

# **WHAT PUTS THE 'TERROR' IN TERRORISM?**

**KARL REJMAN**  
Bachelor of Arts (Honours) Philosophy,  
Bachelor of Management  
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*To Glenn Allen: I dared Sir, and I have won*

## **Abstract**

How are we to combat terrorism? Is terrorism ever morally justified? When is it rational to become a terrorist? What is so terrorizing about terrorism? The answers to these important questions depend on the most fundamental one: what is terrorism? In this thesis I utilize a practice analysis to discover how we in the West think about war. From that analysis, a definition of terrorism, captured in military categories, is offered. This definition is then used to discover what makes terrorism so terrifying for us. Finally, the definition of terrorism argued for in this thesis is tested for its applicability to further analysis by using the definition to analyze the current Israeli-Palestinian conflict, the Pentagon and World Trade Center attacks on events of September 11<sup>th</sup>, and nuclear deterrence.

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## Introduction

### Why Ask What Terrorism Is?

In his *Confessions*, St. Augustine wrote, “What, then, is time? If no one asks me, I know what it is. If I wish to explain it to him who asks me, I do not know.”<sup>1</sup> The same goes for several other concepts we have, such as pornography, truth and falsity, and language. It is the job of the philosopher to go through all of these concepts and try to come up with understandings of the concepts that will still be with us and useful to us at the end of the day. This thesis deals with terrorism, specifically looking at what terrorism is.

Unlike time, our current climate requires an immediate response as to what terrorism is. Little damage is done if we linger with concepts such as time. In contrast, troops have been sent to Afghanistan, the United States of America has compiled a list of evil countries and has engaged in a second war with Iraq - all in the name of fighting terrorism. Yet we are not clear at all on *what* terrorism is! Without knowing what terrorism is, we cannot know who is a terrorist, whether terrorism is or can be a (morally and/or politically) defensible action to take, what actions a state may take against terrorism, what limitations can be placed on liberties by the state to respond to terrorism, etc. And since we are responding militarily to terrorism and states are suspending some civil liberties in the name of fighting a war against terrorism, we had better hurry up and get clear on what terrorism is.

This thesis on terrorism looks at the issue from a Western perspective.<sup>2</sup> Many before me have addressed terrorism by starting with an abstract, axiomatic foundation and building

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<sup>1</sup> Augustine *Confessions* 11.14.17.

<sup>2</sup> Throughout this thesis, I use the terms ‘we’ and ‘West’ quite loosely. Some of the military practices which I say are Western military practices, such as championing, are also the practices of many non-Western groups. Furthermore, I do not intend to argue that the West has never engaged in terrorist practices. The intent of this thesis is to discover the Western perspective on war, discover if ‘terrorism’ becomes meaningful within that perspective, and if so, what that meaning is.

up from there. My approach is very much a Wittgensteinian one. I am trying to discover what terrorism is by looking within our own practices. This will limit applications of this thesis, as the definition developed for terrorism may not be shared by people with radically different practices than ours. But at the same time, such an approach makes it much easier for us to understand what we take terrorism to be, why we take terrorism to be what it is, and why we have the reactions to terrorism that we do. In short, this practice-based analysis of terrorism, I think, best clears up the concept of terrorism *for us*. After doing this, it would be most useful (and essential to a more all-encompassing picture) not only to look at the ethical and strategic issues that rest on the analytics, but also to do a practice-based analysis for other people's practices. For example, doing a practice-based analysis of the fundamental Islamic practice of war would be the most useful and most interesting place to start. Doing such an analysis would allow us to compare practices between peoples, which could give us guidance in policy making, negotiating, and war. Knowing whether what we mean by terrorism is the same thing that Al Qaeda members mean, for example, could help us stop terrorist attacks before they are even committed, by figuring out how terrorists themselves conceive of what they are doing, as well as what is motivating terrorists to do what they do.

## Chapter 1

### Terrorism: A Definitional Struggle

It is hard to know where to begin with terrorism. Often mentioned in the media, terrorism has now become a “household” word. Prior to the Al-Qaeda attacks on September 11<sup>th</sup>, terrorism for many North Americans was a far away, exotic concept.<sup>3</sup> Everyone knew about terrorism, but it was a thing that occurred “over there”. Airplane hijackings, embassy sieges and assassinations, long sensationalized by Hollywood, were shocking and exciting, but they were also distant. Many Jewish and Muslim North Americans are deeply connected to the Middle East and are affected by the constant fighting in Israel. However, most North Americans see the fighting in Israel as something that is terrible, but not a terrible thing that is happening *to us*. This is not a matter of geographical proximity, but rather one of cultural closeness. Most North Americans share more culture in common with New York than they do Jerusalem. Though Jewish and many Muslim North Americans may have deep roots in Israel and Palestine, their homes are safe from Israeli artillery barrages and Palestinian suicide bombers. Now terrorism for all North Americans is much more of an immediate concern. Since September 11, we have been forced to deal with the issue. We cannot turn our televisions off and make the attacks on the World Trade Center go away.

But talking about terrorism is like talking with children about sex - where does one start? Parents could try to give their child all of the physical facts about sex. Perhaps a parent will offer a dismissive answer, hoping that the child will drop her questions, saving the parent from feelings of embarrassment. Maybe a parent will tell her child that sex out of

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<sup>3</sup> Throughout this thesis I assume that Osama Bin Laden and Al Qaeda were responsible for the attacks on the Pentagon and the World Trade Center on September 11<sup>th</sup>, 2001.



wedlock and for purposes other than procreation is evil, according to some religious tradition. Or a parent may try to convince their child that sex is bad, in order to keep their child from having sex. All of these options may run through parents' heads when they are asked about sex by their child.

Figuring out where to start with sex is similar to figuring out where to start with terrorism. Some may think that terrorism is inherently evil. Furthermore, some may think that anyone who commits an act of terrorism is a criminal. Even if one thinks that terrorism is not criminal, evil, and/or odd, there may be good reasons for putting such a spin on terrorism. In order to get popular support for military action against a group of terrorists, it could be rational in many cases to condemn terrorism as an evil and/or criminal act. Others argue that terrorism is best captured in military categories. And some may argue for a multitude of definitions for terrorism, one for legal purposes, one for drumming up popular support to combat (or engage in) terrorism, and one for academic purposes.

If the concept of terrorism could be as confusion free and standardized as the concept of heat, then I think all of us would be better able to deal with the more pressing issues surrounding terrorism. As essential as figuring out the analytics of terrorism might be, it is the legal, strategic and moral applications that we are most concerned about. But before we can address these applied issues regarding terrorism, a definition of what terrorism is should come first.

In his book *Urban Guerrillas*, Robert Moss suggests that terrorism may be defined as, "the systematic use of intimidation for political purposes."<sup>4</sup> Robert Moss further separates terrorism into three species: repressive terror used by a government to control the population, defensive terror used for self defence, and offensive terror used to attack other groups. This

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<sup>4</sup> Robert Moss, *Urban Guerrilla*, (London: Maurice Temple Smith Ltd., 1972), 32.

definition must be rejected because its key components are too broad. For example, parents may systematically use intimidation to control their children. However, one may contend that controlling one's children is not a political purpose. Then consider a different example. One government may systematically use intimidation when negotiating logging and fishing rights with another government. Would we call the government using intimidation a terrorist regime? We might, depending on the "political" purpose and the nature of the "intimidation".<sup>5</sup> All governments use their strengths to attempt to get other organizations and individuals to conform to some government policies, and this leveraging can be called intimidation. Even military actions that we would consider to be very conventional and permissible would be taken to be terrorist actions according to this definition. During tank battles in WWII, surely the allied tank commanders hoped that the German tankers would be intimidated by the force they faced and would choose to surrender rather than continue to fight. As Donald J. Hanle writes, "It is not necessary, therefore, to totally disable the enemy to defeat him [sic]. Thousands of armed combatants can be influenced to stop fighting by physically compelling (killing, wounding, or capturing) a few hundred at the right place and time."<sup>6</sup>

Since all governments use some form of intimidation for political purposes, does that make all governments terrorists? The trouble here with the terms 'intimidation' and 'political' in Robert Moss' definition is that they would apply to situations we normally do not consider to be terrorism.

