

STATE TERRORISM AND COUNTERTERRORISM

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1. Introductory

When it first entered political discourse, the word “terrorism” was used with reference to the reign of terror imposed by the Jacobin regime—that is, to describe a case of state terrorism. Historians of the French Revolution have analyzed and discussed that case in great detail. There are also quite a few historical studies of some other instances of state terrorism, most notably of the period of “the Great Terror” in the Soviet Union.

In a contemporary setting, however, state terrorism is apparently much more difficult to discern. Discussions of terrorism in social sciences and philosophy tend to focus on non-state and, more often than not, anti-state terrorism. In common parlance and in the media, terrorism is as a rule assumed to be an activity of non-state agencies in virtue of the very meaning of the word. If one suggests that the army or security services are doing the same thing that, when done by insurgents, are invariably described and condemned as terrorist, the usual reply is, “But these are actions done on behalf of the state, in pursuit of legitimate state aims: the army, waging war, or the security services, fending off threats to our security.” In other words,

Throwing a bomb is bad,
Dropping a bomb is good;
Terror, no need to add,
Depends on who's wearing the hood.¹

As far as everyday discourse and the media are concerned, this can perhaps be explained by two related tendencies. One is the widely shared assumption that, at least normally, what the state does has a certain kind of legitimacy, while those challenging it tend to be perceived as the forces of disorder and destruction, engaged in clearly unjustifiable pursuits. The other is the double standard of the form “Us vs. Them.” In states facing insurgency, the general public and the media find themselves on the side of the state. This tends to affect the usage. An offshoot of this tendency is that when insurgents abroad are sponsored by our state, we do not call them terrorists, but rather guerrillas, freedom fighters, and the like.

The focusing on non-state terrorism in social sciences is given a different explanation: that whatever the similarities between state and non-state terrorism, the dissimilarities are more prominent and instructive. Walter Laqueur, a leading authority on the history and sociology of terrorism, tells us that the two “fulfil different functions and manifest themselves in different ways,” and that “nothing is gained by ignoring the specifics of violence.”² I am not convinced that this approach is to be preferred in social science;³ but be that as it may, it certainly will not do in philosophy. If some acts of state agencies are basically similar to and exhibit the same morally relevant traits as acts of non-state agencies commonly termed terrorist, that will clearly determine our moral understanding and evaluation of both. Thus philosophers have been less reluctant than sociologists and political scientists to recognize and discuss state terrorism.⁴

But the philosophical work on the subject done so far leaves room, and indeed suggests the need, for a typology of state involvement in terrorism, and a fuller statement of the argument for the claim philosophers sometimes make in passing that state terrorism is worse, morally speaking, than terrorism by non-state agencies. My

aim in this paper is to offer some comments on these two topics. In the light of these comments I shall then make a few remarks on counterterrorism. But I must start with a few words on the definition of terrorism.

2. What Is Terrorism?

I have argued elsewhere that, for the purposes of philosophical discussion, terrorism is best defined as the deliberate use of violence, or threat of its use, against innocent people, with the aim of intimidating some other people into a course of action they otherwise would not take.⁵

Defined in this way, terrorism has two targets. One person or group is attacked directly, in order to get at another person or group and intimidate them into doing something they otherwise would not do. In terms of importance, the indirect target is primary, and the direct target secondary. The secondary, but directly attacked target, is innocent people. In the context of war, according to the mainstream version of just war theory, this includes all except members of armed forces and security services, those who supply them with arms and ammunition, and political officials directly involved in the conflict.⁶ In the context of political conflict that falls short of war, the category of the innocent has similarly wide scope: it includes all except government officials, police, and members of security services.

What is the sense in which the direct victims of terrorism are “innocent”? They are not guilty of any *action* (or *omission*) the terrorist could plausibly bring up as a justification of what he does to them. They are not attacking him; therefore he cannot justify his action in terms of self-defense. They are not waging war on him, nor on those on whose behalf he presumes to act; therefore he cannot say that he is merely waging war. They are not responsible, on any plausible understanding of

responsibility, for the (real or alleged) injustice, suffering, or deprivation that is being inflicted on him or on those whose case he has adopted, and which is so grave that a violent response to it can be properly considered. Or, if they are, he is in no position to know that.

