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Author(s): Noam J. Zohar

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COLLECTIVE WAR AND INDIVIDUALISTIC ETHICS Against the Conscription of “Self-Defense”

NOAM J. ZOHAR
Shalom Hartman Institute and Hebrew University, Jerusalem

IS WAR EVER MORALLY JUSTIFIED? Any theory of a just war must, of course, define the conditions mandating war in terms of state behavior. But this is not enough, for it is morally obtuse to offer an answer to the question “When may we fight the enemy state?” without also focusing explicitly on the question “How can we kill all these (enemy) persons?”

A clear indication of suppressing this latter question is adherence to a doctrine of “total war.” Where the specter of an “enemy collective” has completely displaced attention to individual persons, then indeed justification appears to be required only for the state act of going to war without further (moral) regard for the means and the cost in human lives.

The alternative to “total war” is a war ethic, which distinguishes between permitted and prohibited bloodshed. The fundamental distinction of the war ethic (or “war convention”)¹ is between enemy soldiers and civilians. Its primary tenet is that, unlike the killing of soldiers in combat, killing enemy civilians is no better than ordinary murder. Thus the problem of justifying bloodshed in battle—which is the focus of this discussion—is significantly two-sided, for, on the terms defined, an account of the license for killing soldiers is worth having only if it does not, by the same token, allow the slaying of civilians.

Some initial formulations of the war ethic in contemporary discourse dubiously employed the term “innocent” in defining the class of protected

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persons (i.e., civilians).² Taken at face value, this not only implies that some guilty civilians might be legitimately killed but also—more problematic—brands all the enemy soldiers as guilty. As long as the objective is to oppose shooting at civilians, proclaiming that they are “innocent” seems straightforward enough; truly they do not deserve to die. The corollary of this is, however, that the “noninnocent” soldiers somehow *deserve* their deaths, but what can warrant such a sweeping imputation?

The point is that, even if we suppose the enemy state guilty of aggression—which is, presumably, why our state is justified in its war effort—many (or even most) of the enemy soldiers *as individuals* cannot necessarily be saddled with the blame for that aggression. Frequently, they believe sincerely that it is their side that is the victim of aggression, its war thus being a justified defensive campaign. As Michael Walzer emphasizes, the function of the war convention is to bind those conducting warfare independently of the question of which side is collectively in the wrong regarding the war itself.³

But if even the enemy *soldiers* are mostly innocent, can there be any justification for killing them—and, by implication, for the conduct of any war? Finding no good answer, some have endorsed pacifism. Others have asserted that the crucial distinction of the war ethic can rely on nothing but convention, on the force of tradition.⁴ Still others, seeking for this convention some grounding in our everyday moral judgments, have turned to the context of self-defense. For these thinkers, analysis of individual self-defense has seemed to promise moral illumination of the war ethic by connecting it to an “everyday” type of situation where necessity alone appears to justify killing.

One attempt along these lines has been R. K. Fullinwider’s discussion of a man driven to murder by mobsters’ threats. Supposedly, the coercion renders him innocent; yet his prospective victim is clearly permitted to act in self-defense and (if necessary) kill him.⁵ This suggests a similar account regarding enemy soldiers, who attack us under the threat of court-martial; despite their “innocence,” they can be destroyed for our self-defense. But the war ethic significantly distinguishes soldiers following legitimate orders from a person who is merely coerced to comply. Moreover, it seems that such threats could at most offer an *excuse* rather than a true justification.⁶

This approach has been of late refined and defended in detail by Judith J. Thomson.⁷ Through a critique of her reasoning, I argue for an alternative view of individual self-defense, one which refuses to condone elimination of blameless people. This in turn undercuts the attempt to justify the war ethic in terms of individual morality. In conclusion, I offer an alternative moral analysis of the war ethic, in terms of a compromise between individualist and collectivist views of human reality.

I. CAN THERE BE AN INNOCENT KILLER?

Thomson depicts a hypothetical case of a man pushed off a high cliff, who will nevertheless be safe because he is about to fall on me—whereby I shall be crushed to death. May I save myself by deflecting him to his death? She thinks that I can, under the principle permitting self-defense, formulated in terms of mutual rights. He is about to “violate my right that he not kill me,” which prospect voids his right that I not kill him. This case is meant to show that self-defense can be asserted even against an “Innocent Threat” (as Thomson captions this case) and thus lays the foundation for an analogous account of the permissibility of killing enemy combatants.

Thomson realizes that some will object, claiming that the falling victim cannot properly be perceived as “about to kill me.” Against this, she points out that were it an inanimate thing that fell on a person we might quite naturally say “the piano killed him.” But this is nothing more than an argument from a linguistic ambiguity, which is readily clarified once we extend the piano analogy to the discussion of rights and their violations.

