

THE REASON OF TERROR

Philosophical Responses to Terrorism

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Systematically Unsystematic Violence: On the Definition and Moral Status of Terrorism

Shortly after the bus and subway bombings in London on July 7, 2005, United Nations Secretary General Kofi Annan called upon world leaders to reach consensus on a definition of terrorism, one that would facilitate 'moral clarity' and underwrite a United Nations convention against terrorism. The Secretary General's plea to world leaders helps to highlight the practical significance and urgency of having a workable definition of terrorism. For the task of defining terrorism is not only theoretically or academically important; it is important for far-reaching practical, moral, and political purposes as well. For without at least some semblance of a workable definition of terrorism, it is impossible to identify and collect data on acts of terrorism throughout the world; to understand and address the root causes of terrorism; and to reach international agreement and undertake collective action in addressing terrorism. And yet in spite of the practical and moral urgency of the task at hand, consensus on an acceptable definition of terrorism has been notoriously elusive.

Competing definitions of terrorism abound. The United Kingdom's Terrorism Act of 2000 defines 'terrorism' as:

(...) the use or threat of action where (a) the action falls within subsection (2) [see below], (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause. Action falls within subsection (2) if it (a) involves serious violence against a person, (b) involves serious damage to property, (c) endangers a person's life, other than that of the person committing the action, (d) creates a serious risk to the health or safety of the public or a section of the

public, or (e) is designed seriously to interfere with or seriously to disrupt an electronic system.¹

According to the European Union's "Council Framework Decision of 13 June 2002 on Combating Terrorism," the label 'terrorist act' refers to any of a number of intentional, violent acts (such as deadly attacks upon persons, kidnapping, attacks upon governmental or public facilities) which:

(...) may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aims of:

- i. seriously intimidating a population, or
- ii. unduly compelling a government or an international organisation to perform or abstain from performing any act, or
- iii. seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.²

In 1998, the League of Arab States adopted a "Convention for the Suppression of Terrorism," which defines terrorism as:

[a]ny act of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property, or to occupy or seize them, or seeking to jeopardize national resources (...).³

Even within a single government – for example, even among the various agencies within the United States government – competing definitions of terrorism abound. According to the United

¹ The text of the United Kingdom's Terrorism Act of 2000 can be viewed at: http://en.wikipedia.org/wiki/Terrorism_Act_2000.

² See *Eur-Lex: Official Journal of the European Communities*, L164, Volume 45 (22 June 2002). This journal of the European Union can be viewed and searched at: <http://europa.eu.int/eur-lex>.

³ This convention is viewable at: <http://www.al-bab.com/arab/docs/league/terrorism98.htm>.

States Patriot Act of 2001 (first passed by the United States Congress in 2001, and most recently re-authorized in March of 2006), 'terrorism' is defined to include activities that:

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; and (B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping (...).⁴

In its counter-terrorism efforts, the United States Federal Bureau of Investigation (F.B.I.) follows the definition outlined in the United States Patriot Act, but relies also in part on the definition contained in the United States *Code of Federal Regulations*, according to which terrorism is "(...) the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives."⁵ The United States Department of Defense, in its *Dictionary of Military and Associated Terms* (released on April 12, 2001, and updated through August 31, 2005),⁶ defines terrorism as "the calculated use of unlawful violence or threat of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological." In its own approach to terrorism, the Central Intelligence Agency (C.I.A.) is not governed by the U.S. Patriot Act, but relies instead on the definition contained in Title 22, Section 2656f(d) of the *United States Code*, according to which:

⁴ See section 802 of the Patriot Act (H.R. 3162); this portion of the Act is codified in Title 18, Part I, Chapter 113B, section 2331, of the United States Code (18 U.S.C. 2331).

⁵ See the *Code of Federal Regulations* at: 28 C.F.R. Section 0.85. The relevant publication from the F.B.I. itself is its report, *Terrorism in the United States 1999*.

⁶ An online version of this dictionary can be viewed at: <http://www.dtic.mil/doctrine/jel/doddic>.

- (1) the term 'international terrorism' means terrorism involving citizens or the territory of more than one country;
- (2) the term 'terrorism' means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; and
- (3) the term 'terrorist group' means any group practicing, or which has significant subgroups which practice, international terrorism.⁷

For the past thirty years, the United Nations itself has been trying – though without success – to formulate a definition of terrorism that all member-states might accept. Some early attempts at defining terrorism were made by the League of Nations, the precursor-institution of the United Nations. In 1937, for example, the League of Nations considered, but never ratified, a definition according to which 'terrorism' would include "All criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public."⁸ For the limited purpose of its *International Convention for the Suppression of the Financing of Terrorism* (which went into effect on April 10, 2002), the United Nations has defined terrorism as any "act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act."⁹ But in the absence of agreement on an all-purpose definition of terrorism, the United Nations has had to rely – for the time being, at least – on an 'academic consensus definition,'¹⁰ derived largely from the work of terrorism experts Alex Schmid and Albert Jongman. According to the 'academic consensus definition':

⁷ See 22 U.S.C. 2656f(d).

⁸ See http://www.unodc.org/unodc/terrorism_definitions.html.

⁹ The text of this convention can be viewed at: <http://www.un.org/law/cod/finterr.htm>.

¹⁰ See http://www.unodc.org/unodc/terrorism_definitions.html.

Terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi-) clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby – in contrast to assassination – the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat- and violence-based communication processes between terrorist (organization), (imperilled) victims, and main targets are used to manipulate the main target (audience(s)), turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought.¹¹

Even a cursory glance at the various definitions presented above will reveal some important differences. For example, the definitions from the League of Nations and the *United States Code* claim that terrorism is aimed at governments or states, or is perpetrated by "subnational groups or clandestine agents," and thus cannot be perpetrated openly by governments or states against their own people. The definitions from the United Kingdom, the European Union, the League of Arab States, and the United Nations' *International Convention for the Suppression of the Financing of Terrorism*, all imply that acts of terrorism must be perpetrated with some degree of terroristic intent (or design or aim or purpose), whereas the definition included in the United States Patriot Act requires only that the terroristic act "appear to be intended" as a terroristic act. Only the two definitions mentioned above (the one contained in the *United States Code* and the one contained in the U.N.'s *International Convention for the Suppression of the Financing of Terrorism*) specify that terroristic acts are acts directed against "noncombatant targets" or against persons "not taking an active part in the hostilities in a situation of armed conflict." Finally, a

¹¹ Alex P. Schmid and Albert J. Jongman, *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories, and Literature*, Amsterdam, North-Holland Publishing Company, 1988; and New Brunswick, NJ, Transaction Publishers, 2005, p. 28.

number of these definitions (e.g., those from the European Union, the League of Arab States, the United States Patriot Act, the United States *Code of Federal Regulations*, the United States Department of Defense, and the League of Nations) define terrorism by reference to intrinsically normative modifiers such as "unlawful" or "criminal," but not all of them do so (e.g., the definitions from the United Kingdom, the *United States Code*, and the United Nations' 'academic consensus definition' do not rely explicitly on any normative modifiers).

In spite of these differences, there is at least one common feature that can be discerned in all of the definitions given above. Terrorism – according to all of the definitions mentioned above – involves intimidation or the creation of a climate of fear or anxiety, in addition to any actual acts of violence or destruction perpetrated by the terrorist. The sense that terrorism involves the creation of a climate of fear or anxiety (above and beyond any actual acts of violence or destruction) is nicely captured in the work of terrorism-theorist, Haig Khatchadourian. As Khatchadourian explains the matter, terrorism is essentially 'bifocal' in character, which means that it is aimed at two different foci or targets.¹² On the one hand, terrorism is aimed at its 'direct' victims or targets (those who directly or immediately suffer the violence done by the terrorist); these are the victims who are killed, wounded, and maimed in terrorist attacks, and/or whose vital interests are directly harmed by terrorism. But on the other hand, terrorism is also aimed at a set of 'indirect' victims or targets. These indirect victims of terrorism do not suffer the terrorist's violence directly, but instead are observers of the violence done to the terrorist's direct target group. As a result, they are the recipients of a generalized threat or 'message of fear' conveyed by the terrorist's violent actions.

Expressing the same point in a slightly different way, Alex Schmid and Albert Jongman argue that acts of terrorism, properly understood, have a 'symbolic' or 'communicative' function, and

¹² Haig Khatchadourian, *The Morality of Terrorism*, New York, Peter Lang, 1998, p. 6.

it is this 'symbolic' or 'communicative' function which distinguishes terroristic acts from 'ordinary,' or non-terroristic, acts of violence:

It would appear that terrorist killing – in contrast to murder – intends to send a message to others beyond the immediate victim (...), so that these others have reason to fear that they are perhaps the next target.¹³

Elaborating on this point, Schmid and Jongman explain:

The creation of a climate of fear by the calculated 'perpetuation of atrocities' (...) and the manipulation of the evoked emotional response of those directly and indirectly affected is a distinct method of violent activity which sets it apart from ordinary isolated assassinations where the desired outcome is reached when the murder has been successfully committed. While violence is the key element with murder, it is the combination of the use of violence and the threat of more to come which initiates a terror process.¹⁴

Now if terroristic violence is distinguished by the fact that it is essentially bifocal, communicative, or symbolic in nature, then at least one other implication immediately follows: terroristic violence – in order to be truly terroristic – must have an audience. Borrowing the terminology used in Haig Khatchadourian's analysis, we might express the point as follows: if members of the terrorist's indirect target group did not observe the terrorist's acts of violence or if they had no sense that they were members of the indirect target group, then the terrorist will not have succeeded in causing fear or terror among his indirect target group, in which case the terrorist will not have succeeded in *being* a terrorist, properly understood. The role of an audience in terroristic violence also helps to explain why terroristic violence typically yields more 'bang for the buck' in comparison with other, non-terroristic uses of violence, whose aim is restricted to what is immediately or directly achieved by the violence itself. In his own attempts

¹³ Schmid and Jongman, *Political Terrorism*, p. 8.

¹⁴ *Ibid.*, p. 19.

at justifying the Red Terror which followed the Bolshevik Revolution in Russia, Leon Trotsky observed in a similar vein that even limited acts of violence can have rather far-reaching consequences, if apprehended by a target audience susceptible to fear and intimidation:

A victorious war, generally speaking, destroys only an insignificant part of a conquered army, intimidating the remainder and breaking their will. The revolution works in the same way: it kills individuals, and intimidates thousands.¹⁵

Some recent events in our own day have shown how the strategic use of limited acts of violence – if sufficiently spectacular and well-publicized – can go quite a long way in spreading fear. Thus it took only one computer hacker in the Philippines to devise the ‘I love you’ virus and cause panic among hundreds of institutions and businesses (the virus was first encountered at the University of Oregon on May 4, 2000). It took only two individuals (perhaps with a few yet-unknown accomplices) to bomb the Murrah Federal Building in Oklahoma City (April 19, 1995) and terrorize an entire country. And finally, it took only nineteen hijackers and a fairly tight circle of financial and logistical support to bring down the twin towers on September 11 and spread terror throughout the entire world.¹⁶