Notice the qualification: “real *or imagined* injustice, suffering, or deprivation.” This qualification is necessary because I am not referring to the innocence of the terrorist’s victims from a point of view different from, and independent of, that of the terrorist. Such an external approach makes for arbitrariness and talking at cross purposes. The killing of a certain politician can then be seen, and judged, as an act of terrorism by most of us, while its perpetrators can, in good faith, reject both the classification and judgment, and say that what he did was political assassination. For most of us, although perhaps not subscribing to the politician’s policies, might deny that they were so extremely unjust or otherwise morally intolerable as to make him deserving to die on account of them, while those who killed him will claim that they were. Most of us might think of the politician as innocent in the pertinent sense of the word, while those who killed him will claim that he had been guilty. That is, this approach generates too high a degree of relativism in discussions of terrorism: to paraphrase the hackneyed *cliché*, one person’s terrorist is another person’s political assassin. In order to avoid this, I take the innocence of the victims of terrorism to mean innocence of real injustice *or* innocence of injustice the terrorist believes is being perpetrated, although others see thing differently. On my definition of terrorism, the terrorist’s victim is innocent *from the terrorist’s own point of view*—that is, innocent even if we grant the terrorist his assessment of the policies at issue. This, I believe, captures the obscenity of terrorism. The terrorist kills or maims people he himself, deep in his heart, believes to be innocent.

Along these lines we can distinguish between terrorism, on the one hand, and war and political violence, on the other. This is not to say that political violence cannot intimidate and coerce (it often does), nor that an army cannot employ terrorism (many armies have done so, and that, indeed, is one of the main types of state terrorism).

The definition acknowledges the historical connection of “terrorism” with “terror” and “terrorizing.” It does not confine terrorism to the political sphere, but makes it possible to speak of non-political (e.g. criminal) terrorism.

The definition is politically neutral: it covers both state and anti-state, revolutionary and counterrevolutionary, left-wing and right-wing terrorism. It is also morally neutral at the fundamental level of debate. I believe it captures the elements of terrorism that lead most of us to judge it as gravely wrong: the use or threat of use of *violence* against the *innocent* for the sake of *intimidation* and *coercion*. But it does not prejudge the moral question of its justification in particular cases. For it entails only that terrorism is *prima facie* wrong, and thus does not rule out its justification under certain circumstances.

Another virtue of the definition is that it relates the issue of the moral standing of terrorism to just war theory. For the central tenet of that theory, under the heading of *ius in bello*, is that we must not deliberately attack the innocent.

Clearly, the definition is both narrower in some respects and wider in others than the common usage would warrant. Attacks of insurgents on soldiers or police officers, which the authorities and the media depict, and the public perceives, as terrorist, would not count as such, but rather as political violence or guerrilla warfare. The bombing of German and Japanese cities in World War II, or numerous Israeli Army attacks on Lebanon, on the other hand, are commonly presented as acts of war, but would count as terrorism on my definition.

If it is said that this tells against the definition, my reply is that it need not. My point is that, if what we hope for is more discerning and critical moral understanding of these matters, we should not be unduly bound by conventional usage. What matters is that in the former case, the targets are soldiers or police officers, and not innocent people. In the latter case, innocent people are deliberately targeted with the aim of intimidation and coercion. The former case does not involve the four morally problematic components the definition singles out; the latter does. On the other hand, whether the bomb is planted by hand or dropped from an aircraft, and who does or does not wear the hood, can hardly matter, morally speaking.

3. Varieties of State Involvement with Terrorism

Philosophers tend to be perceived as given to introducing all manner of distinctions where none were acknowledged before. With respect to state terrorism this has been the case to a lesser degree than on most other issues. Thus Alan Ryan discusses the claim that “a terrorist state” is logically impossible by virtue of the definition of “state,” and brings up Nazi Germany and Stalin's Soviet Union as obvious counterexamples. Further on he writes: “If Syria paid for, protected, equipped, and assisted hijackers and would-be bombers of El Al aircraft, that makes the Syrian regime a terrorist regime.”⁷ This looks rather like a leaf from the US State Department's book; for the purpose of moral assessment, it is clearly much too rough. However repugnant Syria's sponsorship of Palestinian terrorism may have been, it is certainly not in the same moral league with the regimes of Hitler and Stalin. Surely we ought to differentiate more carefully.

When speaking of state involvement in terrorism, there are distinctions to be made both in terms of degree of such involvement and with regard to its victims.