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<sup>5</sup> We might not call a government which heavily uses intimidation to prevent rape or murder. However, a government using intimidation to prevent rape or murder may very well be engaging in terrorism, but in this case we would call it a *good* use of terrorism. This problem will be cleared up with a better definition of terrorism.

<sup>6</sup> Donald J. Hanle, *Terrorism: The Newest Face of War* (McLean: Pergamon-Brassey's International Defense Publishers, Inc., 1989), 18.

The use of the term ‘intimidation’ here is problematic in another sense. For an action by one group to be considered terrorism by another group, the victims would have to actually be intimidated. Suppose country A systematically sends the same number of car bombs at the same times to similar shopping centres in country B and country C. If country B does not feel intimidated by these actions, but country C does, then A’s actions towards country B are not terrorism, yet A’s *identical* actions towards country C are terrorism, all other things being equal. One problem with the above example lies with how to determine that a country really is intimidated. Do we need an international investigative body? Perhaps a referendum with 50% plus one needed for a successful intimidation vote? Is a nation intimidated if the government self-identifies as being intimidated? On the other hand, we could say that the criteria for whether or not intimidation occurs lies with the attacker. If we can determine the attacker’s intent to intimidate, then we can claim that the attacker is a terrorist. Once again we run into problems trying to establish if an intent to intimidate occurred. Do we need an international panel to decide? Perhaps the victim is the best gauge of their attacker’s intent. Or perhaps all we need to do is simply see if the targeter admits to *attempting* to intimidate. Whether or not the victims of an attack are intimidated would not matter in this case, and the test for intimidation would be significantly easier to perform; all we would need to do in our hypothetical example is ask country A if intimidation was the intent of the systematic attacks. If country A admits to the intent to intimidate, then Moss’ definition would be satisfied and we could label country A a terrorist nation. Obviously this is flawed, for in most plausible cases it would be irrational for an attacking country to admit to a campaign of systematic intimidation and gain the label of terrorist.<sup>7</sup>

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<sup>7</sup> This is certainly true today. With this ongoing “war on terrorism”, any nation who admits to actively practicing terrorism would be seen, at least by the United States of America, as an immediate threat and a

Though at this point we do not know what terrorism is, most Westerners certainly hold that terrorism is something that is negative in some way, whether it be illegal, immoral, or irrational. Admitting to being a terrorist is to admit a kind of wrongdoing. A clear definition of terrorism should let us know if such claims make sense or not. However, it is clear that identifying terrorism based on whether or not an action (done for political purposes) intimidates its target(s) does not provide a useful definition of terrorism.

Moss' definition also suffers by the vague use of the term 'political purposes'. What are political purposes? Is the word political used to somehow restrict terrorism to governments? Can non-governmental organizations have political purposes and use terrorism for them? Is 'political' used here to exempt individuals, as political purposes are the purposes of organizations? The force of the term 'political' in Robert Moss' definition is uncertain.

There are some features that we may want to retain from Robert Moss' definition. First, terrorism likely is not an end in itself. At this stage we will reject that terrorism is some action for political purposes, because we are not sure what 'political purposes' means. However, terrorism must be for something. Creating terror simply for the sake of creating terror does not fit well with cases we ordinarily think of as terrorism. The first Palestinian Intefada was intended to get better living conditions for Palestinians, as is the current Intefada. Though the creation of feelings of terror among Israelis is likely intended, the terror

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legitimate target. Afghanistan was a base for Al Qaeda and the Taliban certainly supported Al Qaeda, so the United States and other allied nations took military action against the Taliban and Al Qaeda following the September 11<sup>th</sup> attacks. The United States and Britain used claims that Iraq supports terrorism as one of the justifications for going to war to remove Saddam Hussein's regime from power. Also, on approximately August 15<sup>th</sup>, 2003, Libya delivered a letter to the United Nations claiming responsibility for the 1988 bombing of Pan Am flight 103, and money is being transferred to families of the victims of the bombing. It is expected that economic sanctions against Libya imposed by the United Nations will be lifted. In today's political climate, being labeled a terrorist can be quite harmful to oneself, so self-identifying as a terrorist wouldn't be rational. Conversely, self-identifying as being the victim of terrorism seems to allow much freedom in the level of response one can take against one's enemies. The Israeli government constantly claims that Israel is the victim of Palestinian terrorism, and uses these claims to justify severe retaliation.

is not meant to be an end in itself. Rather, the terror is a means to the real end - getting more for Palestinians. So terrorism is not an end in itself, but rather a means to some other end.

A second feature that will guide this search for a definition of terrorism comes from problems with emotive terms like 'intimidate'. The same action done to two different victims, or even the same victim twice, could in the first instance count as terrorism, but in the second instance it would not be terrorism if in the first cases the victims felt intimidated, while in the second cases the victims did not feel intimidated. Furthermore, the problems with establishing that intimidation occurred make it more attractive to eliminate emotive components in a definition of terrorism. The main difficulty with using emotive terms in a definition of terrorism is that such terms imply that the creation of certain feelings are an end in themselves, when something like the creation of feelings of terror is a means to further ends for terrorists. Further, an objective test for whether the emotive components of the definition have occurred and are genuine is difficult, if not impossible, to come by. Also, these emotive components can be "played upon" by groups in order to gain some advantage we might not think the groups deserve. A nation need only claim to feel terrorized or be intimidated in order to justify an attack on an enemy.

Two other emotive terms that have been a part of terrorism talk should be dealt with. The first is violence. When a police officer draws his sidearm and points it at a person in an attempt to control that person, we do not say that the police officer is being violent. When a woman kicks and scratches her attempted rapist, forcing the rapist to abandon his attack, we do not call the woman's actions violent. In these two cases we would say that force was being used, and that the force was justified. Conversely, there is something wrong with saying that violence was justified for the police officer and the victim of attempted rape. In

the rape case, we would actually say that the attempted rapist's actions were violent. So 'violence' is a term that means that force was used in an unjustified way. The word 'unjustified' is used here because there is a myriad of different bad uses of force. Force could be used for immoral ends, force could be used for moral ends but used excessively, force could be used at the wrong time, and so on. Therefore, a definition of terrorism that is to avoid emotive language must try to avoid using the word violence. If it turns out that terrorism is a wrongful use of force, then we can accept the use of the word violence in the definition of terrorism. If this is the case, then the definition of terrorism must specify what feature of terrorism makes its use of force a wrongful one. Nonetheless, I will avoid using emotive terms as much as I can.

That brings us to the other emotive term we need to be wary of; strangely enough, that term is 'terror'. Many of the same worries already raised with the use of the term 'intimidate' arise with the use of the term 'terror'. Assuming terrorism is taken to be the use of terror to achieve some political goal, we are left wondering how to establish whether an act is or is not terrorism. Do we ask the victim if they felt terrorized? Do we ask the attacker if they intended to terrorize? And once again we can have cases where the same act, done to different groups with the only difference being that one group felt terror at the attack while the other group did not, would in some cases be called terrorism while in other cases the act would not be called terrorism. This test of terrorism is too subjective, and too arbitrary; terrorism cannot be established by asking victims if they felt terrorized, or by asking the perpetrators of an attack if they intended to terrorize their targets. The lack of objectivity here makes 'terrorism so defined as to be of little use to political theory and those who are

responsible for responding to terrorists; prediction and control becomes impossible at this point.

