicism of those who claim to represent the national interest of powerful states in trying to deal with the threat of terrorism by nonstate actors ignoring, at times, the unjustified or excessive violence inflicted by those representing powerful states on noncombatants, be they objectively innocent or not.

However, from the lack of consensus about the meaning of the term “terrorism,” it does not follow that we cannot make reasonable judgments about the use or misuse of violence, especially in the case of terrorism. If one were to argue so, then one would be committed to a kind of ethical relativism, which I do not think Professor Parson is committed to. I argue that despite the controversial nature of the term “terrorism,” we can make reasonable and fair judgments about

distinguishing between degrees of harmful acts and whether the harm is deserved. Also, I argue that there is a sense of the term “innocent,” namely impeccably or objectively innocent, that is crucial for passing judgments about the use of political violence as in the cases involving terrorism. I grant that there might be hard cases where we might reasonably disagree about the use of political violence, but there are also cases where it would be morally wrong and perhaps even morally incoherent to disagree that the use of political violence as terrorist violence is beyond the pale, as in the case of 9/11 or the most recent attack by an alleged white supremacist against two mosques at Christchurch, New Zealand on March 15, 2019 where 51 innocent worshipers were killed.¹⁹

Professor Parson argues that “there is also evidence that Medina’s debate with the apologists of terrorism falls victim to confusion resulting from the unacknowledged normative content of “terrorism.””²⁰ It is evident that there is a substantive normative debate between opponents and apologists of terrorism about the use of political violence, but the debate is not necessarily related to the “unacknowledged normative content of “terrorism.”” On the contrary, it is precisely because we acknowledge different normative content by appealing to different moral intuitions and different moral principles that we disagree in our conceptions of terrorism and the justification and/or excuse of political violence.

Professor Parson is right that I offer the following working definition of those whom I refer to as apologists of terrorism, be they hard-core or soft-core ones. I stipulate that for them terrorism is “The use of political violence by individuals or groups, provided they are not engaged in an interstate armed conflict, who deliberately inflict substantive harm or threaten to do so against their alleged enemies, aiming at influencing a domestic or international audience” (p. 94). Yet I am somewhat puzzled when Professor Parson writes, “Ethically speaking, it seems much easier to imagine reasonable cases of the

¹⁹ Shannon Van Sant, “Accused Shooter in New Zealand Mosque Attacks Charged with Terrorism,” *NPR*. Available from: <https://www.npr.org/2019/05/21/725390449/accused-shooter-in-new-zealand-mosque-attacks-charged-with-terrorism>.

²⁰ Parsons, “Response to *Terrorism Unjustified* by Vicente Medina,” p. 31.

apologist's terrorism than reasonable cases of Medina's terrorism...In fact, I see nothing in Medina's discussion to indicate that he is opposed to such behavior categorically."²¹

Perhaps Professor Parson does not necessarily disagree about my characterization of those whom I refer to as apologists of terrorism. But we do seem to disagree about the justification for inflicting substantive harm or threatening to do so against "alleged enemies." My sense is that whether we are justified in using violence, be it political or otherwise, against an "alleged enemy" outside an interstate armed conflict zone would depend to large extent on the following considerations. One would need to determine whether the so-called alleged enemy is a true enemy, or I simply believe him to be so. I can always claim that a person or a group is my enemy, but I could simply be mistaken in my belief. For example, I might be using such a designation for spurious partisan purposes. I will need to demonstrate that the alleged enemy actually harmed me or others who did not deserve to be so harmed, or there is an imminent and credible threat that my enemy is willing and able to seriously harm me or others now or in the foreseeable future. For example, a thief could point a gun at me demanding that I give him my wallet or else he would kill me. In this case, he is an objective or real enemy because neither do I deserve to be so threatened nor he deserve my money. Hence, I have a right to defend myself against his unjustified threat.