Concerning the degree of state involvement in terrorism, we should withstand the temptation to classify every state that has made use of terrorism, either directly or by proxy, as a *terrorist state*. I suggest that we reserve this label for states that do not merely resort to terrorism on certain occasions and for certain purposes, but employ it in a lasting and systematic way, and indeed are defined, in part, by the sustained use of terrorism against their own population. These are *totalitarian states*, such as Nazi Germany, Soviet Union in Stalin's times, or Cambodia under the rule of the Khmer Rouge.

A totalitarian regime aims at total domination of society and total unanimity of its subjects. Such an aim can only be pursued by an appropriately radical means: incessant terrorism, inflicted by an omnipresent and omnipotent secret police on an atomized and utterly defenseless population. Its efficiency is due, for the most part, to its arbitrary character: to the unpredictability of its choice of victims. Students of totalitarianism have pointed out that both in the Soviet Union and in Nazi Germany, the regime at first brutally suppressed all its opponents; when it no longer had any opposition to speak of, it deployed its secret police against "potential opponents." In the Soviet Union, it was eventually unleashed on masses of victims chosen at random. In the words of Carl J. Friedrich and Zbigniew K. Brzezinski, totalitarian terrorism

aims to fill everyone with fear and vents in full its passion for unanimity. Terror then embraces the entire society ... Indeed, to many it seems as if they are hunted, even though the secret police may not touch them for years, if at all. Total fear reigns. [...] The total scope and the pervasive and sustained character of totalitarian terror are operationally important. By operating with the latest technological devices, by allowing no refuge from its reach, and by

penetrating even the innermost sanctums of the regime ... it achieves a scope unprecedented in history. The atmosphere of fear it creates easily exaggerates the strength of the regime and helps it achieve and maintain its façade of unanimity. Scattered opponents of the regime, if still undetected, become isolated and feel themselves cast out of society. This sense of loneliness, which is the fate of all but more especially of an opponent of the totalitarian regime, tends to paralyze resistance ... It generates the universal longing to “escape” into the anonymity of the collective whole.⁸

While only totalitarian states use terrorism in this way and with such an aim, many states that are clearly not totalitarian, including many basically democratic and liberal states, have used terrorism on a much more limited scale and for more specific purposes. They have done so directly, or by sponsoring non-state agencies whose *modus operandi* is, or includes, terrorism. But as their resort to terrorism is occasional rather than sustained, let alone essential, they should not be termed terrorist states. When they are, an important moral, political, and legal divide is blurred.

Another distinction is that between the use of terrorism by a state *against its own citizens*, and the use of terrorism *abroad*, as a means of foreign policy, war, or occupation. Other things being equal, state terrorism of the former type seems worse, morally speaking, than that of the latter type. For in the former case the state is attacking the very population for which it should be providing order, security, and justice.

Quite a few non-totalitarian states have made use of terrorism against their own population. Some have done so directly, by having state agencies such as the armed forces or security services employ terrorism. Many military dictatorships in South

America and elsewhere are examples of this; the most extreme cases are, of course, Chile under Pinochet and Argentina under the generals. Other states have done the same indirectly, by sponsoring death squads and the like.

Many states, both totalitarian and non-totalitarian, have used terrorism abroad, as a means of achieving foreign policy objectives, in the course of waging war, or as a method of maintaining their occupation of another people's land.

These types of state involvement in terrorism are not mutually exclusive; indeed, they are often complementary. A terrorist state will see no moral reason for hesitating to use terrorism beyond its borders too, whether in the course of waging war or in peacetime, as a means of pursuing its foreign policy objectives. Both Nazi Germany and the Soviet Union provide examples of that. But the same is true of states that do not qualify as terrorist, but do resort to terrorism against their own population on certain occasions and for some specific purposes. Such states, too, are not likely to be prevented by moral scruples from using terrorism abroad as well, whether directly or by proxy, when that is found expedient.

On the other hand, the fact that a state has resorted to terrorism in the international arena need not make it more prone to do the same at home, as there is a fairly clear line between the two. But it might. Since its establishment, Israel has often made use of terrorism in its conflict with the Palestinians and the neighboring Arab states. The suppression of the second Palestinian uprising (*intifada*) has been carried out, in part, by state terrorism. (Israel's neighbors, on their part, have supported Palestinian terrorism against Israel.) The way Israeli police put down the demonstrations of Palestinians living in Israel proper, as its citizens, in October 2000—by shooting at them with rubber-coated and live ammunition and killing thirteen—may well qualify

as state terrorism. If it does, that shows how the willingness to resort to terrorism abroad can eventually encourage its use at home.