Furthermore, there are many conventional uses of terror that are accepted by us which we do not call terrorism. Soldiers firing small arms on enemy soldiers hope that the enemy becomes terrified and is motivated to give up. Terror at the thought of being killed is one of the best motivators of all. That is how wars proceed. The aim of a military is not really to kill all of the enemy, but rather to use force to motivate an enemy to give up. When talks and economic sanctions and international legal actions do not motivate one's enemy to do what one wants them to do, and if the stakes are high enough, then one turns to the use of force, which includes causing an enemy to feel terror.

It may seem counterintuitive, or even downright contradictory, to recommend excluding the use of the word 'terror' when talking about terrorism. But the complications that arise when using emotive terms to define terrorism justify such a recommendation. However, it is important to reaffirm that I am not arguing that emotive terms should play no role whatsoever in a definition about terrorism. My claim at this point is that we should eliminate the use of emotive terms at first and employ them only as a last resort if we run into conceptual trouble. Later in this thesis I offer an explanation of why we find terrorism so terrifying, thereby finding a place for 'terror' in a definition of terrorism.

Moss' definition is endorsed and/or paralleled by other authors. Paul Wilkinson's definition is very much in line with that of Moss: "[b]riefly defined, terrorism is the deliberate and systematic use of coercive intimidation to create a climate of extreme fear among a wider target group than the immediate victims of the violence. Terrorism has been

used for a wide range of purposes.”<sup>8</sup> Wilkinson and Moss’s definitions agree that terrorism is the systematic use of intimidation to achieve some ends. Wilkinson adds a middle step, saying that terrorism attempts to create a climate of fear, which in turn is meant to help achieve the terrorists’ primary goals. For example, if a terrorist group wanted members of their organization freed from prison, Wilkinson would say that the organization may kidnap some politicians in the country where their members are being held in prison in order to intimidate the government. The kidnapers may kill one of their hostages in order to help secure the release of their imprisoned members. The intimidation created by the kidnappings and the killing aims to create a climate of fear which will motivate the government to do what the terrorists ultimately want - release of their imprisoned members.

This example definitely sounds like a case of terrorism. And although Wilkinson’s definition of terrorism would agree that the example is terrorism, the definition is still flawed and of limited use. Once again we must ask what the litmus test for intimidation is, and whether it lies with the terrorists (intent to intimidate) or the victims (actually feeling intimidated). It is not clear what exactly a climate of fear is either. During and immediately following any attack feelings of fear are a natural response. How long must these feelings last before a climate of fear exists?

Another problem with Wilkinson’s definition, and Moss’ definition as well, is the role of the word systematic. The word ‘systematic’ can mean according to some plan, but it can also refer to regular occurrence. Though it is not very clear which meaning Wilkinson has in mind, Moss clearly is talking about repeated occurrences when he uses the word systematic. Just prior to giving his definition of terrorism, Moss says that, “the Nazis showed how

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<sup>8</sup> Paul Wilkinson, “Some observations on the Relationships Between Terrorism and Freedom,” in *Terrorism, Protest and Power*, eds. Martin Warner & Roger Crisp (Aldershot: Edward Elgar Publishing Company Limited, 1990), 45.



terrorism can be used to erode the foundations of a democratic state. *A sustained* campaign of political violence has a corroding effect on any society [my italics].”<sup>9</sup> Further, Moss’ three tactical varieties of terrorism have the notion of regularity, not the idea of some plan being followed, built into them. For example, repressive terror is used, says Moss, by a government to *keep its grip over a population* (p. 32). Defensive terror is used against invaders or by groups to *keep the status quo* (p. 32). Finally, Offensive terror is used to *fight to win* independence or to *impose one’s ideology on others* (p. 32). Imposing, fighting to win, keeping a grip over a population – these all refer to recurring usage of a tactic, not following a plan. Given a definition of terrorism with the word systematic in it, where systematic refers to repeated occurrence, it seems that a single isolated act of terrorism could not occur. If an organization committed some act which creates a climate of fear in order to achieve some purpose, that single act wouldn’t count as terrorism. To avoid a charge of terrorism, all an organization would need to do is split up into multiple separate entities which commit single acts intending to create a climate of fear which in turn is intended to achieve some goal. Since these multiple separate groups avoid the systematic clause in Moss’ definition, these separate groups could not be called terrorists. Furthermore, supposing that Al Qaeda’s only attack against the United States of America was the attacks on the World Trade Center towers, we would still claim that the attack is a clear case of terrorism. So, I must reject using the word ‘systematic’ in a definition of terrorism where systematic refers to repeated occurrence of some act.

I cannot conclude yet that the term ‘systematic’ will play no role in a substantive definition of terrorism. But it is clear that Wilkinson and Moss’ use of the term ‘systematic’ will not work. If ‘systematic’ will play any clear role in understanding terrorism, it will be

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<sup>9</sup> Moss, 31.

found at a higher level of abstraction. Terrorism is probably a “sub-species” of some more general concept which may include the term ‘systematic’ in it.

This analysis of definitions of terrorism provides some guidelines that guide the search for a better definition of terrorism. First, emotive language must be eliminated as much as possible. Even the word ‘terror’ should be used with caution. We will have to look at whether terrorism should still be called terrorism, or else show what puts the ‘terror’ in terrorism. Second, terrorism is not an end in itself; it is some thing that is done for some other purpose.<sup>10</sup> Identifying what terrorism is done for is, therefore, essential to figuring out what terrorism is. Third, the use of the word systematic should be explored. Perhaps single acts of terrorism can exist if terrorism is a subspecies of a more general practice, which itself is a systematic practice. With these three guidelines, we ought to be able to find a definition of terrorism that is better than what is currently in the literature.

I am interested in finding a definition that allows us to analyse terrorist actions through the use of game theoretic models. These models (we may hope) will then allow us to predict and control future events; obviously this is very important to political advisers, military analysts and the members of the armed forces who are responsible for devising and implementing strategies for combating, or employing, terrorism.

The method I use to find a definition of terrorism is called practice analysis. It comes from Wittgenstein, who did many practice analyses in his book, *Philosophical Investigations*. A practice analysis is somewhat like intuition tapping. A philosopher taps her intuitions by taking her intuitions about a subject and analyzing them. The intuition is like a starting

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<sup>10</sup> I argue here that the word terrorism should be restricted to cases where terror is a means to an end, not the end itself, in order to make ‘terrorism’ useful. Exactly what to call cases where terror is an end itself is a good question, but not the one I want to address in this thesis. However, I think that the discussion up to this point indicates that cases of terror as an end and cases of terrorism as a means have sufficient differences in order to separate them and categorize them as such.

position on a subject, which is further analyzed in order to produce a more useful concept. The heart of a practice analysis is looking at the language we use, and then describing the results of the analysis in the form of a practice. A practice analysis will start with a description of a practice, and then the language used in the description of a practice is analyzed in order to come up with a clearer view of a practice, knowledge of what makes a practice stick around, why it is rational for people to adhere to a practice, and so on. Situations that can be described as practices will have rules and a logical structure to them. Further, situations that can be described as practices lend themselves extremely well to further analysis using game theoretic tools. This is how we can make predictions about terrorism in the future and figure out things like whether it is rational for an enemy to engage in terrorism, how to fight terrorists, or perhaps even when it would be rational for us to engage in terrorism. If terrorism does not have a game-like structure, I do not see how we could do much of anything about terrorism. Randomness is difficult to plan for, but actions that have structures which can be identified and predicted offer us more control. Even a definition of terrorism which only roughly produces a game-like structure can be quite useful to us.