Do I have a right that the piano not kill me? And is the piano therefore, in falling toward me, about to violate this right of mine? Clearly, such talk is quite silly. A piano cannot commit any violation, precisely because it is an object and not a moral agent. By the same token, I can hold no rights against the piano, including a “right that it not kill me.” This does not mean that my life has no value or that I deserve to be killed by such an accident. Not all the humanly significant aspects of the situation pertain to rights. But any rights I have can only be understood as relating to the actions of other people. “Rights” belong to discourse on moral relationships and can be held only against moral agents.

To return to the “innocent threat” of the falling person: the mass of a human body is also not a moral agent. So I can have no right that the falling body not kill me, although it will be tragic if I am killed by it. And if the person, as moral agent, is not about to violate my right to life, then it is misleading to say that he is “about to kill me.” We must conclude that self-defense cannot serve as the grounds for permitting the deflection, unless we are prepared to broaden the notion of “self-defense” to permit any destruction of another to buy one’s own life.

Well, should we perhaps contemplate such a broadening? Suppose a killer is brought to trial and seeks to show that he was “coerced” to murder by a threat of death. If substantiated, this would perhaps extenuate his guilt, but ought it be accepted as a *justification*? In most modern jurisdictions, duress cannot be pleaded as defense on a charge of murder. Some might doubt the soundness of this as legal policy, but my concern here is not with legal culpability but with moral judgment. A justification for self-defense must

stop well short of a general license to save one's life by *substituting* the death of another. Otherwise, we should by the same token have to condone throwing someone out of a lifeboat to make room for oneself or even killing humans for food to avert starvation (two extreme instances of what Thomson rightly calls the "No Cases").

Killing can never be morally justified by the result alone—that a life is saved, for just as surely a life is lost.⁸ Something more is required to tip the scales: a minimal measure of moral guilt (on the part of the aggressor), which distinguishes self-defense from mere substitution.

How is it, then, that we are moved by Thomson's hypothetical case to consider killing the "Innocent Threat" in order to survive? Wherein lies the rhetorical power of this example, in which we hesitate to demand—even as a moral ideal—that one stay put and be crushed rather than save oneself by killing another? I think the answer far from simple and am (unlike Thomson) unsure about the proper behavior in such circumstances. Yet what complicates matters is an issue quite unrelated to self-defense, which is brought out if we consider an alternative option: that of simply moving out of the way.

Supposing that I can and *may* simply move out of the way.⁹ Is there a significant difference between moving away and actually deflecting the person's fall? I believe it is this doubt that causes our hesitation here rather than any unsound allegation that the falling person is, in the involuntary fall of his body, about to "kill" me. "Self-defense" is a justification for *killing* an aggressor, whereas deflecting the victim here is justified—if at all—only insofar as it is seen *not as killing* him but as merely avoiding sacrificing oneself to save him. This is not an instance of self-defense, and it thus fails to substantiate Thomson's notion that self-defense can include lethal action against a person who is an "innocent threat."

II. MINIMAL GUILT: MADMAN AND CHILD AS "AGGRESSORS"

I have argued that it is only *some measure of moral guilt* that brands one as an aggressor who can be killed to save the prospective victim. To illuminate this, let us look at cases in the "gray range," where it is hard to say whether a person is acting as a moral agent. May I defend myself against an assault by a madman if I can only stop him by killing him? This is Thomson's "innocent aggressor" case, regarding which she asserts (correctly, I think) that fewer would dispute her judgment, which allows self-defense despite the aggressor's (purported) innocence.

But on what basis is this innocence proclaimed? It is difficult enough (though not, I believe, impossible) to present a sound argument for the insanity defense in criminal law. Such an argument might take the form of asserting a deficiency in the capacities underlying human agency:¹⁰ a lack of sufficient understanding and/or emotional control. But although this might well justify acquittal in a criminal court, it is far from establishing complete moral innocence.

Thomson's stark description of the aggressor as "mad" is too imprecise to facilitate a moral judgment. If I am about to be exploded by an epileptic clutching a lever in a seizure, this seems not very different from the tragedy of being crushed by a falling victim. If, on the other hand, I am attacked by a person "unable" to stand my appearance, then—even if it can be shown that the aggressor truly lacks the normal capacity for restraint and could therefore not be found criminally culpable—I could well be justified in exercising self-defense, for the aggressor is not totally innocent.