To be sure, in practice the dichotomy of state and non-state terrorism does not always apply. Attempts at drawing hard and fast lines cannot succeed because of the widespread phenomenon of terrorist organizations receiving various types and degrees of support by states. Since in such cases a simple division of terrorism into state and non-state is no longer feasible, the moral assessment too becomes much more complex.

4. State Terrorism Is Morally Worse than Non-State Terrorism

All terrorism is *prima facie* extremely morally wrong. But not everything that is extremely morally wrong is wrong in the same degree. State terrorism can be said to be morally worse than terrorism by non-state agencies for at least four reasons.

First. Although unwilling to extend the scope of his discussion of terrorism to include state terrorism, Walter Laqueur remarks that “acts of terror carried out by police states and tyrannical governments, in general, have been responsible for a thousand times more victims and more misery than all actions of individual terrorism taken together.”⁹ He could also have mentioned terrorism employed by democracies (mostly, but not exclusively, in wartime), although that would not have affected the striking asymmetry very much. Now this asymmetry is not just another statistical fact; it follows from the nature of the state and the amount and variety of resources that even a small state has at its disposal. No matter how much non-state terrorists manage to enrich their equipment and improve their organization, planning, and methods of action, they stand no chance of ever significantly changing the score. No insurgent, no matter how well funded, organized, determined, and experienced in the methods of

terrorism, can hope to come close to the killing, maiming, and overall destruction on the scale the RAF and US Air Force visited on German and Japanese cities in World War II, or to the psychological devastation and subsequent physical liquidation of millions in Soviet and Nazi camps.

The terrorist attacks in the US carried out on September 11 were in some respects rather unlike what we had come to expect from non-state terrorism. The number of victims, in particular, was unprecedented. Mostly because of that, I suspect, the media have highlighted these attacks as “the worst case of terrorism ever.” So have quite a few public intellectuals. Thus Salman Rushdie, in his monthly column in the Melbourne daily *The Age*, wrote of “the most devastating terrorist attack in history.”¹⁰ The number of people killed, believed to be approaching seven thousand at the time, was indeed staggering. Yet “the worst case of terrorism ever” mantra is but another instance of the tendency of the media to equate terrorism with non-state terrorism. When we discard the assumption that only insurgents engage in terrorism—as I submit we should—the overall picture changes significantly. Let me give just one example from the Allies' terror bombing campaign against Germany. In the night of July 27, 1943, the RAF carried out the second of its four raids on Hamburg, known as the “Firestorm Raid.” In the morning, when both the attack itself and the gigantic firestorm it had created were over, some forty thousand civilians were dead.¹¹

Second. In one way or another, state terrorism is bound to be compounded by secrecy, deception, and hypocrisy. When involved in terrorism—whether perpetrated by its own agencies or by proxy—a state will be acting clandestinely, disclaiming any involvement, and declaring its adherence to values and principles that rule it out. Or, if it is impractical and perhaps even counterproductive to deny involvement, it will do its best to present its actions to at least some audiences in a different light: as

legitimate acts of war, or acts done in defense of state security. It will normally be able to do that without much difficulty, given the tendencies of common usage mentioned in Section 1 above.

Those engaging in non-state terrorism, on the other hand, need not be secretive, need not deceive the public about their involvement in terrorism (except, of course, at the operational level), and need not hypocritically proclaim their allegiance to moral principles that prohibit it. Some of them are amoralists, possibly of the sort exemplified by the notorious declaration of the nineteenth-century anarchist writer Laurent Tailhade: “What do the victims matter if the gesture is beautiful!” Others exhibit what Aurel Kolnai has called “overlain conscience”:¹² conscience completely subjected to a non-moral absolute (the Leader, the Party, the Nation), which will permit and indeed enjoin all manner of actions incompatible with mainstream moral views, including terrorism. Still others adhere to some version of consequentialist moral theory, which will readily justify terrorism under appropriate circumstances.¹³ In none of these cases will there be a need for deception and hypocrisy concerning the performance of specific terrorist acts or the adoption of policies of terrorism.

Third. Virtually all actions that constitute terrorism are prohibited by one or another of the various international human rights declarations or conventions and agreements that make up the laws and customs of war. The latter provide for immunity of civilians in armed conflict and thus prohibit terrorism by belligerent sides. Most, if not all, remaining types of terrorism—terrorism in wartime perpetrated by groups not recognized as belligerent parties, and terrorism in time of peace perpetrated by anyone at all—are covered by declarations of human rights. Now those engaging in non-state terrorism are not signatories to these declarations and conventions, while virtually all states today are signatories to most if not all of them.