At this point I am going to assume that terrorism has something significant to do with war. Clearly terrorism has something to do with conflict. But there are many kinds of conflicts. Conflicts which include the occurrence of terrorism that look exactly like wars abound - the fight against England by the IRA, Palestinian actions against the Israelis, and different Allied actions lead by The United States against Afghanistan and Iraq are prime examples. My intuitions suggest that terrorism has something to do with war, so the search for a better definition of terrorism will begin there. To understand terrorism, we need to

understand war. So let us do a practice analysis of war. What do we mean when we say the word 'war'? What is war?

## Chapter 2

### What is War?

War is a practice. Melinda Vadas tells us that a practice is “a socially established, socially orchestrated human activity that aims at certain goals or internal goods.”<sup>11</sup> This tells us that:

- 1) Practices have goals
- 2) Practices are established by communities.

But (1) and (2) are very general statements about what practices are. For (2) tells us how practices come about, while (1) tells us what practices are for, namely to head a person in the direction of some goal(s). But we want to know exactly what a practice is, and in what way practices are connected to goals.

Practices are sets of rules used to realize some goal(s) or secure some utile(s). Rules are a set of instructions for getting from one’s current state of affairs to reaching a state which includes the realization of certain goals, or the attainment of certain utiles. And rules are established *by agreement*.<sup>12</sup> Some practices can be thought of as games. Games have goal(s) and rules to follow in order to achieve the goal(s). And the rules for games are in fact established and re-established by communities. Think of the inventors of the game

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<sup>11</sup> Melinda Vadas, “A First Look at the Pornography/Civil Rights Ordinance: Could Pornography be the Subordination of Women?,” *Journal of Philosophy* 84, no. 9. (September, 1987): 492. Note that Vadas takes her notion of a practice from Alasdair Macintyre.

<sup>12</sup> This usage word ‘agreement’ is meant to scope over many types of agreements. People can agree to rules by listing them on paper and signing the paper, making a formal contract. But people can agree to rules without saying anything. Married couples often have rules which they never have discussed but both parties follow. When two friends sit down to play chess, usually the game is not begun with a listing of the rules and a verbal agreement made to follow them. There is a rule that the players are following, which says to follow the rules of chess! The word ‘agreement’ then is to be thought of very loosely.

Monopoly.<sup>13</sup> The inventors established a goal for Monopoly players, namely driving one's co-players into bankruptcy while not becoming bankrupt oneself. Further, all sorts of rules were laid out as to how one could and could not reach the goal. But the day all of this was completed hardly counts as the day that the 'game' of Monopoly became a practice. For practices only become practices after people start to follow a more or less standard set of rules. At this point I can only say 'more or less', for exactly how much uptake is required for a practice to be established will differ. Consider chess and poker. There is a large variety of poker-type games, while there are relatively few versions of chess. New versions of chess are not well received by most serious chess players, while it seems that variety and flexibility with the rules is one of poker's attributes.

Let us go further into the issue of uptake. Suppose that 50 years ago, a creative person came up with a game that she decided to call tic-tac-toe. The object of the game is to score three Xs or three Os in a straight line. The game is played on a simple 3x3 square grid. One player is designated the X player, one player is designated the O player, and each player takes turns placing her designated symbol on the board. The first player places *two* of her symbols on the board, then the second player places two of her symbols, and the action continues until either player scores three of their symbols in a row, or until the board is filled with symbols (without 3 matching symbols in a row), making the game a draw. Any player of this game would quickly realize that whomever plays first would win the game, and players would instead play proto-tic-tac-toe.<sup>14</sup> So naturally the very day that tic-tac-toe came

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<sup>13</sup> Here I use the word 'inventors' because we call people who make board games inventors. But if we are more rigorous, we see that no one invents games, but rather games are established.

<sup>14</sup> Proto-tic-tac-toe is the game played just before playing tic-tac-toe to determine who gets to play the first round of tic-tac-toe. Early players of proto-tic-tac-toe who chose to play tic-tac-toe in order to determine who gets to play the real tic-tac-toe game died a horrible death, having stuck themselves in an infinite proto-proto...n+1-tic-tac-toe regress.

out, the rules were changed. Players of the game decided that each player gets to place *only one* X or O on the board, not two.

I have no knowledge of the actual historical development of tic-tac-toe, but the hypothetical story told above gives an idea of how practices do come about. Was the “original” tic-tac-toe with the ‘place two symbols’ rule a practice? No, it was not. Practices become practices by agreement, where the practice(s) are in force for some group. People agree to follow certain rules in order to meet some objective. Players of “original” tic-tac-toe quickly replaced the ‘place two symbols’ rule with the ‘place one symbol’ rule, and this second version of tic-tac-toe stuck. Sit down today with people to play tic-tac-toe and try to enforce the ‘place two symbols’ rule, and you will find few who will play with you. Since the one symbol rule version of the game is what we call tic-tac-toe, was the “original” version tic-tac-toe as well? In other words, do we have different versions of tic-tac-toe, or is there one and only one game of tic-tac-toe, and the other so-called versions are mere pretenders? To answer questions like these, one needs to turn back to the practice in question. Poker is not one game, but rather a large collection of related games. However, there is one and only one game of chess. There is one, and only one, game of tic-tac-toe. Given the practice of tic-tac-toe today, we can rule out “original” tic-tac-toe as being a practice in this hypothetical situation.

What about the rules that practices have? How many people need to agree on the rules before they become part of the practice? What happens when people disagree about the rules? Answers to these questions will vary, depending on which game is being played and in which contexts. For example, when playing a game of Trivial Pursuit with friends on a Friday Night, I may offer clues to the answers, or maybe pick a different question card that

has easier questions on it. But if I play Trivial Pursuit with people in a tournament setting, for example, then I bend no rules and am quick to argue with those who try to bend rules. In the friendly game context, bending the rules is fine, and even if someone at the table does not like me giving hints all that much, it is overlooked. The intent is really just to play for fun, so we temporarily change a rule or two to add to the fun. In the tournament context, playing for fun is not the only main concern. Playing for fun *in a specified way*, that all must follow, is important too.

It has been my experience that asking general questions about practices, such as, ‘what are practices?’ or, ‘how do practices come about?’ is not as fruitful as asking questions about specific practices. Asking, ‘what is *this* practice all about?’ and, ‘how did *this* practice become a practice?’ helps one flesh out what is going on in a practice better. The above discussion on practices is meant to be a general one, to give the reader a familiarity with what a practice analysis is like. Taking my own advice, we shall now define what war is.

What is our practice of war?<sup>15</sup> We already said that war involves the use of force. If there is no force involved in trying to get our enemies to bend their will to our own, then we are not engaging in war. If not using force, we could simply ask our enemies to do what we want them to do, or we could offer them goods and/or services. This we call negotiating. Sometimes we can “just say please” and get what we want, while other times the negotiations will be of an economic nature, which take on a market-type flavor. Saying “Do x and we’ll give you y in exchange” is to appeal to an enemy’s ability to perform utility calculations. You offer something that is worthwhile in trade for them, while you get something that is

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<sup>15</sup> The inclusion of the word “our” is essential. There are innumerable ways the practice of war could be, and as shall be shown later, there are different practices of war engaged in by different groups of people today. Later in the thesis this topic will be analyzed. Understanding that different practices of war exist and that asymmetrical practices being engaged in by warring parties cause their own set of problems is, I think, one of the more original elements of this thesis.



worthwhile for you. A hypothetical example of this would be the United States asking Russia not to sell weapons to certain countries, in exchange for financial aid and increased foreign investment. I shall call these types of activities positive will-bending activities. Positive will-bending activities are those will-bending activities which are secured, costs of doing business aside, by providing an enemy with something which, after all is said and done, increases the enemy's net amount of benefits.