Now if the distinctive feature of terroristic violence is the fact that it involves a concomitant and broader message of fear or intimidation, then by what means do terrorist’s acts of violence convey this message of fear or intimidation, and thereby become acts of *terroristic* violence? Stated differently, how is it possible for the terrorist’s *limited* acts of violence to generate a *generalized* message of fear? The answer, simply stated, is that the terrorist’s *limited* acts of violence generate a more *generalized* message of fear, insofar as such acts are sufficiently indiscriminate or random. Because of their indiscriminate or random character, the terrorist’s

¹⁵ Leon Trotsky, *Against Individual Terrorism*, New York, Pathfinder Press, 1974, p. 3-4.

¹⁶ Four flights were hijacked on September 11: there were five hijackers on each of three flights, and four hijackers on a fourth flight.

acts of violence convey to the terrorist’s indirect target group that they themselves have reason to worry about becoming the victims of violence in the future. In short, it is the indiscriminateness or randomness of terroristic violence – the fact that such violence is perpetrated without any apparent regard for the rules of armed conflict – that is sufficient to generate a general message of fear. With this, we are now in a position to present a general, working definition of terrorism:

Terrorism is (1) the systematic use (2) of actual or threatened violence (3) against persons or against the vital interests of persons (i.e. against the terrorist’s ‘direct target’) (4) in the pursuit of political, ideological, religious, social, economic, financial, and/or territorial objectives, (5) whereby the violence is sufficiently random or indiscriminate (6) so as to cause fear among members of the terrorist’s ‘indirect target’ group, (7) thus creating a generalized climate of fear, distrust, or instability within certain sectors of society or within society at large, (8) the ultimate aim of which is to influence popular opinion or governmental policy in a manner that serves the terrorist’s objectives.¹⁷

Based on this working definition, one can say that terrorism is somewhat similar to extortion or hostage-taking, since these two types of criminal activity create and exploit fear and intimidation for the purpose of causing another party to act or forebear from acting. Of course, terrorism is also unlike simple extortion or hostage-taking, since the terrorist’s use of violence – by virtue of its random or indiscriminate character – is sufficient to cause fear not only in a particular person or family, but in broader sectors of society or in society as a whole. In a sense, then, one might say that terrorism is a form of extortive hostage-taking, where the general, indeterminate, non-individualized ‘hostage’ of the terrorist is some sector of society or society at large.

¹⁷ I first articulated this working definition elsewhere. See Michael Baur, “What Is Distinctive About Terrorism, and What Are the Philosophical Implications?” in: Timothy Shanahan (ed.), *Philosophy 9/11: Thinking About the War on Terrorism*, Chicago, Open Court Publishing Company, 2005, p. 3-21.

It is worth mentioning here that the definition given above points to something seemingly paradoxical about terroristic violence. For if this definition is accurate, terroristic violence is (i) randomized or indiscriminate, and yet also (ii) systematic (see items #5 and #1 in the working definition above). Because terroristic violence is indiscriminate or random, it causes fear in broader sectors of society or in society as a whole. This is because terroristic violence conveys to the terrorist's indirect target group that there is in principle nothing preventing the terrorist's attacks from being visited upon them as well. But while random and indiscriminate, terroristic violence is different from what we might call 'ordinary' uses of random violence. This is because terrorism involves a systematic policy, and does not achieve its goal immediately and directly through the individual and randomized acts of violence themselves. Rather, terrorism achieves its goal precisely through the intimidation or fear engendered by the target audience's awareness that such acts of violence – while randomized – are part of a systematic policy or calculated agenda. An example may help here: a petty thief who achieves his goal immediately and directly by robbing people – even if such acts of robbery are indiscriminate and random – is an ordinary criminal and not a terrorist. By contrast, a local gang leader is acting as a terrorist if he achieves his aim (e.g., preventing people from reporting to the police) by intimidating inhabitants in an entire neighborhood through a systematic policy of randomized violence. Paradoxically, then, terrorism involves the 'systematically random' or 'systematically unsystematic' use of violence for the purpose of creating and exploiting a climate of fear in certain sectors of society or in society as a whole.

Now there is more than one way in which terroristic violence can be random or indiscriminate. First and most obviously, there can be randomness or indiscriminateness in the terrorist's selection of certain persons (or the vital interests of certain persons) to be the direct targets of the terrorist's intended acts of violence. But furthermore, there can be randomness or indiscriminateness in the terrorist's choice of venue for perpetrating the violence, as well

as in the terrorist's manner of self-presentation or self-disguise in perpetrating the violence. Thus to say that terroristic violence is characteristically random or indiscriminate is to say not only that all persons within society or within a particular sector of society might be the targets of the random or indiscriminate violence. It is to say, furthermore, that the violence can occur at any random time, place, or context, and can be perpetrated by those who might effect the appearance of being neutral, innocent civilians or random strangers. In short, terroristic violence can be random or indiscriminate in three significant ways: with respect to the selection of the victims; with respect to the venue chosen (time, place, or context) for the carrying out of the acts of violence; and with respect to the self-presentation or ostensible identity of those who perpetrate the violence.