Once we do not insist that the aggressor's guilt be established beyond a reasonable doubt in the same manner required for a criminal conviction, the question arises, how low should the threshold be set? This question can perhaps be best addressed (following in the footsteps of a Talmudic discussion) by examining the issue of an attacking child.¹¹

Suppose I am attacked by a nine-year-old waving a gun. Should I refrain from defending myself, if I can (only) do so by killing the child, because this minor is (admittedly) not capable of full criminal guilt? If I have any doubts about this, they ought to be allayed by reference to the above discussion. The crucial question is this: Is there anything significant to tip the scales between the child's life and my own? Well, this is certainly a bad child, who could—and should—avoid such evil behavior. It is hard to say what proportion of mature guilt can be attributed here, but this hardly matters: *some measure* of guilt is involved, and this is sufficient to tip the scales. The attacking minor's immunity is compromised by his guilt.

Would the same apply to a baby "attacking" its mother through endangering her life at birth? Obviously not. Nor, I think, can we impute any guilt to a two-year-old waving a gun. Between such clear innocence and the significant guilt of an older child there is a continuum, somewhere along which a threshold of minimal guilt is crossed.

The notion of minimal guilt requires, of course, a fuller elaboration than I have provided.¹² But in the context of the present discussion, it serves to illuminate the role of aggression in justifying self-defense. What is at stake is not an attribution of guilt such that would justify a death penalty (if such a penalty can be justified), for self-defense is not the administration of punishment; its legitimate goal is—to reiterate—saving the (prospective)

victim's life. The relevance of (the aggressor's) guilt is only in that it tips the otherwise balanced scales of "life versus life."

Yet even regarding a simple aggressor, Thomson denies the relevance of his or her guilt for permitting self-defense. She asks, "Who are you, private person that you are, to be dishing out punishment to the villainous for the things that they do?"—and she might have added, "Anyway, when ever is punishment meted out for something not yet done?" Indeed, it is clearly not the goal of punishment but that of saving one's life that defines self-defense. But the fact that the context is crucially different from that of a courtroom does not exclude the relevance of the aggressor's guilt. Rather, it is only the existence of some measure of guilt that labels an agent an "aggressor." The contrary idea that "self-defense" can be extended to permit eliminating an innocent party once he or she has been depicted as an "(innocent) threat" to my life dangerously perverts the moral character of this basic justification.

III. CAN "CAUSAL INVOLVEMENT" BE A (DECISIVE) FACT?

An understanding of "self-defense" purely in terms of self-preferment goes far beyond the traditional bounds of this justification. Such a view would put killing a vicious murderer on essentially the same footing as, say, killing someone to obtain her kidney (or indeed her flesh), where either is crucial for my survival. We need not dwell here on this view, for it has been consistently rejected by proponents of "self-defense" accounts of the war ethic. This could hardly be otherwise because the main point of the war ethic is to prohibit the pursuit of military advantage through killing noncombatants: it is precisely not a doctrine of self-preferment.

What thinkers like Fullinwider and Thomson have sought is an argument for singling out combatants, making it permissible to kill them qua *combatants* despite their innocence—not a license to kill all innocents. Seeking an analogy for this distinction from the realm of individual self-defense, Thomson argues for a crucial distinction between one who is a "threat," on the one hand, and a mere "bystander," on the other. As explained above, a person's being a "threat" in this fatal sense is not meant to necessarily involve any moral guilt or even agency. By what, then, is he or she set apart from the protected class of "innocent bystanders"?

Thomson's answer is that cases of (justified) self-defense are distinguished from cases of (impermissible) substitution by the presence of a decisive fact: namely, that the person whom I kill to save myself is causally

involved in my (impending) death. In application to the war ethic, combatants are meant to be covered by this description and noncombatants excluded. Against this, I argue in this section that a causal connection is not an objective fact but, rather, necessarily expresses a normative judgment. Whether or not a person is perceived as a (prospective) cause of my death depends on how the situation is judged and therefore cannot—on pain of circularity—serve as a basis for formulating such a judgment.

Suppose, for example, that I am attempting to flee from mortal danger—let us say, from someone shooting at me—and to do so must cross a certain bridge. Now suppose also that someone else is driving along the riverside in such a manner that her car will block my access to the bridge at the crucial moment. Is she “causally involved” in producing the threat to my life—and may she thus be killed (either by myself or by a well-motivated third party) if that is the only way to halt her? Several different tests might be proposed for determining the answer, with varying results:

1. *The “active/passive” test.* Is some (further) *action* on her part crucial for the finality of the threat? Well it is, for unless she continues driving, my route to safety will not be blocked. If this test is adopted, our judgment should be entirely different if she had parked there before the shooting began.
2. *The test of duty.* Does she have a duty to refrain from endangering me? Well, she surely *ought* to let me pass. Yet perhaps she is unaware of the surrounding drama; should this make a difference? Perhaps she is a callous and egocentric type, whose (unworthy) practice is to ignore the plight of others; it is only this quality that explains why she notices nothing while all the drivers around her blow their horns in a vain attempt to alert her. Or again, perhaps she could in no way conceivably know the grave significance of her car’s position. Does the question of her ignorance (and concomitant innocence) then determine whether she is “causally involved”?
3. *The intention test.* What if she is an accomplice of those shooting at me and is purposely cutting off my escape? It would surely be absurd to describe her as a “mere bystander”; yet in Thomson’s terms, it seems she is here no more “causally involved” than in a case of blameless ignorance.