By costs of doing business, I mean that with any interaction between opponents there will be some costs which are tangential costs to the real game being played. Negotiations require negotiators, paperwork, service personnel, places to have talks, etc. And all of these have costs associated with them. Or, a kidnap victim may never have been on an airplane before or been outside her own country, and in a sense the kidnappee is getting something positive out of the kidnapping, such as the free plane ride.<sup>16</sup> These costs of doing business should be separated from the cost or value of the will-bending exercise.

Then there are negative will-bending exercises. We can get an enemy to bend their will to our own through threats, embargoes, kidnapping, killing members of the enemy group, etc. Negative will-bending exercises take something away temporarily or permanently from the enemy, or threaten to do so, in order to motivate the enemy to bend the enemy's will to our own. A kidnapping is an example of the temporary type, as after you get what you want from your enemy, you return their people to them. Killing members of the enemy group is of the permanent type, as obviously the lives taken cannot be returned. As with positive cases, we shall ignore costs of doing business.

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<sup>16</sup> In this thesis, I shall ignore costs of doing business. These types of costs may be of philosophical interest, but at this point I am not too concerned with them. Ignoring costs of doing business makes this model easier to calculate, but it may leave out something important. Acknowledging this potential problem, I shall press on.

The idea of a base line is essential to an understanding of the distinction between positive and negative will-bending exercises. A base line can be thought of as the state of affairs of a people (this is not restricted to nations) just prior to any will-bending exercises being engaged in.<sup>17</sup> If a will-bending activity threatens to lower one's state of affairs to a level below the base line while the activity is being carried out, then it is a negative will-bending activity. Again, costs of doing business are excluded. A will-bending activity that promises to raise one's state of affairs to a level above the base line is a positive will-bending activity.

One obvious example which threatens the tenability of the positive/negative will-bending activity distinction may be raised here. Suppose Canada invades Greenland to secure some hypothetical oilfields that were recently discovered there. Imagine further that the war resulted in the elimination of the Canadian military with Greenland taking over Canada. An objector may say that this activity yielded a net positive result, as the expenditure of Greenland's military (and other) resources not only kept the oilfields from changing hands, but Greenland got all of Canada! Such a counterexample to the positive/negative will-bending activity distinction is interesting, but for the point of the distinction can be dismissed. The distinction does not look at the ending net result, but rather the intention of the activity. Kidnapping and invasion all require the expenditure of resources to try to get back the kidnappees or repel the invaders. Part of the structure of those and all negative will-bending activities is that the activities work by taking something away and returning it (as much as possible), or threatening to take something away and then refraining from making

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<sup>17</sup> One criticism to note about this take on baselining is that it fixes the baseline at a "point" just prior to the event of a will-bending exercise. Some argue that doing so treats a situation as a fixed point in time, ignoring the possibility that a person's state of affairs could be on the rise or fall, and thereby his or her baseline. In short, my response to this is that a "static" baseline can be taken along with a prediction of the direction of mobility of the baseline, and then a will-bending exercise is chosen given those two indicators.

further threats, when some conditions are met.<sup>18</sup> Positive will-bending activities have a different structure. They work by giving something to another party in exchange for something else. It may be that the target of a negative will-bending activity may end up *raising* their situation above their baseline as a result of the activity in the long run, as would be the case for Greenland if our hypothetical case were true. Similarly, the target of a positive will-bending exercise may end up *lowering* their situation below their baseline in the long run. This is the interesting part of the objection at hand. However, the objection does not eliminate the distinction.

When we try to talk with our enemies and convince them to bend their will to ours, we call this negotiating. If we try to get our enemy to bend their will to ours by offering business deals or investment promises, we call this economic or trade negotiating. When we are disposed to use force, or actually are using force on our enemy to get the enemy to bend their will to ours, we call this war.

The interesting cases are those which are not exclusively of a negotiation nature, or exclusively of a force nature, etc. So what about a combined strategy? Suppose we simultaneously send troops to engage our enemy in battle and send negotiators to work out economic business deals? We still call this action war. But which action? We have 2 choices:

- 1) The sending of the troops is war, but the sending of the negotiators is not war; the two actions must be separated and assessed individually.

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<sup>18</sup> In some cases such as hostage taking, it may be the case that what is taken from one's enemies in order to motivate them cannot be fully returned. Out of 100 hostages taken in a building, for example, the hostage takers may execute a number of the hostages in order to establish credibility or to force their enemy to co-operate more quickly. But in hostage taking cases, it is irrational for the hostage takers to kill all of the hostages taken as that would remove the leverage that is being used to get their enemy to bend to their will.

- 2) The sending of the troops tells us that this is war, and the sending of the negotiators is part of the war effort.

Choice (1) has some virtues. Foremost, it is easier to make analyses if we separate actions and assess them individually. Also, one may think that will-bending exercises are all pure, in a way that precludes an analysis of a strategy which is a combination of pure strategies.

Choice (2) requires a more careful and complex analysis. But it also better reflects what we actually say and do while engaging in will-bending games.

For example, suppose Bob is a marketing executive for a large soft drink manufacturer. Bob comes up with a great idea to print up little advertisements and drop them from an airplane over a city. This, Bob thinks, will encourage people to buy his company's drink, and not the drinks of the competition. Now suppose that there is a war going on, and Bob gets drafted. Because of his experience, Bob gets put into a psychological operations division of the army and is told to print leaflets that encourage the enemy to put down their arms and give up. The leaflets are to be dropped from aircraft over enemy cities. Bob is not killing anyone, and the leaflet dropping amounts to just *asking* one's enemy to bend their will to that of Bob's country. An important question must be answered at this point: Is Bob fighting a war? And if so, how is Bob's pre-draft job an act of business, while his post-draft job is an act of war? Knowing how to answer these questions will give us a framework that will allow us to judge when an act is an act of war, and when an act is not an act of war. Though knowing the difference between war and not-war seems like an easy thing to know, cases like Bob the Marketer indicate the opposite. And being clear on this issue will help with our assessment of just what terrorism really is.

Once again, looking into the practice in question will help us figure out whether or not Bob fought in a war. In the pre-draft case, what is Bob doing? He is dropping leaflets to advertise a product. Yes, but what is *this* for? Why is Bob dropping leaflets to advertise a product? So that Bob's company can sell more soft drinks. We still have not got to the bottom of things. If at the root of things Bob's company just wanted to sell more colas, the company could reduce the price to something like one third that of their competition! So we must dig deeper. Why does Bob's company want to sell more soft drinks? The answer to this question brings us to the root of things, and that answer is that Bob's company is interested in maximizing profit.

To check whether or not we have found the root cause(s) of a practice, we must ask ourselves what is causing the practice to replicate. And this is just to reiterate the fact that practices are games, and games have goals to them. In Bob's pre-draft case, the goal of Bob's actions is to increase profits for the company he works for.

If Bob's post-draft case is symmetrical to the pre-draft case, that is to say that both cases have the same goals and the same rules, then both cases are for our purposes identical. We could then conclude that Bob was engaged in the same practice, both before and after being drafted. Why is Bob dropping leaflets over enemy cities? The leaflets encourage enemy soldiers to put down their weapons and give up. We could even extend this and suggest that the leaflets are also intended to discourage non-combatants from becoming soldiers. Why is Bob trying to discourage an enemy population from arming themselves? In other words, why is Bob trying to *disarm* the population? Populations arm themselves to engage in will-bending exercises, whether it be to force an enemy to succumb to one's own

will, or to stop an enemy from trying to make you succumb to their will.<sup>19</sup> So, Bob's leaflet dropping technique is just an attempt to get the enemy to bend their will to Bob's country's will.