Therefore, when a state is involved in terrorism, it acts in breach of its own solemn international commitments. This particular charge cannot be brought against those resorting to non-state terrorism.

Fourth. Non-state terrorism is often said to be justified, or at least that its wrongness is mitigated, by the argument of no alternative. In a case where, for instance, a people is subjected to foreign rule with the usual attendant evils of oppression, humiliation, and exploitation, which is utterly unyielding and deploys overwhelming power, a liberation movement may claim that the only effective method of struggle at its disposal is terrorism. To refrain from using terrorism in such circumstances would be tantamount to giving up the prospect of liberation altogether.

This argument is often met with criticism. First, since terrorism is extremely morally wrong, the evils of foreign rule, grave as they may be, may not be enough to justify, or even mitigate, resort to it. After all, its victims would by definition be innocent people, rather than those responsible for these evils. Second, one can hardly ever be confident that terrorism will indeed achieve the aims adduced as its justification or mitigation. What people has ever succeeded in liberating itself by terrorism?

These objections are weighty, and may be enough to dispose of most attempts at justifying particular cases and policies of terrorism; but they do not show that the “No alternative” argument will *never* work. Persecution and oppression of an ethnic, racial, or religious group can reach such an extreme point that even terrorism may properly be considered. And the question of its efficiency, being an empirical one, cannot be settled once and for all. So it is possible that a liberation movement should be facing such circumstances where resort to terrorism is indeed the only feasible alternative to the continuation of persecution and oppression so extreme as to amount

to an intolerable moral disaster. In such a situation, the “No alternative” argument would provide moral justification for terrorism, or at least somewhat mitigate our moral condemnation of its use. On the other hand, it seems virtually impossible that a state should find itself in such circumstances where it has no alternative to resorting to terrorism.

The only counterexample that comes to mind is the terror bombing campaign of the RAF against the civilian population of Germany in World War II, inasmuch as it can be seen as a case of “supreme emergency” allowing one to set aside even an extremely grave moral prohibition in order to prevent an imminent moral catastrophe.¹⁴ Yet even this example is of a very limited value. The supreme emergency argument may have been valid only during the first year of the campaign: in 1942, the victory of Nazi Germany in Europe—a major moral disaster by any standard—did appear imminent. However, after German defeats at El Alamein (November 6, 1942) and at Stalingrad (February 2, 1943), that was clearly no longer the case. But the campaign went on almost to the very end of the war. As Michael Walzer says, “the truth is that the supreme emergency passed long before the British bombing reached its crescendo. The greater number by far of the German civilians killed by terror bombing were killed without moral (and probably also without military) reason.”¹⁵

My argument might be challenged by pointing out that what I have called terrorist regimes can maintain themselves only by employing sustained, large-scale terrorism against their own population. Furthermore, a state that would not qualify as terrorist in this sense may be waging a war whose aims can be achieved only by means of terrorism. The successive Serbian onslaughts on Croatia, Bosnia-Herzegovina, and Kosova in the 1990s are a clear example. Their aim was conquest, “ethnic cleansing,”

and annexation of territories whose inhabitants included a non-Serb majority or large minority. Under the circumstances, and given the constraints of time, the “cleansing” had to be accomplished by large-scale terrorism. The Serbs had no alternative.¹⁶

All this is true, but not to the point. In such cases terrorism is indeed the only efficient option and, if the aim is to be achieved, there is no alternative to its use. But in such cases, unlike at least some conceivable cases of non-state terrorism justified or mitigated by the “No alternative” argument, the aim itself—the continuation of a Nazi or Stalinist regime, or the setting up of a greatly expanded *and* “ethnically homogeneous” Serbia—can justify or mitigate nothing. Its achievement, rather than failure to achieve it, would amount to an intolerable moral disaster.

Another objection would refer to the “balance of terror” produced by the mutual threat of nuclear attack that marked the Cold War period. The type of such threat relevant here was the threat of attacking the other side's civilian population centers. (In Cold War jargon, this was known as “countervalue deterrence.”) If that threat was morally justified, it was a case of state terrorism justified by the “No alternative” argument.