What is crucial here is not just that terroristic violence is characterized by these three possible kinds of randomness or indiscriminateness. What is crucial is that the terrorist employs such randomness or indiscriminateness in a systematic fashion. The terrorist makes systematic use of this threefold potential for randomness for the purpose of maximizing the effectiveness and fearfulness of the violence. As Samuel Scheffler helpfully explains it, the point of the terrorist's use of systematically unsystematic or random violence is:

to maximize (...) the numbers of people who identify with the victims [the direct target group], thus subverting the defensive ingenuity with which people seize on any feature which distinguishes them from the victims of misfortune to preserve their own sense of invulnerability. In this way, the appearance of randomness is used to exploit the psychic economy of identification in such a way as to maximize the spread of fear.¹⁸

Using the strategy of systematically unsystematic violence, the terrorist can gain easy access to large numbers of unsuspecting victims (e.g., on airplanes or roadways, in shopping malls or sports

¹⁸ See Samuel Scheffler, "Is Terrorism Morally Distinctive?," *The Journal of Political Philosophy* 14 (2006) 1, p. 1-17.

arenas, etc.); and because those who observe the terrorist's acts of violence (the terrorist's indirect target group) tend to identify with the terrorist's randomly-chosen victims (the direct target group), the terrorist can cause fear and intimidation across very broad sectors of society.

According to our working definition, the terrorist makes use of systematically unsystematic violence as a way of sowing seeds of fear and intimidation across broad sectors of society, for the purpose of influencing popular opinion or governmental policy in a manner that serves the terrorist's objectives. Notice that this working definition has been exclusively descriptive in character; it contains no explicitly or implicitly normative terms. But might we now use this descriptive working definition in order to begin spelling out some normative claims about terrorism? With this working definition in hand, are we now in a position to begin making some claims about the moral status of terrorism? Given the limited scope of the present paper, it will not be possible to provide a fully developed answer to the question of the moral status of terrorism, but we are now in a position to venture at least a few general normative remarks about terrorism.

As we have seen above, the terrorist does actual violence or harm to some persons (or to their vital interests) for the purpose of intimidating and thus influencing the attitudes and behaviors of other persons (e.g., the attitudes and behaviors of a nation's populace or its government). The terrorist's acts of violence are directed at persons in the terrorist's direct target group, while the intimidation is directed at the terrorist's indirect target group. Furthermore, the terrorist's use of random or indiscriminate violence serves to maximize the scope of the fear caused in the terrorist's indirect target group. Now in considering the moral status of the terrorist's distinctive mode of operation, we can 'divide the question,' since the terrorist's mode of operation involves (on the one hand) a relation to the terrorist's direct target group, and (on the other hand) a relation to the terrorist's indirect target group. Thus we might ask: what is the moral status of the terrorist's relationship to the direct target group?; and what is the moral status

of the terrorist's relationship to the indirect target group? But we can divide the question still further, since the terrorist's relationship to the indirect target group is itself a two-fold relationship: for the terrorist not only aims to convey a message of fear or intimidation to the indirect target group; the terrorist also aims to convey this message for the purpose of influencing or coercing the indirect target group. We can thus examine the moral status of terrorism by focusing on a three-part 'means-to-ends' structure: (a) the terrorist perpetrates actual violence against persons (or the vital interests of persons) who belong to the direct target group, *as a means of* (b) sending a generalized message of fear or intimidation to a wider audience of persons belonging to an indirect target group (e.g., an entire population or the government with the legitimate authority to act on behalf of that population), and in turn exploits such fear or intimidation *as a means of* (c) influencing or coercing the indirect target group.

What, if anything, is morally wrong with the different parts of the terrorist's distinctive, three-part mode of operation? Let us begin by considering the second part, namely, the terrorist's message of fear or intimidation directed at the indirect target group. As many theorists have observed, the proper functioning of civil society depends on ordinary citizens' ability to trust the many others on whom they must rely every day; and terrorism – precisely through its message of fear – undermines that trust. Thomas Hobbes famously identified fear as the most 'incommodious' of the 'incommodities' attending the state of nature,¹⁹ and argued that widespread fear – the inability to trust the good will of others in society – has a damaging, regressive effect on the social condition. Fear corrodes trust, and without trust individuals have little reason to expose themselves to the many risks attendant upon voluntary social interaction. Accordingly, widespread fear exerts pressure on individuals to lead increasingly isolated, solitary lives – precisely the sort of lives that would

¹⁹ See Chapter 13, paragraph 9, of Thomas Hobbes, *Leviathan*, edited by A.P. Martinich, Peterborough, Ont., Broadview Press, 2002, p. 95-96.

characterize human beings in their pre-social, pre-civil condition.

The terrorist's message of fear not only undermines trust between individuals in society, but – by undermining trust – also harms a *social* good (trust itself) which makes possible many other social goods. After all, trust makes possible widespread interaction and cooperation among strangers, and such interaction and cooperation are essential to many other social goods, such as: the manufacture and delivery of consumer products, the widespread use of public transportation, the delivery of water and power to households, and the sharing of public spaces (such as parks, restaurants, and roadways). The contemporary moral philosopher Trudy Govier has helpfully outlined just how important trust is in our ordinary lives, and how the terrorist – by undermining that trust – does severe damage to our ordinary lives as social beings:

Terrorism threatens us deeply because it puts into question our ordinary lives and the trust we need to conduct them. Our vulnerability stems from our interdependence; we are linked together profoundly in our need for the basic items of life. Nearly all the trivial objects of our lives have come in contact with thousands of other people. If someone wanted to alter a vehicle, poison the water, amend a pharmaceutical formula, spray crops with toxins, destroy a bridge, or put explosives inside his shoes – well, how could we stop him from doing so? (...) Fundamentally, it is people who are the objects of our trust; when we rely on things in the normal way, we are implicitly trusting the other people who provided them. This means trusting other people for their competence; we presume these people know what they are doing and how to do it. It also means trusting them for their motivation; we presume they are not trying to maim or kill us – and that's the presumption that terrorists make us question. Social trust is fundamental in life and it's the upheaval of social trust that makes terrorist attacks so profoundly disturbing.²⁰

²⁰ Trudy Govier, *A Delicate Balance: What Philosophy Can Tell Us About Terrorism*, Cambridge, Mass., Westview Press, 2002, p. 3-4.