For our purposes, we need dig no further. We sought to find out what causes Bob's leaflet dropping practice to replicate. But notice that we could also ask why Bob was hired to do the leaflet-dropping job in the first place. And it could be that Pepsi successfully lobbied the government to start a war, all for the purpose of maximizing their profit! So is the leaflet-dropping practice a will-bending exercise, or a profit-maximizing exercise? The answer is that it can be both. There are a number of games going on in this example. We can talk about Bob's practice of dropping leaflets and what causes him to keep doing that job, we can talk about why Pepsi wants to drop leaflets and what causes that practice to replicate, etc. But of all the different practices in the leaflet-dropping case, we wanted to find out what causes Bob's leaflet-dropping to replicate, in order to see if that case is war. And it turned out that Bob was engaged in an act of war.

As to why we may want an enemy to bend their will to our own, Hobbes has an answer. In *Leviathan*, Hobbes says that the three principal causes of war are competition, diffidence, and vainglory.<sup>20</sup> In Bob's case, we may say that Bob's country felt threatened by the enemy country, so Bob's country invaded the enemy country in order to create political change. But we need not dig this deep. The point is that in the post-draft case, Bob is disarming a population, while in the pre-draft case Bob is maximizing profit. The two cases

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<sup>19</sup> Notice that the latter case is really an example of the former. Anti-will-bending exercises are really will-bending exercises. An attacked population that takes up arms to repel invaders is really trying to force their enemy to succumb to their own will- namely that they be free from invaders!

<sup>20</sup> Thomas Hobbes, *Leviathan* (Harmondsworth: Penguin Books Ltd., 1968), 185.

are not symmetrical, as they have different replicating causes. Therefore they are two different practices.

In the post-draft case, Bob is after disarming the enemy population. It is important to note that Bob is doing this not by killing the enemy, but by discouraging the enemy from resisting Bob's country's advances. Carl Von Clausewitz captures this in his book, *On War*:

Violence, that is to say physical force... is therefore the *means*; the compulsory submission of the enemy to our will is the ultimate *object*. In order to attain this object fully, the enemy must be disarmed, and disarmament becomes therefore the immediate object of hostilities in theory. It takes the place of the final object, and puts it aside as something we can eliminate from our calculations.<sup>21</sup>

What von Clausewitz does in this paragraph is remind us that killing the enemy is not what war is for! Rather, killing the enemy is the means to the ultimate object of war, or what the goal of war is: to get the enemy to bend their will to our own. Removing an enemy's means of resistance is an effective way to get an enemy to bend the enemy's will to our own. As von Clausewitz points out, removing an enemy's means of resistance is the 'immediate object' of war. So, for a practice to be war, the use of force must be part of it, for that is what we mean by war. But only partly. War is the action of disarming a population, and by definition (a definition derived from the practice of war) using force against the enemy is a necessary feature.<sup>22</sup> If there is no force, there is no war; you are merely negotiating, advertising, occupying, or whatever. If you are using force to disarm the enemy, then you are fighting a war. If you are dropping leaflets from a plane in an attempt to disarm a population, and this is part of the larger plan of disarmament *which includes using force against the enemy*, then you are also fighting a war. From this we can extrapolate a definition of war:

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<sup>21</sup> Carl von Clausewitz, *On War* (Ware: Wordsworth Editions Limited, 1997), 5.

<sup>22</sup> The use of the words 'force' and 'disarm' here may not satisfy those who think a further reduction of those terms is necessary for them to be meaningful.

**War is a Domain of activity in which acts are performed to disarm our opponent in order to compel our opponent to fulfill our will, with the use of force being a necessary component in the range of activities.**

This definition of war shares some traits with Paul Viminitz's definition. In *A Theory of War*, Viminitz argues that a state of war is, "any non necessarily spatio-temporally contiguous domain of interactivity in which X and Y take each other to be more valuable to each other dead or in chains than alive or free; and take each other to so take each other."<sup>23</sup> It is important to note that Viminitz's definition of war and my own definition share one important feature; that war is a domain of activity.

In my definition of war, an element of force is essential. Viminitz's definition has a 'taking of one's enemy to be more valuable dead or in chains' clause.

Viminitz's clause merely states that for a party to be at war, the party must have formed the intention that the enemy is more valuable dead or in chains than alive and free, and says nothing about force.

Another element in Viminitz's definition which is not a part of mine is Viminitz's 'take each other to so take each other' clause. Viminitz argues in this clause's defense:

But it's to be noted too that I have made [the "making war on" relation] symmetrical by *definition*, not by either observation or, even, recommendation. If X knows that Y would see X dead, X may be well advised to return the sentiment. And indeed, had the Jews of Europe known that the National Socialists wanted them dead, no doubt they would have. But they did *not* know, at least not until it was too late. At the moment of knowing – and

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<sup>23</sup> Paul Viminitz, *A Theory of War*, University of Lethbridge, 7.



assuming that moment of knowing was accompanied by a preference to kill rather than be killed – then and only then were they actually at war.<sup>24</sup>

A criticism can be made about Viminiz's reluctance to deal with asymmetries here.

Before arriving at a definition of war, Viminiz reasons towards two other states of affairs: mutual indifference and mutual ignorance:

**Mutual Indifference:** any not necessarily spatio-temporally contiguous domain of interactivity in which X and Y take each to be **as valuable to each other alive and free as dead or in chains**<sup>25</sup>

**Mutual Ignorance:** any not necessarily spatio-temporally contiguous domain of interactivity in which X and Y are **ignorant of each other's value**; and take each other to so take each other.

Viminiz only deals with the symmetrical cases – the cases where X and Y take each other to so take each other. We can map these on a matrix. The bottom half of each box corresponds to person Y, while the top of each box corresponds to person X. For now, we'll only plot the mutual cases:

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid., 6.

X

	Indifference	Ignorance	War
Indifference	Mutual Indifference		
Y Ignorance		Mutual Ignorance	
War			Mutual War

Figure 1: Three States of Affairs Matrix

By only dealing with the mutual cases, Viminitz has not addressed in detail 2/3 of the options available in the matrix. Viminitz argues that the ‘making war on’ relation need not be symmetrical, but the “is at war with” relation is (Viminitz, P. 7). This claim is backed up with the example of European Jews during World War II.

Though European Jews did not realize until very late that the National Socialists wanted them dead, we may still want to say that Jews and National Socialists were at war. One could argue that European Jews ought to have concluded that the National Socialists wanted all Jews dead much earlier than they did. It ought not take too many trainloads of friends and family carted away never to be seen again to come to such a conclusion. Nevertheless, this argument does not argue against Viminitz’s insistence on symmetry for the definition of war. An answer to Viminitz must be found at a more fundamental level.

Thomas Hobbes’ first and second laws of nature bear an answer to Viminitz.:

**First Law of Nature:** That every man, ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of war.<sup>26</sup>

**Second Law of Nature:** That a man be willing, when others are so too, as far forth, as for peace, and defence of himself he shall think necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself.<sup>27</sup>

The first law of nature tells us that we ought to seek peace as much as it is obtainable, but when it is not obtainable, we ought to be as effective in war as we can be. The second law says that we ought to give up our “rights to everything” as much as others are willing to give up their rights to everything. In war where it is every person for oneself, all people have a “right to everything”. You and I can use anything we find to help us survive. Of course, living a life where everyone is fighting everyone else and we are all taking materials from one another is a life that is going to be, as Hobbes said, “solitary, poore, nasty, brutish, and short” (Hobbes, p. 186). So, to avoid this, I ought to give up my “right to everything” as much as others are willing to give up their similar right. But Hobbes is explicit in warning us about imposing such limits:

For as long as every man holdeth this Right, of doing anything he liketh; so long are all men in the condition of Warre. But if other men will not lay down their Right, as well as he; then there is no Reason for any one, to

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<sup>26</sup>Hobbes, 190.