I am not convinced that it was justified. Clearly, carrying out the threat and actually destroying major population centers of the enemy and killing hundreds of thousands, if not millions, of enemy civilians, could never be morally justified. But does that mean that a threat to do so—made with the aim of preventing the chain of events that would make such destruction a serious option—is also morally impermissible? A positive reply to this question assumes that, if it is wrong to do X, it is also wrong to intend to do X, and therefore also to threaten to do X. This assumption has been questioned.¹⁷ I have not made up my mind on this matter. Perhaps the problem can be circumvented by arguing that the threat need not involve

the intention of ever carrying it out; a bluff will do. Yet one might well wonder if a threat of this sort can be both credible and a bluff; and, of course, if the threat is not credible, it will not be morally justified either.

But this is too large a subject to go into on this occasion. Therefore I will only say, in conclusion, that even if the “balance of terror” generated by the threat of use of nuclear weapons against civilian targets turned out to be a convincing counterexample to my fourth argument for the claim that state terrorism is morally worse than terrorism employed by non-state agencies, the first three arguments would still stand and, I trust, suffice.

5. Counterterrorism

This discussion of state terrorism has some fairly straightforward implications with regard to moral assessment of and constraints on counterterrorist measures in general, and the “war against terrorism” the US and its allies are currently waging in particular.

One concerns the moral high ground the state usually claims in the face of insurgent terrorism. What is at issue is a certain policy contested by the insurgents or a certain political setup the state wants to maintain and the insurgents want to do away with. But at the same time the conflict is seen as much more basic: since the insurgents have resorted to terrorism, the conflict is also about the very fundamentals of the political and social order, and indeed about certain moral values and principles, which terrorists are challenging and the state is defending. Now it is true that terrorism challenges some of our fundamental moral beliefs and rides roughshod over some highly important moral distinctions. Therefore opposition to terrorism can and indeed should be motivated, above all, by moral concern.

But that is not the only condition for claiming the moral high ground in the face of terrorism. The other, equally necessary condition is that of moral standing. A thief does not have the moral standing required for condemning theft and preaching about the paramount importance of property. A murderer does not have the moral standing necessary for condemning murder and pontificating about the sanctity of life. By the same token, a state which has made use of terrorism, or sponsored it, or condoned it, or supported governments that have done any of the above—in a word, a state which has itself been involved in or with terrorism to any significant degree—lacks the moral standing required for *bona fide* moral criticism of terrorism.

This simple point bears emphasizing since, more often than not, it is completely ignored. As a result, we are treated, time and time again, to moral condemnations of terrorism by representatives of states that have much to answer for on the same count. Much of the quaint moralistic rhetoric that accompanies the “war against terrorism” currently waged by the US and its allies is as good an example as any.

Another point has to do with the nature of counterterrorism. Insurgency that makes use of terrorism poses a difficult challenge to the state. Not only does it contest the state’s monopoly of violence—any violent opposition activity does that—but also demonstrates that the state is no longer capable of performing efficiently enough its most important task, that of providing basic security to its citizens. For the indiscriminate nature of terrorism poses a threat of deadly violence to virtually everyone; there is next to nothing a citizen can do to ensure his or her lasting physical security.

Faced with such a challenge to its very *raison d’etre* and the difficulties of fighting terrorism while remaining within the bounds of morality and the law, the state may well be tempted to resort to terrorism itself, as Israel has done in response to

Palestinian terrorism. Since the 1950s, a central part of Israel's response to terrorism have been reprisals in which civilian targets in the neighboring countries were attacked in order to force their governments to restrain Palestinian terrorists operating from their soil. Israel occasionally acknowledged the terrorist nature of its strategy, most memorably when its Prime Minister (and Defense Minister) Yitzhak Rabin explained that the aim of shelling and bombing south Lebanon was "to make it uninhabitable" and thereby force the Beirut government to suppress the activities of the Palestinian liberation movement on its territory. Israel has also made extensive use of state terrorism in its rule over the Palestinian territories occupied in 1967 and its fight against Palestinian resistance terrorism; it is doing so at the time of writing. But the temptation to fight terrorism with terrorism ought to be resisted. This type of counterterrorism may well prove a dismal failure in political terms, as it has done in the Israeli case. More to the point, it is utterly indefensible from the moral point of view. Israel has certainly had other options, and so does virtually every state.