Moral philosopher Alasdair MacIntyre goes even further to argue that trust and the absence of fear are not only necessary for our ordinary economic relationships with others; they are also necessary for the acquisition of the virtues proper to human flourishing. Indeed, human beings depend radically on others (both family members and non-family members) in order to learn what the good life is, and to acquire the virtues needed for living it. It is only in the context of such learning and such virtue-acquisition that ordinary market relationships (e.g., those involving the buying and selling of consumer products and services) can contribute meaningfully to overall human flourishing. If there were no trust – but only fear – among strangers in society, then not only would ordinary market transactions become impossible; it would also become impossible to acquire the virtues and aspire to proper human flourishing:

Market relationships can only be sustained by being embedded in certain types of local nonmarket relationship, relationships of uncalculated giving and receiving, if they are to contribute to overall flourishing, rather than, as they so often in fact do, undermine and corrupt communal ties.²¹

Terrorism – insofar as it operates by conveying a message of fear to the population at large – exploits the fact of human interdependence, and turns this enabling condition of cooperation and flourishing into its very opposite: a disabling condition of anxiety, isolation, and estrangement.

Now by focusing on the fact that terrorism undermines trust and tends to isolate individuals from one another, one might be tempted to conclude that an essential effect of terrorism is to destabilize existing political, economic, legal, and/or social orders.²² And this might lead one to the further inference that

²¹ Alasdair MacIntyre, *Dependent Rational Animals: Why Human Beings Need the Virtues*, Chicago, Open Court Publishing, 1999, p. 117.

²² For example, this conclusion is explicitly contained in the definition of terrorism provided by the European Union's "Council Framework Decision of 13 June 2002 on Combating Terrorism," cited above.

terrorism is directed against existing systems or subversive of existing political orders. But we should take care to resist this conclusion, and to resist its affiliated, erroneous inference. For it is clear that terrorism is not always revolutionary or subversive of existing orders; terrorists can also be functionaries or heads of governments (we might call them 'pro-establishment terrorists') who seek to maintain the existing political order through their terrorism. Indeed, some of the earliest innovators of modern terrorism – those who carried out the Reign of Terror during the French Revolution, and from whom we in fact derive the word, 'terrorism' – were government officials; and their goal was not to undermine any existing government, but rather to maintain and ensure the stability of the newly-established government. Since the time of those first modern terrorists, the world has seen many instantiations of pro-establishment terrorism, represented by figures such as Hitler, Stalin, Mussolini, Pol Pot, Idi Amin, and others like them. It is true enough that terrorism tends to undermine trust between individuals and tends to isolate individuals from one another; but it does not follow that terrorism can serve only to destabilize existing political, economic, legal, and/or social orders. Indeed, pro-establishment terrorists aim to undermine trust between individuals and isolate citizens from one another precisely for the purpose of maintaining their grip on power and solidifying the existing political order. For by undermining trust and isolating citizens from one another (e.g., through hit squads, secret informants, arbitrary punishments, police harassment, etc.), pro-establishment terrorists reduce the chances that citizens will take the risk of forming political groups and alliances of their own, and this – in turn – has the effect of keeping political power firmly concentrated in the hands of the pro-establishment terrorists themselves. The ultimate aim of the pro-establishment terrorist is to maintain maximal order and stability in society, precisely by destroying trust among citizens and by creating strong disincentives for citizens to form voluntary and unregulated social and political groups of their own.

Let us now turn to the third part of the terrorist's distinctive, three-part mode of operation, namely, the terrorist's goal of influ-

encing or coercing his or her indirect target group so as to serve the terrorist's objectives. As we have seen above, the terrorist conveys a message of fear or intimidation to an indirect target group precisely as a means of influencing or coercing that indirect target group (e.g., an entire population or the government with the legitimate authority to act on behalf of that population). In effect, the terrorist issues a threat to the indirect target group. The threat may take on many different forms, but the essential content of the threat may be formulated as follows: "The same kind of harm or violence which you (the indirect target group) have observed being perpetrated against the direct target group may also be visited upon you, or upon those in your care, if you and/or your government do not do as we wish." We have already seen how the terrorist's policy of causing widespread fear has deleterious effects on society and on the individuals who live within society. But above and beyond the causing of widespread fear, the terrorist also issues a threat to the indirect target group (i.e., to members of society and/or to the government that represents them). Now it is clear that the terrorist makes his or her specific threat precisely *by means of* his or her generalized message of fear or intimidation. In the terrorist's mode of operation, these two elements – the generalized message of fear and the issuance of the threat – belong together. But for the purpose of our conceptual analysis, it is possible to treat the two separately. Abstracting for the moment from the fact that the terrorist issues his or her threat *by means of* a generalized message of fear or intimidation, we can ask: "What, if anything, is wrong with the terrorist's threat to do harm or violence to the indirect target group, if the indirect target group does not accede to the demands or desires of the terrorist?"