<sup>27</sup> Ibid.

devest himselfe of his: For that were to expose himselfe to Prey, (which no man is bound to) rather than dispose himselfe to Peace.<sup>28</sup>

In his exposition of the first and second laws of Nature, Hobbes does not insist on symmetry. Using these two laws, Hobbes would describe Viminitz's example of European Jews and the National Socialists differently. Hobbes would say that the Jews and the National Socialists ought to have sought peace as much as obtainable. But if peace cannot be obtained, each side ought to attempt to be as effective in war as possible.

Hobbes would be comfortable in calling any of the boxes, where at least one axis is a war axis, as war. The non-symmetrical cases, such as where one party is making war on another party, who is ignorant about their enemy, are simply cases where at least one party has messed up.<sup>29</sup> War is the default condition, and all peace is contingent. As long as others are willing to restrict themselves, then we ought to restrict ourselves – this is contained in Hobbes' first and second laws of nature. But we cannot forget that any peace is conditional, and we always must be prepared to toggle to war. So, while European Jews may have been ignorant about the National Socialists' intentions, the Jews still were at war with the National Socialists, though they were not prepared to effectively fight until the very end of World War II. A state of war, therefore, is not established only when parties mutually take each other to be better off dead or in chains. Rather, a state of war exists when any condition of peace is broken, even if some parties are not immediately aware that the conditions of peace have been broken.

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<sup>28</sup> Ibid.

<sup>29</sup> There are two possible cases here. Either the warring party failed to seek peace as far as it is reasonable to do so, and/or the other party has failed to recognize when it was rational to toggle to war.

We can then re-draw the matrix and label all boxes where at least one party finds the other party better off dead or in chains as being war. Important here is to note that on Viminitz's account, there is only one case for war, where according to my analysis, there are five:

		X		
		Indifference	Ignorance	War
Y	Indifference	Mutual indifference Mutual Indifference		WAR
	Ignorance		Mutual Ignorance Mutual Ignorance	WAR
	War	WAR	WAR	Mutual War Mutual War

Figure 2: Modified Three States of Affairs Matrix

## Chapter 3

### The Immunity of Non-Combatants?

Now that we have a definition of war, we need to deal with a central issue among thinkers and planners of war: the immunity of non-combatants. Prima facie, Westerners believe that non-combatants are morally protected from attack in combat. Upon analysis, the immunity of non-combatants may not be always and unquestionably guaranteed.

The immunity of non-combatants from being targeted in war is an idea which most of us would find to be obviously and unarguably an essential feature of our practice of war. It is probably the violation of this widely held conviction during the attacks on the World Trade Center that made those events so horrific to many North Americans. Though the method of attack on the Pentagon was shocking, that the Pentagon was targeted was neither shocking nor unexpected. The Pentagon is a military target - a legitimate target in war. But the World Trade Center was supposed to be off limits. Those buildings contained non-combatants who were thought to be innocent and therefore protected from attack.<sup>30</sup>

A debate in the philosophical literature between George Mavrodes, Robert Fullinwider and Lawrence Alexander brings the immunity of non-combatants in war under examination.

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<sup>30</sup> Osama Bin Laden may have thought that the people in the World Trade Center were far from innocent. However, most in North America would say that the people in the towers were innocent civilians. But the Pentagon, an obvious force (military) target, probably had hundreds of civilians working in that building on the morning of September 11<sup>th</sup> as well. To clear the confusion up, it can be argued that the Pentagon was a force target, while the World Trade Center was a value target,, while recognizing that the innocence of the civilians working in the World Trade Centre could be called into question. It isn't obvious that the civilians working in the World Trade Centre posed no threat to Osama Bin Laden.

George Mavrodes begins by discussing the principle of double effect, which is used by the Immunity Theorists to establish the immunity of non-combatants.<sup>31</sup> The principle of double effect calls us to divide the effects of some action into intended effects and unintended effects. If there is no reasonable alternative for achieving the intended effects and the unintended affects are an acceptable cost given the circumstances, the action is morally permissible. Mavrodes explains:

Now, the moral immunity of noncombatants consists, according to these writers, in the fact that their death can never, morally, be made the intended consequence of a military operation. Or to put it another way, any military operation which seeks the death of non-combatants either as an end or as a means is immoral, regardless of the total good which it might accomplish.

The *unintended* death of noncombatants, on the other hand, is not absolutely forbidden. A military operation which will foreseeably result in such deaths, neither as a means nor ends but as side effects, may be morally acceptable according to these writers. It will be morally acceptable if the good end which it may be expected to attain is of sufficient weight to overbalance the evil of these noncombatant deaths (as well as any other evils involved in it).<sup>32</sup>

Assume for a moment that Osama Bin Laden had just cause which he was trying to pursue with his orchestrated attacks on September 11<sup>th</sup>. According to the immunity theorists then, the attacks on the Twin Towers would still be morally evil acts, as the non-combatants in the towers were intentionally targeted. The attack on the Pentagon, however, would end up being morally acceptable, as it was not the civilian deaths that was the goal with the attack on the Pentagon, but it was instead the destruction, or disruption, of the nerve center of America's military.<sup>33</sup> Obviously many will argue that the attacks will be morally evil on

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<sup>31</sup> The immunity theorists are Elixabeth Anscombe, John C. Ford, and Paul Ramsey.

<sup>32</sup> George L. Mavrodes, "Conventions and the Morality of War," in *International Ethics*, eds. Charles R. Beitz and Thomas Scanlon, (Princeton: Princeton University Press, 1985), 77.

<sup>33</sup> I have not seen any material released by Al Qaeda which specifically lists the intentions of their attacks on September 11<sup>th</sup>. However, I believe my claims made here to be largely unchallenged. The Pentagon is a clear military target, and really offers a poor choice for someone wanting to maximize the body count of dead non-combatants. The Pentagon was targeted because of its military value.

other grounds, namely that Bin Laden's goals are evil, so the attacks cannot be justified. The assumption was made to the contrary just to highlight how the principle of double affect can be applied to military situations.

Mavrodes indicates that this distinction between combatant and non-combatant requires a morally relevant basis, or else the distinction between combatant and non-combatant that the immunity theorists want to establish will be an arbitrary one. The basis suggested by the immunity theorists lies in the notions of guilt and innocence. Mavrodes cites Anscombe and Ford, who say that non-combatants do not actively participate in war, so they are innocent of any crime at all. But to get this notion of innocence off the ground, Mavrodes says that, "First, we must find one sense of "innocence" such that all non-combatants are innocent and all combatants are guilty. Second, this sense must be morally relevant, a point of the greatest relevance."<sup>34</sup>

However, Mavrodes finds difficulty in establishing such a clear dividing line between guilty combatants and innocent non-combatants. He challenges the immunity theorists' claims that combatants are clearly active participants in war, and non-combatants are clearly removed from war:

Now, we should notice carefully that a person may be an enthusiastic supporter of the unjust war and its unjust aims, he may give to it his voice and his vote, he may have done everything in his power to procure it when it was yet but a prospect, now that it is in progress he may contribute to it both his savings and the work which he knows best how to do, and he may avidly hope to share in the unjust gains which will follow if the war is successful. But such a person may clearly be a non-combatant, and (in the sense of the immunity theorists) unquestionably "innocent" of the war. On the other hand, a young man of limited mental ability and almost no education may be drafted, put into uniform, trained for a few weeks, and sent to the front as a replacement in a low-grade unit. He may have no understanding of what the war is about, and no heart for it. He might want nothing more than to go back to his town and the life he lead before. But he is "engaged," carrying ammunition, perhaps, or

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<sup>34</sup> Mavrodes, 79.



stringing telephone wires or even banging away ineffectually with his rifle. He is without a doubt a combatant, and “guilty,” a fit subject for intentional slaughter.<sup>35</sup>

We cannot clearly assign guilt to all combatants and innocence to all non-combatants without, “divesting these notions of the moral significance which they require if they are to justify the moral import of the distinction [between combatants and non-combatants] itself.”<sup>36</sup> Mavrodes does think that a relevant moral distinction exists between combatants and non-combatants. He rejects the approach of the immunity theorists and instead adopts a convention-based morality as the basis for the relevant moral distinction between combatants and non-combatants.