Anyone familiar with the theory of tort law (or of criminal negligence) will immediately recognize the mazelike intricacies encountered once we set out to “describe” causal connections. Myriad things are each a necessary but insufficient condition for any result. The selection of one (or some) as the “cause(s)” for that result, relegating a host of others to the status of a “given” background, is never a purely factual determination. Causal attributions are, in H.L.A. Hart’s phrase, “ascriptive,” not descriptive: rather than reporting an “objective” sequence of events, they *ascribe* responsibility to an agent.¹³

Realizing all this, one could yet adhere to the standard of “causal involvement,” enhanced now by moral significance. The “innocent obstructor” would be distinguished from the “villainous obstructor”: only the latter can be legitimately seen as causally involved in the threat to my life. But this would be, of course, totally at odds with Thomson’s intent. The whole point in adopting the causality criterion was to find an objective way of distinguishing between those “innocent threats,” whom one could legitimately eliminate in self-defense, and others (equally innocent)—“bystanders”—who were to be immune.

The point in the above analysis was to show, on the contrary, that no recourse can be had to a “neutral factuality.” Rather, on all accounts, it is the moral guilt of the aggressor that defines him or her as such, regardless of the technicalities of the situation. Where such guilt exists, it makes no difference whether its owner is shooting at me, blocking my escape, or cutting the telephone lines to prevent me from summoning help: each of these is a legitimate target of my action in self defense (and, as Thomson rightly adds, of similar action by a third party). Where I am, however, endangered by a thoroughly innocent person, no action in “self-defense” is permissible. Whether the danger results from that person’s blocking my escape, falling on me, or driving over me, there is nothing—where guilt is excluded—to tip the scales of “life versus life” in my favor.

IV. NONCOMBATANTS, CAUSALITY, AND INNOCENCE

To further illustrate the feebleness of “causality” as a foundation for moral guidance, let us look at the very norms for which the doctrine of “innocent threat” was meant to illuminate: those of the war convention. Attacking noncombatants either separately or in conjunction with an attack on military targets has frequently tempted military strategists. In ancient times, the most common mode for this was the siege; in the age of aircraft, we think primarily of bombing.

Thomson applies the causality criterion to two versions of bombing noncombatants: terror bombing and strategic bombing. The first term refers to bombing civilian targets in themselves, an action intended to force the enemy to yield. Let us suppose that our war against this enemy is wholly justified, that it is being conducted in defense against outright aggression. Still, such bombing is prohibited, for it is not these civilians who are threatening us but only the soldiers, and it is thus the latter alone whom we are permitted to kill.

But what about civilians who happen to be located near, say, a munitions factory, which is itself part of the enemy war effort, that is, part of the aggressive threat? If we cannot hit the factory without also killing such noncombatants, Thomson holds to a moral injunction that would seem to prohibit such strategic bombing.¹⁴

I shall have more to say below about the moral dilemma posed by such a situation. At this point, let us concentrate on the reason offered for the distinction between the factory workers and the surrounding civilians. Unlike the munitions workers, the neighboring civilians have not lost their right to life because they are not part of the threat against our lives. All these people might be morally innocent, but by Thomson's understanding of "self-defense," the munitions workers—like the enemy soldiers—are perceived as causally involved in an "Innocent Threat" and can be legitimately eliminated. The neighboring civilians, on the other hand, not being part of the threat, are properly perceived as *noncombatants* and are immune.

But could not the Air Force planners press a contrary claim, based on an alternative ascription of causal responsibility? First, let us suppose that the noncombatants had *volunteered* to come and live near the military target so as to "shield" it from air attacks. Then, insofar as the military target is (part of) a threat, these noncombatants are no less "causally involved" in that threat than are the antiaircraft defenses surrounding the target. As long as these obstacles bar us from destroying the target, it is (also) because of them that it continues to endanger us. Moreover, this is true even if the people did not choose their ill-fated location: their very presence, by making us hesitate about bombing the target, contributes directly to the threat.

Well, says the Air Force, people have made this case and are urging us to go forward with such bombing. What could we answer them? Pointing to the "innocence" of the proposed victims is excluded because it has already been granted that even the enemy combatants are mostly innocent. In fact, if ascription of "causal involvement" alone could justify killing in "self-defense," it becomes all too easy to justify not only strategic bombing but even terror bombing: all it takes is some imaginative thinking. Suppose the enemy soldiers believe (falsely, let us say) that we are the aggressors; then surely their prime motive for fighting us is a commitment to protect their families. Because it is not guilt but causation that counts, it again should make no moral difference whether the wives and children are cheering them on or clamoring for surrender: in any case, their very existence is crucial to the continuance of the threat. Alive, these spouses and children contribute to the threat; their death (by breaking the military will to fight) will immediately remove it. Being thus "causally involved," how are they to escape fatal classification as "innocent threats"?