What of the current "war against terrorism" prosecuted by the US and its allies? It raises a number of serious moral, political, and legal concerns about citizens' rights at home and the treatment of enemies taken prisoner.¹⁸ But surely, it will be said, it does not present an example of state terrorism. There have been civilian casualties in the course of attacks on the Taliban and al-Qaida targets in Afghanistan. But the innocent have not been attacked intentionally; civilian casualties have been foreseen, but not intended side-effects of attacks on legitimate military targets. Such casualties—known as "collateral damage" in American military jargon—are inevitable in modern war. Actions that bring them about do not qualify as terrorism, on my own or any other plausible definition of "terrorism," and do not constitute a violation of the

relevant principle of just war theory, that of discrimination. If the principle ruled out unintentional harming of civilians too, given the conditions of modern warfare, the theory would enjoin renunciation of all war. It would no longer deserve the name of just war theory, since it would turn out to be, for all practical purposes, indistinguishable from pacifism.

It is true that the US and its allies are not guilty of state terrorism, since terrorism is by definition *intentional* attack on the innocent. But that is not the end of the matter. Concerns about the scale of “collateral damage” the “war on terrorism” has been inflicting surfaced early on, as the war was initially conducted exclusively from the air, and from very high altitudes at that. By January 2002, these concerns appeared to be based on good grounds. Under the heading “News of Afghan Dead is Buried,” the US correspondent of *The Age* reported:

University of New Hampshire economics professor Marc Herold was so disturbed by the lack of coverage of civilian deaths in the war in Afghanistan that he began keeping a tally. [...] Professor Herold says, on average, 62 Afghan civilians have died each day since bombing began. The total was now close to 5000, far more than the 3000 killed in the terrorist attacks in America on September 11. [...] According to Professor Herold, America’s strategy of using air strikes to support local ground forces is designed to minimize American casualties. Only one American soldier has died from enemy fire.¹⁹

Now just war theory does not prohibit harming the innocent *simpliciter*. In this matter it applies the doctrine of double effect, and accordingly prohibits harming them intentionally, while leaving room for deliberate attacks on military targets that also

have the foreseen but unintended effect of harming the innocent. But it does not leave room for unintentionally harming *any number* of civilians. Acts of war that unintentionally harm civilians must also satisfy another requirement of the doctrine: the harm must be proportionate to the importance and urgency of the military objective that cannot be attained in any other way. It will not do, say, to shell a village in order to take out a handful of enemy soldiers who have taken up position in it if that also involves the unintended, but foreseen killing of scores of innocent villagers.

This much is clear in any mainstream version of just war theory. The version elaborated by Michael Walzer in his influential book *Just and Unjust Wars* adds an important qualification. When performing an act of war that will also have the unintended but foreseen consequence of harming the innocent, we must seek to reduce that harm to a minimum, and must accept risk to life and limb of our own soldiers in order to do so:

Simply not to intend the death of civilians is too easy ... What we look for in such cases is some sign of a positive commitment to save civilian lives. Not merely to apply the proportionality rule and kill no more civilians than is militarily necessary—that rule applies to soldiers as well; no one may be killed for trivial purposes. Civilians have a right to something more. And if saving civilian lives means risking soldiers' lives, the risk must be accepted.²⁰

Mark the words “right” and “must”: taking risks to ensure that harm to the innocent is reduced to a minimum is not a matter of supererogation, but rather a *duty* of soldiers and a correlative *right* of civilians. The right of the innocent not to be killed or maimed is the point of departure of just war theory and, indeed, of any plausible

ethics of war. Since it is the soldiers who put the civilians' life and limb in danger, it is only fair that they should accept some risk in order to minimize that danger.²¹

Now our repugnance of terrorism is generated, primarily, by the value we place on human life and bodily integrity, and in particular by our commitment to the right of the innocent not to be killed or maimed. This right is violated in the most radical way when the terrorist intentionally kills or maims them in order to achieve his or her aims. But it is also violated in a morally unacceptable way when their death or grave physical injury is not brought about as a means, but as an anticipated side-effect, if the harm they sustain is out of all proportion to the aim achieved, and those who do the killing and maiming refuse to take any chance of being harmed themselves in the process. The latter is not terrorism, and is less repellent, morally speaking, than the former. But not *much* less.

If this is granted, it means that terrorism may not be fought by terrorism. Nor may it be fought by means of a strategy that does not amount to terrorism, but must be condemned on the ground of the same moral values and principles that provide the strongest reasons for our rejection of terrorism. In this respect, so far the record of the "war on terrorism" has been very poor indeed.²²

(Word count 6,496)

NOTES

¹ R. Woddis, "Ethics for Everyman," quoted in C.A.J. Coady, "The Morality of Terrorism," *Philosophy*, vol. 60 (1985), p. 52.