There has been a vast amount of literature on the nature and moral status of threats and other forms of coercion (such as extortion, blackmail, and the like),²³ but for the purpose of the present

²³ See, for example, Harry Frankfurt, "Coercion and Moral Responsibility," in: *The Importance of What We Care About*, New York, Cambridge University Press, 1988. This article by Frankfurt was first published in Ted Honderich (ed.), *Essays on Freedom of Action*, London, Routledge & Kegan Paul, 1973, p. 65-86.

analysis, I rely mainly on the work of Robert Nozick. In his 1969 article on 'Coercion,' Nozick provides a helpful analysis of just what it is that constitutes a coercive threat. Following Nozick but simplifying greatly, we can say that P (the threatener) uses a threat to coerce Q (the threatenee) if and only if six conditions are met:

- 1) P aims to induce Q to perform some action A (where A may be understood as the undertaking of some action, or the foregoing of some action);
- 2) P communicates a claim to Q;
- 3) P's claim indicates that if Q does not perform A, then P will bring about some consequence that would make Q's non-performance of A less desirable to Q than Q's performance of A;
- 4) P's claim is credible to Q;
- 5) Q does A;
- 6) Part of Q's reason for doing A is to lessen the likelihood that P will bring about the consequence communicated by P to Q, as per (3).²⁴

Based on this analysis, we can say that the terrorist's mode of operation consists in issuing a threat, the aim of which is to coerce the indirect target group to perform some action A (where A may be understood as the undertaking of some action, or the foregoing of some action). If members of the indirect target group perform some action A in response to the terrorist's threat (as per Nozick's analysis), then they have been coerced; on the other hand, if they do not perform the action A (once again, as per Nozick's analysis), then they are at risk of being harmed by the act or acts of violence threatened by the terrorist. Now we may ask: what, if anything, is wrong with the terrorist's attempt at coercing the indirect target group by means of a threat?

See also Grant Lamond, "Coercion, Threats, and the Puzzle of Blackmail," Chapter 10 in: A. P. Simester and A. T. H. Smith (eds.), *Harm and Culpability*, Oxford, The Clarendon Press, 1996, p. 215-238; and Cheyney C. Ryan, "The Normative Concept of Coercion," *Mind* 89 (1980), p. 481-498.

²⁴ Robert Nozick, "Coercion," in: Sidney Morgenbesser, Patrick Suppes, and Morton White (eds.), *Philosophy, Science, and Method: Essays in Honor of Ernest Nagel*, New York, St. Martin's Press, p. 440-472.

It should be clear enough that not all threats to do harm or to use violence are morally impermissible. A king, for example, may issue a threat to an army that is attacking his kingdom, claiming that he will order his troops to undertake a deadly counter-act, if the attacking army does not immediately withdraw. Assuming that the attacking army's campaign of violence is a wrongful one (assuming, for example, that it is not part of a defensive or otherwise justified military operation), the king's threat may be a morally permissible one; for in making the threat, the king would be threatening to use force merely in order to reclaim that which already belongs to him and to his people by right, namely the quiet enjoyment of their own peaceful way of life, unhindered and unharmed by the violent intrusions of invading armies.

The preceding example helps us to begin formulating a more general principle to explain why – and when – certain threats to do harm or to use violence are morally wrong: attempts to coerce others through threats of harm or violence are morally wrong, if what the threatener threatens to do (in the event that the threatenee does not accede to the threatener's demands) is to deprive the threatenee of something (i.e., some good or some freedom from harm) to which the threatenee is already entitled, quite apart from what the threatener threatens to do or not to do.²⁵ This explains why a threatener's threat to cause harm or to use violence can be morally wrong, even if the threatener's threat is not followed by any actual harm or violence. For in issuing a credible threat, the threatener puts the threatenee into a position of having to choose between two mutually exclusive alternative options ('your money or your life'), when in fact the threatenee's pre-existing entitlements (to certain goods and/or to certain freedoms) would have already immunized the threatenee against such a forced choice (so

²⁵ In his work on coercion, Alan Wertheimer seems to express a similar view. For Wertheimer seems to hold that coercive threats are morally wrong, if what the threatener threatens to do to the threatenee (if the threatenee does not accede to the threatener's demands) would involve a violation of the threatenee's pre-existing rights. See Alan Wertheimer, *Coercion*, Princeton, NJ, Princeton University Press, 1987.

if the threatenee is already entitled to both his money and his life, then it is a violation of his already-existing rights to put him into a position of having to choose – or of believing that he has to choose – between the two). In effect, any credible threat imposes upon the threatenee a necessary choice – or causes the threatenee to believe that he or she must make a choice – between two mutually exclusive alternative options, when in fact the threatenee's already-existing entitlements would have already given him or her the right to avoid making such a choice. So even if no actual violence is done to the threatenee, a credible threat directed at the threatenee – in and of itself – involves an actual violation of the threatenee's rights.

In light of the preceding analysis, we can now draw the following important conclusion: if the terrorist's threat of doing violence to the indirect target group is a threat of the kind described above (i.e., if the terrorist threatens to deprive the indirect target group of something – such as quiet enjoyment of a peaceful way of life – to which the indirect target group is already entitled), then the terrorist's threat of doing violence is morally wrong for the reasons given. And so the terrorist's threat of doing violence to the indirect target group is morally wrong, if the indirect target group already has the right to be left undisturbed by the violent activity which the terrorist threatens. What this means is that the terrorist's threat of doing violence to the indirect target group can be morally acceptable, only if the indirect target group has no pre-existing right to be left unhindered and unharmed by the violent activity which the terrorist threatens. But on what grounds might the indirect target group lack the right to be left unhindered and unharmed by the violent activity which the terrorist threatens?