The plausibility of the naive definition of noncombatants as “not causally involved” in the threat (posed by their compatriot combatants) is undermined by contemplating alternative causal ascriptions. Indeed, some noncombatants—for instance, bakers of bread—are, even in a more conventional sense, causally involved in sustaining the military threat. But the whole point of noncombatant immunity is to protect classes of persons from attack precisely where that would bring military advantage.

So much for the causality criterion as key to the distinction between combatants and noncombatants. But if killing enemy soldiers is not to be justified in terms of eliminating “innocent threats,” then on what grounds can it be justified, while maintaining the prohibition on killing noncombatants? Is there any moral force to the expectation that armies should fight within certain bounds? As mentioned above, there are those who believe that the expectation itself, embodied in tradition, is the best authority we can expect. The war convention in itself is seen as constituting a moral tradition, whose distinctions cannot and need not be further justified. Against this, I shall—in the concluding section—suggest why this tradition, at least in its essentials, is not morally arbitrary.

V. INDIVIDUAL AND COLLECTIVE: DUAL REALITY AND THE WAR CONVENTION

We have seen that an account of permissible and impermissible killing in warfare cannot draw on a direct analogy to private self-defense. Where the basic analogy to self-defense does function is on the collective level, justifying defensive war itself despite its necessary cost in innocent lives. Yes, we speak of self-defense—but it is a collective that defends itself against attack from another collective rather than simply many individuals protecting their lives in a set of individual confrontations.

For defensive war, as for private self-defense, the moral sanction relies on a crucial tipping of the scales. But whereas in self-defense this requires a minimal measure of individual guilt, in warfare the issue is and must be weighed on the great collective scale. Trying to make sense of warfare as though it were an aggregate of individual confrontations can only produce moral vertigo. The enemy soldiers are not all murderous aggressors; judged as individual persons, only some of them can be killed: the machinating leaders and generals and those officers and soldiers who knowingly participate in their country’s criminal aggression. Only viewing it as a collective aggressor can sanction the very killing of combatants, despite the impossi-

bility of determining their individual guilt or innocence, for in fact we cannot act against the enemy as a collective without killing particular persons.

Lest this argument seem trite, it must be clearly distinguished from the all-too-common admission that (in Michael Walzer's words) war always takes place "under a cloud," forcing us, as it were, to act immorally. Adherents to this view hold that, because notions of individual self-defense cannot be made to apply to warfare, we should see collective self-defense as dictated by a sort of *amoral* (if not *immoral*) imperative. This approach implies a commitment to moral individualism: what is considered real—and therefore deserving of moral concern—is the human individual; collectives, lacking separate reality, are denied any separate moral standing. Moral individualism most plausibly flows from ontological individualism.

However, thinking about war, and international politics generally, can easily—and, I think, properly—generate serious doubts about ontological individualism. The reality of international confrontation is not adequately described by reduction to individualistic terms. We are not only individuals facing other individuals but also a nation confronting another nation.

Now in discussions of the methodology of social science, these two modes of describing human realities are usually taken to be, on the fundamental level, mutually exclusive. Proponents of methodological individualism deny that collective "entities" have any real existence: their description can (and, in principle, should) be reduced to that of relationships between individuals. The opposing school adheres, on the contrary, to the primacy of sociocultural reality, in terms of which alone can human individuals be described.¹⁵

Actually, even some opponents of methodological individualism tend to subscribe to moral individualism. They often appear willing to grant that, although (ontologically) collectives do exist, their actions and relations qua collectives are (at best) morally neutral. Moral analysis is supposed to proceed along the individualist groove alone, subjecting collective confrontation to judgment *solely* in terms of individual morality. The cause of this inconsistency is, I suspect, that—accepting the basic dichotomy—they find the alternative far worse: namely, a collectivist morality that would reduce the value of the individual to his or her contribution to the nation.

But is this radical dichotomy—presupposed in the impassioned and enduring debate—truly valid? Is it true that the ontologically primary entity must be *either* the individual *or* the collective?

With respect to entities far less complex than a human society, it has been convincingly argued that the whole, although not identical to the sum of its parts, is ontologically on a par with them. D. Wiggins, in his provocatively titled essay "On Being in the Same Place at the Same Time,"¹⁶ discusses the simple example of a jug and its constitutive parts. The jug is one object and

its clay particles a particular set of objects; that they are not identical to each other becomes clear once we contemplate the substitution of a few particles.¹⁷ For the purpose of describing the reality before us, neither has any claim to primacy: the two entities simply coexist.