² W. Laqueur, *The Age of Terrorism*, Boston: Little, Brown & Co., 1987, p. 146.

In his latest book, *The New Terrorism: Fanaticism and the Arms of Mass Destruction* (New York: Oxford University Press, 1999), Laqueur remains faithful to this approach. The book includes a chapter on “State Terrorism,” but its scope is clearly circumscribed in its first sentence: “State-sponsored terrorism, warfare by proxy, is as old as the history of military conflict” (p. 156, emphasis added). State terrorism in the strict sense is still beyond Laqueur’s ken: “Terrorism seldom appeared in brutal dictatorships such as in Nazi Germany or Stalinist Russia, for the simple reason that repression in these regimes made it impossible for the terrorists to organize” (p. 6).

³ For a sample of social science research illustrating a different approach, see M. Stohl and G. A. Lopez (eds), *The State as Terrorist: The Dynamics of Governmental Violence and Repression*, Westport, CN: Greenwood Press, 1984.

⁴ See J. Glover, “State Terrorism” and A. Ryan, “State and Private; Red and White,” in R.G. Frey and C.W. Morris (eds), *Violence, Terrorism and Justice*, Cambridge: Cambridge University Press, 1991; P. Gilbert, *Terrorism, Security and Nationality*, London: Routledge, 1994, chapter 9; R. B. Ashmore, “State Terrorism and Its Sponsors,” in T. Kapitan (ed.), *Philosophical Perspectives on the Israeli-Palestinian Conflict*, Armonk, NY: M.E. Sharpe, 1997.

⁵ See my “What Is Terrorism?,” *Journal of Applied Philosophy*, vol. 7 (1990), and “The Morality of Terrorism,” *ibid.*, vol. 14 (1997), pp. 221-222.

⁶ I believe that the mainstream understanding of “the innocent” is too generous, but for present purposes this issue is best put to one side. See my “Michael Walzer's Just War Theory: Some Issues of Responsibility,” *Ethical Theory and Moral Practice*, vol. 5 (2002).

⁷ A. Ryan, *op.cit.*, p. 249.

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- ⁸ C.J. Friedrich and Z.K. Brzezinski, *Totalitarian Dictatorship and Democracy*, 2nd ed., Cambridge, MA: Harvard University Press, 1965, pp. 169-170.
- ⁹ Laqueur, *The Age of Terrorism*, p. 146.
- ¹⁰ S. Rushdie, "How to Defeat Terrorism," *The Age*, October 4, 2001, p. 15.
- ¹¹ See M. Middlebrook, *The Battle [sic] of Hamburg*, Harmondsworth: Penguin Books, 1984, chapter 15.
- ¹² A. Kolnai, "Erroneous Conscience," *Ethics, Value and Reality*, London: Athlone Press, 1977, pp. 14-22.
- ¹³ See my "The Morality of Terrorism."
- ¹⁴ See M. Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 3rd ed., New York: Basic Books, 2000, chapter 16.
- ¹⁵ *Ibid.*, p. 261. For a good discussion of the moral issues involved in the RAF terror bombing of Germany, see S.A. Garrett, *Ethics and Airpower in World War II: The British Bombing of German Cities*, New York: St. Martin's Press, 1993.
- ¹⁶ See N. Cigar, *Genocide in Bosnia: The Politics of "Ethnic Cleansing"*, College Station, TX: Texas A&M University Press, 1995, chapter 5.
- ¹⁷ See e.g. G. Kavka, "Some Paradoxes of Deterrence," *Journal of Philosophy*, vol. 75 (1978).
- ¹⁸ See e.g. R. Dworkin, "The Threat to Patriotism," *The New York Review of Books*, February 28, 2002; "The Trouble with the Tribunals," *ibid.*, April 25, 2002.
- ¹⁹ G. Alcorn, "News of Afghan Dead Is Buried," *The Age*, January 12, 2002, p. 17.
- ²⁰ M. Walzer, *op.cit.*, pp. 155-156.
- ²¹ *Ibid.*, p.152.

²² An earlier, much shorter version of sections 1-4 of this paper was read at the workshop “Terrorism and Justice” at the Centre for Applied Philosophy and Public Ethics, University of Melbourne, on November 2, 2001, and published in Tony Coady and M. O’Keefe (eds.), *Terrorism and Justice*, Melbourne: Melbourne University Press, 2002.