Next, Professor Parson argues that since discussions about terrorism are mostly discussions about fundamental moral disputes, he is skeptical about "categorical condemnations of terrorism."²² He offers instead to focus "on the family of activities most associate with terrorism."²³ His is a worthwhile suggestion that it is recognized in international law (IL). As of today, there is no universally agreed definition of terrorism in IL, but there are legal instruments against specific acts of terrorism many of which have been signed and/or ratified by members of the UN. The main problem with this piecemeal approach is that it is biased in favor of states and against nonstate actors. Still, it is better than having no international instruments at all.

²¹ Ibid., p. 32.

²² Ibid., p. 33.

²³ Ibid., p. 33.

Critics of government officials who represent the interests of powerful states question how these officials designate certain groups as terrorists. They frequently argue that government officials sometime ignore or simply downplay legitimate claims of nonstate actors by selectively defining the term “terrorism” in a negative sense as an illegal act committed only by nonstate actors. And yet, because states or those acting on their behalf have deliberately killed or seriously harmed far more objectively innocent noncombatants than nonstate actors have done, their view of terrorists and terrorism appears to be one-sided. Regrettably, such a one-sided view of terrorism prevails in domestic and international law.

Professor Parson kindly acknowledges my five different conceptions of the term “innocent”: in mens rea sense, in a Good Samaritan sense, in a blameless sense, in a harmless sense, and in a guiltless sense. And yet, he is not convinced that “innocence separates noncombatants from combatants so neatly.”²⁴ In addition, he underscores that “in accordance with conventional law and military ethics, typical combatants are innocent in a stronger sense than Medina recognizes.”²⁵ That might be the case but at least according to LOAC combatants by virtue of being combatants have no legal immunity. One could argue, however, that sometimes combatants might be conceived of as having moral immunity. That is, in war those who are on the right ought not to be targeted. The problem with this position is that frequently in war is rather difficult to determine who is on the right.

Professor Parson concludes his interesting and worthwhile comments claiming that he supports the soft-core rather than my hard-core opposition to terrorism because he thinks that “hard-core criticisms are on shaky footing.”²⁶ My sense is that if one accepts Professor Parson’s view that the use of the term “terrorism” is embedded in fundamental moral disputes and hence the term is necessarily partisan, his acceptance of a soft-core opponent’s view of terrorism, being also partisan, is also on “shaky grounds.” I argue that such a view is on shaky moral grounds because it allows for justifying, in the strong sense of justification as having not only a right but also a

²⁴ Ibid., p. 35.

²⁵ Ibid., p. 35.

²⁶ Ibid., p. 40.

duty, to deliberately kill few objectively innocent people to save the life of many objectively innocent ones. I find such justification morally questionable.

Lastly, Professor Parson offers two more plausible objections. First, he is skeptical whether we can offer a non-question begging definition of terrorism. I agree with his skeptical objection. However, in virtually any substantive controversy in philosophy, especially those dealing with moral and political issues, we will be begging the question at some point in the argument. So, I do not think that disagreements about the nature and justification of terrorism is the exception but rather the rule of moral and political arguments. And second, he is uncertain that “noncombatants are significantly more innocent than typical combatants.”²⁷ I am puzzled by his last claim. While it is true that oftentimes noncombatants might be as harmful and hence as non-innocent as combatants are, it also true that combatants by the role they play consensual or obliged are in the business of war. Therefore, they are non-innocent in a substantive way, namely they are in principle harmful to their enemies.

3. Reply to Professor Theresa Fanelli’s comments

I am impressed and thankful to Professor Fanelli for her accurate description of my argument. I think she raises a question that is crucial for assigning responsibility and liability to those who might engage in political violent acts, such as terrorism, but do not seem to be moral agents proper, such as children and mentally challenged individuals. This is an important issue that unfortunately I do not address in my work, but it is certainly worthwhile exploring it in our present context.