Going beyond mere description, we might try to trace an etiology: in the case of an artifact (like the jug), we easily know that the particles antedate the constructed object. But regarding a nation, no comparable knowledge is readily available. No single perspective yields a picture of the dual realities before us: a set of individuals, on the one hand, and a nation (or collective), on the other. If our moral thinking is to relate to the real world it cannot but share this dual perspective.

Against this, it might be argued that “collectives”—whatever their ontological status—are in fact ephemeral and therefore cannot be accorded moral status on par with that of individuals. Do not nations suddenly come together, swiftly uniting myriad individuals into a “collective”? And do they not also disintegrate into smaller collectives, with each then claiming for itself the same ontological and moral status? The individual persons seem to be the only constant reality, constituting now one gallery of nations, now another. The identity and boundaries of national collectives are clearly contingent, depending on convention rather than on nature. It is not even easy to produce a clear-cut definition of a “collective,” by which we might readily distinguish true claimants to the title from, say, mere clans or gangs.

The simple naturalness of individual existence might, however, be more apparent than real. Work by E. Zemach,¹⁸ D. Parfit,¹⁹ and others focusing on issues of personal identity and individuation has cast doubts on the ontological standing of the “individual self.” Change and reconstitution over time are the fate not only of nations but also of persons, and critical reflection reveals the difficulties in positing a unified and constant “individual person.” The individual might well be no more a “natural given” than is the collective, his or her existence as a unified entity being no less constructed by convention.

Now these thinkers tend to believe that undermining the ontological status of personal identity would herald great moral advances—for example, the dissolution of the logical basis for selfishness. Against this, it has been argued that the conceptual conventions by which we think of ourselves and of each other as persons are too deeply entrenched and/or too precious to be so readily overthrown.²⁰ With this I definitely agree: fundamental concepts are not set adrift through recognizing that their moorings are cultural rather than natural.

My purpose here, however, is not to offer the abandonment of familiar individualism in favor of novel concepts of collectivity. On the contrary, I

aim for recognition of conceptual foundations long inherent in our modes of thought and action. Because individualism cannot claim ontological supremacy it should not eclipse alternative perspectives in our view of human reality.

If the individual and the collective are *both* taken seriously as facets of human existence, then this dual reality properly yields a dual morality. Humans relate to each other as individuals, and these relations are governed by individual morality. Humans also (exist, and therefore) relate to each other as collectives, and these relations are governed by collective morality. In fact, these two modes of relating are coextensive, producing conflicts between equally valid moral demands.

The point is that the imperative of collective self-defense is not some alien intrusion tragically compelling us to compromise our moral standards. Rather, what is involved is a conflict between opposing moral imperatives. It is the striving to accommodate—however partially—both moral perspectives,²¹ which, above all, give moral force to the war convention.

Instead of trying to force all aspects of war into a false harmony with individual morality, the war ethic effects a *moral* compromise—giving some weight to each of the incompatible descriptions. It guides us to regard some members of the enemy society solely as individuals while subsuming others under their collective identity as “the enemy people.” The key factor is participation: combatants are those marked as participating in the collective war effort, whereas the rest of the enemy society retain their exclusive status as individuals.

A somewhat similar intuition has found expression in applications to dilemmas of warfare—and to those of strategic bombing in particular—of the “double effect” doctrine. This doctrine, worked out in detail in the Catholic tradition, allows a distinction between two effects of an action, one direct and the other indirect. If the direct effect—that is, the one primarily intended (such as bombing the factory)—is legitimate, a bad indirect effect (such as the deaths of noncombatants) can be tolerated.²² Yet “double effect” justifications ultimately depend on choosing one description over another: we are not “bombing the noncombatants” but merely “bombing the factory with collateral damage to noncombatants.” The very plausibility of such redescriptions rests on a recognition of dual *reality*, which forms the basis for a dual *moral perspective*.

It is worth noting that this double perspective is indispensable for understanding central ethical issues not only in warfare but also in several other realms. This claim calls, of course, for some elaboration; in the present context, I wish merely to illustrate it by mentioning two such issues. First, concerning peacetime international ethics, it is extremely difficult to formu-

late coherent demands for international distributive justice without reference to rights of collectives. Second, within societies, the moral force of demands for "affirmative action" depends entirely on the notion that there are moral claims and obligations between *groups*. If fairness is owed only to individuals, how can anyone request special preferment as a member of a particular group? Indeed, "affirmative action" seems to presuppose not only the moral standing of collectives but their continuance across generations.²³

VI. CONCLUSION

Moral deliberation about international relations in general, and about the conduct of warfare in particular, must include explicit recognition of the moral status of collectives. Analogies that proceed directly from relations among individuals to the realm of relations among states, without emphasizing the two disparate perspectives involved, produce more confusion than illumination. It is only when the individual and collective perspectives are recognized as distinctly valid aspects of our ethical view that we can appreciate the moral force of the war convention, without a dubious conscription into moral service of individual self-defense.