We can begin venturing an answer to this last question if we consult the traditional understanding and justification of self-defense. According to the traditional understanding and justification, a person or group may justifiably use force or violence against another person or group, provided that this second person or group poses a threat (whether explicitly expressed or not) of doing violence or harm to the first person or group. Thus if a person or

group poses a threat to some other person or group, then the person or group posing the threat has no right to be left unhindered or unharmed in their activity of posing the threat. Applied to the problem we are now considering, this means that the terrorist's indirect target group lacks the right to be left unhindered and unharmed by the violent activity which the terrorist threatens, if the indirect target group in some way poses a threat (whether explicitly expressed or not) of doing violence or harm to the terrorist (or to those on whose behalf the terrorist has the rightful authority to act). Thus the terrorist's threat of doing violence to the indirect target group can be morally acceptable, if the indirect target group in some way poses a threat of doing violence or harm to the terrorist (or to those on whose behalf the terrorist has the rightful authority to act).

It is worth noting here that the traditional understanding and justification of self-defense rests implicitly on what has come to be known as 'the doctrine of double effect,' and it is this doctrine which places certain limits and conditions on the right of self-defense. Perhaps the most famous articulation of the doctrine of double effect – and the corresponding right of self-defense – can be found in the work of Thomas Aquinas, who crucially distinguished between the agent's intention of acting to preserve his or her own life or well-being, and the agent's ability to foresee the likely (albeit unintended) consequences of such self-defensive action:

Nothing hinders one act from having two effects, only one of which is intended, while the other is beside the intention. Now, moral acts take their species according to what is intended, and not according to what is beside the intention, since this is accidental (...). Accordingly, the act of self-defense may have two effects, one is the saving of one's life; the other, the slaying of the aggressor. Therefore this act, since one's intention is to save one's own life, is not unlawful, seeing that it is natural to everything to keep itself in being as far as possible. And yet, though proceeding from a good intention, an act may be rendered unlawful, if it be out of proportion to the end. Wherefore, if a man in self-defense uses more than necessary violence, it

will be unlawful, whereas, if he repel force with moderation, his defense will be lawful, because according to the jurists, 'It is lawful to repel force by force, provided one does not exceed the limits of a blameless defense.'²⁶

Notice that the doctrine of double effect, as articulated above, places important limits and conditions on the right of self-defense. Most importantly, the force being used to repel an aggressor's use of force may not be 'out of proportion' to its legitimate end, which is the end of self-defense. In an act of legitimate self-defense, one's intention is not – strictly speaking – to do harm or violence to the aggressor, but rather only to preserve one's own well-being; any harm or violence done to the aggressor is a foreseen, though – strictly speaking – unintended consequence of one's self-defensive action. Accordingly, if a person or group acting in self-defense intends to do more violence or harm to the aggressor than is needed for the attainment of the legitimate end of self-defense, this excessive force counts as a kind of unjustified 'surplus' force, in which case it is an intended and illegitimate aggression which may itself be rightfully resisted with force.

Two other important observations are in order here. First of all, the doctrine of double effect and the associated argument for the right of self-defense provide the theoretical foundations for the well-known distinction between those who are combatants (or soldiers) and those who are non-combatants (or innocents, or civilians) in times of violent conflict. This traditional distinction has nothing to do with the question of the person's (i.e., the soldier's or the civilian's) *moral* guilt or innocence. From a moral point of view, a soldier may be quite 'innocent' (e.g., a soldier may be an unwilling conscript) and conversely, a civilian may be quite 'guilty' (e.g., a civilian may be an irrational patriot who supports his own country's illegitimate acts of aggression against

²⁶ See Thomas Aquinas, *Summa Theologiae* II-II, Q. 64. a. 7. This translation is taken from Aquinas, *On Law, Morality, and Politics*, translated and edited by William Baumgarth and Richard J. Regan, Indianapolis, Hackett Publishing Company, 1988, p. 226.

another country). This traditional distinction between combatant and non-combatant has rather to do with the *danger* or the *threat* posed by the person in question. A person is legitimately targeted as a combatant to the extent that he or she (no matter how morally 'innocent') poses a danger or threat to another person or persons, who – precisely because of the danger or threat posed – may resort to force or violence in order to repel the danger or threat. (This is one reason why the law typically recognizes 'self-defense' justifications in cases where morally 'innocent' victims – such as the insane or the incompetent – have been killed or harmed by those legitimately acting in self-defense.) Conversely, a person is properly labeled a non-combatant (and thus is immune to legitimate acts of forceful self-defense) to the extent that he or she does not pose a danger or threat to others. (This is one reason why a soldier – e.g. one who, in surrendering, lays down his arms and thereby demonstrates that he is not a threat to the opposing force – may legitimately acquire the immunities and protections belonging to non-combatants.) Another way of making the general point here is to say that it makes sense to use force for the purpose of self-defense in cases where one is being threatened or put into a position of danger; but where there is no such threat or danger, it makes little sense to say that one's use of force or violence is undertaken 'in self-defense.'²⁷