Professor Fanelli asks the following question: “What would the author’s reflections be regarding the importance of the mental capacity or incapacity of the actor as it relates to the many variants of definitions, explanations, even oppositional arguments on terrorism presented in the book?”²⁸ Let me underscore that those who engage in

²⁷ Ibid., p. 40.

²⁸ Theresa Fanelli, “Comments on Vicente Medina’s *Terrorism Unjustified*”

counter-terrorist activities are likely to be faced with a dilemma of whether to kill or seriously harmed individuals who strictly speaking cannot be conceived of as responsible moral agents. Still, the same individuals might present a direct threat, an innocent or an objective involuntary threat to others who do not deserved to be so threatened, including those who engaged in counter-terrorist activities.

Professor Fanelli raises a pointed question: “If the mental capacity or state of the actor(s) is such that the actor cannot predict the consequences of his/her actions, or in many cases understand the consequences of his/her actions, under which category would they fall?”²⁹ In other words, if the person who is presenting the threat to others who do not deserve to be so threatened is not strictly speaking a moral agent, should he or she be considered a terrorist? Also, it is important to explore the extent to which they might or might not be conceived of as responsible or liable for their violent actions.

I define terrorism as “the use of political violence by individuals or groups who deliberately or recklessly inflict substantive harm or threaten to do so on those who can be conceived of as innocent noncombatants beyond reasonable doubt, aiming at influencing a domestic and/or an international audience” (p. 59). For the sake of argument let us suppose that members of Al-Qaeda strapped a mentally challenged ten years old girl with a suicide vest full of explosives and instruct her to detonate her vest during the rush hour in Penn Station, New York City, to try to kill and seriously harmed as many innocent people as possible. Let us also suppose that she voluntarily walks into Penn Station ready to detonate her vest. Professor Fanelli asks the following pointed question: “For children or culturally deprived individuals who do not develop any set with which to reason and predict the consequences of their actions, is it fair or accurate to then place any of these labels onto them, be it as a “terrorist” or “combatant”?”³⁰

My answer to the above question might seem puzzling to some. While the above-mentioned mentally challenged ten years old

Reason Papers Vol. 41, no. 1 (Summer 2019), p. 9.

²⁹ *Ibid.*, p. 9.

³⁰ *Ibid.*, p. 9.

girl does not strictly speaking “deliberately” choose to inflict substantive harm on typically innocent noncombatants, her act could be classified as a reckless criminal act. In addition, someone could underscore that her reckless act is “politically motivated.” Evidently, she is not the one who is political motivated because she is mentally challenged, but the Al-Qaeda acolytes who duped her into carrying out the reckless act are politically motivated. They are simply using her only as a means to carry out their criminal act. Hence, under my definition of terrorism, while she lacks mens rea or criminal intent, her act could be sensibly classified as a terrorist act. But Professor Fanelli’s concern is whether we can reasonably and fairly classify her as a “terrorist” with all the legal implications that such a label carries with it.

My view is that given the characteristics of the act already mentioned, her action could be conceived of as a terrorist act, but she is certainly not a “terrorist” in the sense that we ascribe this term to a typical adult person. What follows from this distinction? First, that not all acts labeled as terrorist acts are committed by terrorists proper. Like in the case already described, the mentally challenged ten years old girl is engaged in a terrorist act, but she is not a terrorist. She is rather a victim of terrorism too. Second, since she has been manipulated by some Al-Qaeda rank-and-file acolytes to carry out the terrorist act, she is not a responsible moral agent and should be looked upon as a victim of terrorism rather than as a perpetrator of a terrorist act. She is just the means used by the Al-Qaeda acolytes to try to commit a politically motivated violent act for which they rather than her are responsible for. And third, even if she has been persuaded to voluntarily carry out such a violent act, she seems not to be morally responsible for this act because she is mentally unfit. If so, the law needs to be lenient rather than harsh on hers and similar cases. The same reasoning applies to the regrettable phenomenon of child soldiers in different parts of the globe.