From the individual perspective, even the enemy soldiers ought not to be killed. The very license for killing them derives from a compromise, which subsumes them—the primary participants in the enemy war effort—under the collective identity of "aggressors." Collectively, we must and may act against the enemy war effort, despite the fact that this involves destroying innocent lives. It is by virtue of a similar compromise that we might sometimes also be justified in conducting strategic bombing. Terror bombing, however, in erasing all distinctions, abandons the individual perspective altogether. Abrogating the war convention, it violates—under the banner of total collective confrontation—the crucial commitment to the individual moral perspective.

As long as we maintain—against this—the critical distinction captured and fostered by the war convention we preserve the dual character of our moral vision. Recognizing the collective perspective, the convention allows that some innocent lives can be destroyed in war—within the circumscribed scope of collective confrontation. But condoning the killing of innocents outside this scope amounts to a total abandonment of the individual perspective, whereas remaining true to our (dual) human reality requires continuing to abhor murder—even in the midst of war.

NOTES

1. I use these two terms interchangeably; for the difference between their precise connotations, see section V of this essay.
2. See E. Anscombe, "War and Murder," in Walter Stein, ed. *Nuclear Weapons and Christian Conscience* (Merlin Press, 1961; Cardinal Books, 1965), 45-62; J. C. Ford, "The Hydrogen Bombing of Cities," in W. J. Nagle, ed., *Morality and Modern Warfare* (Baltimore, 1960), at 98.
3. M. Walzer, *Just and Unjust Wars* (Basic Books, 1977), at 127.
4. See, e.g., G. I. Mavrodes, "Conventions and the Morality of War," *Philosophy and Public Affairs* 4 (1975): 117-31. For a systematic argument regarding the significance of tradition in international ethics, see T. Nardin, "Ethical Traditions in International Affairs," in T. Nardin and D. R. Mapel, eds., *Traditions of International Ethics* (Cambridge University Press, 1992).
5. See R. K. Fullinwider, "War and Innocence," *Philosophy and Public Affairs* 5 (1975): 90-97.
6. I say a bit more on this below in section I.
7. Judith Jarvis Thomson, "Self Defense," *Philosophy and Public Affairs* 20 (1991): 283-310.
8. The Talmud tells of a man who approached a fourth-century sage, relating his predicament: "The master of my town has said to me: 'Go kill so-and-so; if you don't, I shall kill you!'" The sage replied, "Let him kill you and do not kill. Who is to say that your blood is redder—perhaps his blood is redder?" (Babylonian Talmud, Sanhedrin 74a).
9. This itself requires some discussion. The issue might be thought to hang on whether that would constitute killing him or merely letting him die, for surely I have no duty to sacrifice my life for him any more than I have a duty to volunteer to get out of a lifeboat to make room for someone else. Hence it would seem that just as I would have no duty to move in under the trajectory to cushion his fall I equally have no duty to stay put and do the same. Yet is it not true that, in the second case, because if I do nothing he will be saved, moving away amounts to killing him? I think this is a misstatement of the case, in that it disregards the indeterminacy of outcome where human choice is involved. The predictive "description," which states that "he will fall and be saved," depends on the assumption that I will not move—which is, as long as I am debating my decision, an unwarranted assumption. Unless I have a duty to save him, I retain my freedom to move, so, assuming I do that, the situation can equally be described as "he will fall and die." No trick of "neutral description" can substitute for taking a moral stand. What matters morally is not some technical contrast between moving and freezing but the boundaries of one's duties, which define the scope of liability for omissions.
10. See, e.g., Joel Feinberg, "What Is So Special About Mental Illness?" in his *Doing and Deserving: Essays in the Theory of Responsibility* (Princeton, 1970), 272 ff.
11. The Talmud (Sanhedrin 72b) concludes that an attacking minor can be killed in self-defense, whereas a half-born baby cannot be killed to save its mother. For a detailed discussion, see my "Killing a Rodef," *S'vara* 1 (1990): 55-58.
12. One crucial and intriguing question is that of holding a person culpable for inadvertent actions or consequences, such as those involving some degree of negligence. For an illuminating analogy, we might look at the debate among legal theorists about "strict liability" in the contexts of criminal negligence and of tort liability; see, e.g., G. P. Fletcher, "The Search for Synthesis in Tort Theory," *Law and Philosophy* 2 (1983): 64-88.
13. H.L.A. Hart, "The Ascription of Responsibility and Rights," *Proceedings of the Aristotelian Society* 49 (1948-9): 171-94. See, further, J. L. Mackie, "Responsibility and Language,"

Australasian Journal of Philosophy 33 (1955): 143-59; and J. Feinberg, "Action and Responsibility," in M. Black, ed., *Philosophy in America* (London, 1965), 134-60.