Secondly, in order for a person or group to act in accordance with the doctrine of double effect and with the legitimate right of self-defense, it is not enough that the person or group merely refrain from *intending* to do more harm or violence than is necessary for the purpose of self-defense. Mere intentions are not enough. The person or group acting in self-defense must also

²⁷ For more on this account of the distinction between combatants and non-combatants, see Michael Walzer, *Just and Unjust Wars*, New York, Basic Books, 1977, p. 145; and Robert K. Fullinwider, "Terrorism, Innocence, and War," *Philosophy and Public Policy Quarterly* 21 (2001) 4. Fullinwider's article has been reprinted in Verna V. Gehring (ed.), *War After September 11*, Lanham, MD, Rowman and Littlefield, 2003.

affirmatively *intend to avoid* doing any more harm than is necessary to repel the harm being threatened by the aggressor. Thus if a person acting in self-defense intends only to repel the aggressor, but takes little care to ensure that the means used in self-defense are kept within their proper limits and – through this lack of care – causes unnecessary harm to the aggressor, then the person's self-defensive activity is morally infirm. Another way of making the point is to say that, in any act of self-defense, one must aim – to the extent possible – to 'divide' the intended good (the protection and preservation of oneself) from the unintended evil (harm to the aggressor).²⁸ One legitimately acts in self-defense only if the act of harming the other person could not have been divided from the act of preserving or protecting oneself. Even if one intends only to defend oneself, but does not take care to divide the act of self-defense from the act of doing harm to another (assuming that the two really are divisible), then one has not legitimately acted in self-defense. In such a case, the person or group seeking to act in self-defense is guilty of wrongdoing – not intentionally, but out of negligence.²⁹

We can now return to our brief moral analysis of the terrorist's threat of doing harm or violence to the indirect target group. As we have seen above, this kind of threat is morally acceptable, only if the indirect target group has no pre-existing right to be left unhindered and unharmed by the violent activity which the terrorist threatens. But the indirect target group may lack the right to be left unhindered and unharmed, if the indirect target group poses some kind of threat or danger to the terrorist (or to those on whose behalf the terrorist has the rightful authority to act). But if

²⁸ For more on this notion of such 'dividing,' see Alan Donagan, *The Theory of Morality*, Chicago, University of Chicago Press, 1977, p. 161.

²⁹ In a similar vein, Shannon E. French argues that causing harm to others unintentionally but out of 'willful negligence' seems 'clearly to violate' the principle of double effect. See Shannon E. French, "Murderers, Not Warriors: The Moral Distinction Between Terrorists and Legitimate Fighters in Asymmetric Conflicts," in: James P. Sterba (ed.), *Terrorism and International Justice*, New York, Oxford University Press, 2003, p. 3-46.

persons belonging to the terrorist's indirect target group do not pose any such threat, then the terrorist's threatening message of fear aimed at the indirect target group cannot be justified on the grounds of self-defense. Of course, there may be a great deal of uncertainty and debate over what sort of activity by the indirect target group may or may not constitute the kind of threat that would justify the terrorist's threatening message of fear aimed at the indirect target group. But in spite of this uncertainty, the general moral principle remains: in the absence of any such threat or danger posed by the indirect target group, the terrorist's threatening message of fear aimed at the indirect target group cannot be justified on the grounds of self-defense. And it is unclear what – if any – other grounds could possibly justify the terrorist's use of threats and fear to coerce the indirect target group.

Furthermore, even if the indirect target group *does* pose some sort of threat sufficient to justify the terrorist's threatening message of fear, the terrorist may not legitimately threaten to use more force than would be necessary to repel the threat posed by the indirect target group. Any *threat* to use more-than-necessary force would be a threat to use more force than the terrorist would be justified in *actually* using; and as we saw above, the terrorist may legitimately *threaten* to use only that force or violence which he or she may legitimately use *in actuality*. But in resorting to systematically unsystematic violence which causes *widespread* fear among persons in the indirect target group, the terrorist effectively threatens to do harm to members of a very large segment of the population. And it seems unlikely that the action threatened by the terrorist (even if it is, in principle, legitimate as self-defensive in intent) is 'indivisible' from the doing of harm to such a large segment of the population. And so the terrorist's threatened use of force (even if it is legitimate in some respect) seems to exceed that which can be justified in accordance with the doctrine of double effect and the right of self-defense.

The preceding analysis now – finally – allows us to evaluate the moral status of the first part of the terrorist's distinctive, three-part mode of operation. Recall that the terrorist (a) perpetrates actual

violence against persons (or the vital interests of persons) who belong to the direct target group, as a means of (b) sending a generalized message of fear or intimidation to a wider audience of persons belonging to an indirect target group (e.g., a government or entire populace), and in turn exploits such fear or intimidation as a means of (c) influencing or coercing the indirect target group. We have already seen that the terrorist may not, on the grounds of self-defense, legitimately threaten to use more force against the indirect target group than he or she would be justified in actually using against the indirect target group. But the same restrictions apply equally well to the terrorist's treatment of the direct target group. The terrorist's perpetration of actual acts of violence against persons in the direct target group can be justified on the grounds of self-defense, only if persons in the direct target group pose some threat or some danger to the terrorist (or to those on whose behalf the terrorist has the rightful authority to act). In the absence of any such threat or danger posed by the direct target group, the terrorist's perpetration of actual acts of violence against the direct target group cannot be justified on the grounds of self-defense. And it is unclear what – if any – other grounds could possibly justify the terrorist's actual acts of violence against the direct target group.

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TERROR AND TERRORISM, A NECESSARY CONFUSION

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