14. In both types of bombing, the civilians (depicted, for emphasis, as children) are only bystanders, and killing them cannot be justified in terms of self-defense. The sole justification (if there is one) for such strategic bombing might stem from the extremely high stakes in war—and these, Thomson believes, might equally justify terror bombing. Strangely, Thomson ("Self Defense", at 297 n. 11) attributes this view to Michael Walzer; in fact, a major theme of his *Just and Unjust Wars* (Basic Books, 1979) is, quite to the contrary, a passionate defense of the war convention and a condemnation of attacking noncombatants. True, Walzer is prepared to concede exceptions to the war convention in circumstances of "Supreme Emergency" (chap. 16, 251-61), but this should not be confused with the grounds for permitting strategic bombing.

15. For a short survey of this debate, see I. C. Jarvie, *Concepts and Society* (London, 1972), appendix: "The Methodological Individualism Debate," 173-78.

16. See *Philosophical Review* 77 (1968): 90-95.

17. The point is that the jug retains its identity through some changes in its parts, whereas the set of parts does not; this recalls the ancient paradox of Theseus's ship. The major alternative to Wiggins's approach is known as the "relative identity theory," whose adherents would say not that we are facing two objects but, rather, that the vague object out there is *perceived* under various descriptions. See E. M. Zemach, "In Defence of Relative Identity," *Philosophical Studies* 26 (1974): 207-18. For an application of these considerations to the genetic identity of a human individual, see my "Prospects for 'Genetic Therapy'—Can a Person Benefit from Being Changed?" *Bioethics* 4 (1991): 275-88.

18. E. M. Zemach, "Looking Out for Number One," *Philosophy and Phenomenological Research* 48 (1987): 209-33.

19. D. Parfit, *Reasons and Persons* (Oxford, 1984). The argument against a unitary self seems to hark back at least to Nietzsche; cf. T. B. Strong, *Friedrich Nietzsche and the Politics of Transfiguration* (expanded ed., University of California Press, 1988), 298-302.

20. See the various discussions of Parfit's *Reasons and Persons* in *Ethics* 96 (1986): 703 ff., especially that by S. Wolf, "Self-Interest and Interest in Selves," 704-20.

21. This is akin to the sort of conflict between *values* discussed by T. K. Seung and D. Bonevac in their "Plural Values and Indeterminate Ranking," *Ethics* 102 (1992): 799-813 (cf. esp. "The Indeterminacy of Values," 809 ff.). A conflict between two moral *perspectives* does, however, carry the basic disharmony a significant step farther.

22. Notably by Elizabeth Anscomb (cf. *supra* note 2). Insofar as "double effect" depends on distinctions of intention, I must side with Thomson's sharp criticism of the doctrine ("Self Defense," at 292-96). Walzer (*Just and Unjust Wars*, 151-59), continuing in a direction suggested by Anscomb, offers a somewhat different account of "double effect," emphasizing a requirement that the nonintentionality of the prohibited result (i.e., noncombatant deaths) be exhibited in a determined effort (to the point of taking risks) to prevent it. Such an effort is surely obligatory, and its lack would expose as hypocritical pleas of "military necessity"; yet I believe the permission to proceed—after all is said and done to save some noncombatants—with strategic bombing, which will doom others, must still be justified.

23. An illuminating instance of resistance to the collectivist view, in the cognate context of "cultural rights," is C. Kukathas's critique of W. Kymlicka's *Liberalism, Community and Culture* (Oxford University Press, 1989), "Are There Any National Rights?" *Political Theory* 20 (1992): 105-39. The entire debate, including Kymlicka's response (ibid., 140-46), is based on it being easily ceded that "it is the individual sentient being . . . whose welfare is the subject-matter of morality" (Kukathas, at 124).

Noam J. Zohar is Senior Research Fellow at the Shalom Hartman Institute in Jerusalem. He was trained in Judaic studies at Yeshivat ha-Kotel (Talmudic Academy) and received his Ph.D. in philosophy from Hebrew University, Jerusalem. Currently on leave from the Hartman Institute, he is working at the Institute for Advanced Study in Princeton, New Jersey and was Visiting Professor at the University of Pennsylvania (Spring 1992) and at Princeton University (Fall 1992). Recent publications are "Killing a Rodef," S'vara: Journal of Philosophy and Judaism 1 (1990): 55-58, and "Prospects for 'Genetic Therapy'—Can a Person Benefit from Being Changed?" Bioethics 4 (1991): 275-88.