Mavrodes begins his argument by asking us to imagine war and its costs. Human lives, human suffering, money, natural resources, production time, etc. are major costs involved in fighting a war. Would it be better for everyone if we could replace war as we fight it now with a less costly alternative? Obviously, yes. Mavrodes suggests single combat as an alternative, and cites the stories of David and Goliath, as well as the fight between Menelaus and Paris in Homer’s *The Iliad* as legendary examples where single combat was tried to decide a military outcome. Unfortunately, these two examples both ended in the single combat turning into more general fighting. Mavrodes concedes that, “perhaps this substitute for warfare is too cheap; it cannot be made practical, and nations just will not consent in the end to abide by this convention.”<sup>37</sup> Single combat is one end of the spectrum—combat limited only by the moral principles that a war should be for just reasons and fought with means proportionate to the ends is the other end of the spectrum. Single combat is the

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<sup>35</sup> Ibid., 80-81.

<sup>36</sup> Ibid., 82.

<sup>37</sup> Ibid., 83.

cheapest form of war, but it is difficult for parties to fully commit themselves to it. War with no limitations is extremely expensive, most notably in the number of lives lost. Between these two extremes lay a number of possibilities for us to pick a less expensive but effective form of war from. Mavrodes suggests, “that the long struggle, in the Western world at least, to limit military operations to “counter-forces” strategies, thus sparing civilian populations, is just such an attempt.”<sup>38</sup>

A distinction can be made between counter-force targeting, and counter-value targeting. Counter-force targeting is the targeting of an enemy’s force elements - the tanks, soldiers and aircraft that the enemy uses against us in combat, for example. Factories that make these force tools are also seen as force targets. Counter-value targeting is the targeting of non-force targets. This includes civilians who are not members of the armed forces, supermarkets, and even value items which hold mostly symbolic value, like the Statue of Liberty. Mavrodes’ argument is that over time, we in the West have participated in a convention limiting who can be targeted in war. Specifically, targeting for the most part is to be limited to counter-force targets. Unless civilians are picking up arms and attacking legitimate combatants, the civilians are not to be targeted. Non-combatants are therefore illegitimate targets, as they are deemed impermissible targets in the convention. Furthermore the convention establishes that targeting non-combatants is morally wrong.

It may be that not all moral obligations come from conventions. However, Mavrodes has two criteria that, if satisfied, would establish that a given moral obligation is convention-dependent. A moral obligation is convention-dependent if:

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<sup>38</sup> Ibid.

(1) given that a certain convention, law, custom, etc., is actually in force one really does have an obligation to act in conformity with that convention

(2) there is an alternative law, custom, etc. (or lack there of) such that if that had been in force one would not have had the former obligation.<sup>39</sup>

For the convention of counter-force targeting in war, condition (1) is reasonably established. Not all conflicts in the past century have been dominated by this convention - much of the fighting in African nations or the 'ethnic cleansing' in the former Yugoslavia are examples where the counter-force targeting convention was not in place. But limiting targeting to force targets was a large feature of World War I and World War II.

There are notable examples of counter-value targeting in both World Wars - the firebombings of Tokyo and the British bombings of Berlin, with Germany retaliating on London, are clear examples. But combatants in these wars largely adhered to the counter-force targeting convention. Even some seeming violations of the convention, like Germany bombing London in retaliation for England's bombing of Berlin, are different kinds of violations. Conventions are conventions only as long as they are held and followed by the convention holders. England's bombing of Berlin is a clear violation of the convention. Germany then had to decide among several options. Germany could have targeted England's force and value targets at will. This would signal the end of the convention. Germany could have continued to target only England's force targets. This would be a strong signal that German wishes to continue the counter-force targeting convention. Or, Germany could target a number of England's value targets, to a limited degree, which exceeded the number of

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<sup>39</sup> Ibid., 84.

Germany's value targets. This would be a signal that Germany is willing to escalate the targeting of England's non-combatants if Germany's value targets will continue to be targeted, but that Germany is still willing to stick to the targeting of counter-forces convention. Another option, and the one that was pursued, would be an 'eye for an eye' strategy. England targeted Berlin, so Germany targeted London. This strategy signals the same things as the previous strategy, but in a less overall costly manner in the short run. The important point of this is that all violations of a practice cannot be treated the same. In some wars, one violation of the practice of only targeting force targets can be enough to end a convention. In other conflicts, there may be violations of the convention, yet the convention still survives and dominates in the war. Some violations are meant to test the willingness of one's opponent to uphold a convention, some violations will be signals sent to signal that any violations of a convention will be met with reciprocal violations in order to help preserve the convention, etc.

The civilians in the World Trade Center were value targets. However, America and America's allies who fought in Afghanistan and Iraq indicated that they would not target civilians and instead would keep to the convention of targeting only force targets.<sup>40</sup>

Condition (2) states that in the absence of a better convention that is practically adoptable, one ought to keep following the convention being followed. The convention of targeting only force targets has moral weight to it in much the same way that anyone driving in Canada is morally obligated to drive on the right side of the road. The choice between driving on the right or the left side of the road looks to be an arbitrary choice - people in Japan and England drive on the left side of the road, and there have been no reports of

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<sup>40</sup> It must be recognized that the claim that military actions in Afghanistan and Iraq were not targeted at civilians is somewhat difficult to prove.

horrific consequences of driving on any particular side of the road. But we learned early on that we all ought to drive on the same side of the road, or else many collisions will surely be the result. Right or left, it does not matter; we just need a convention that we can all participate in so that the number of lives lost is kept to a minimum. In order to help protect my life and the lives around me, I ought, in the moral sense of the word, to keep driving on the right side of the road while driving in Canada. This driving situation parallels Mavrodes' war convention argument. The 'side of the road to drive on' convention was designed to reduce the costs of driving, and the convention itself establishes moral weight to upholding the convention. The counter-force targeting convention was designed to be an alternative form of war that reduces the cost of war - limit the permissible targets and, among other benefits, you limit the number of lives lost, other things being equal adherents to the convention are, therefore, morally obligated to adhere to it, so long as a better and available alternative convention does not exist.

It is not enough that there are merely alternatives to the convention currently being followed. Mavrodes argues that if research indicates that driving on the left side of the road is indeed safer, we ought not just start to drive on the left side of the road. The number of deaths incurred before people switched would be too costly to bear. So an alternative convention which is less costly than a convention currently being practiced should be switched to only when the switching costs are low enough to pay. The toggle point for different practices obviously will be highly varied, depending on the activity of the practice, the players, the location, and so on.

Robert Fullinwider rejects the convention-based immunity argued by Mavrodes. He agrees with Mavrodes in that it is odd to claim that an enthusiastic supporter of a war who is

a non-combatant is truly innocent, while an uneducated draftee who does not want to fight is so clearly guilty. However, Fullinwider argues that the immunity of non-combatants can be established in a way which escapes Mavrodes' criticisms and does not require a convention, at least for the most part, for its moral character.

Fullinwider begins his argument by telling a story about two characters, Jones and Smith:

Jones is walking down a street. Smith steps from behind the corner of a nearby building and begins to fire a gun at Jones, with the appearance of deliberate intent to kill Jones. Surrounded by buildings, Jones is afforded no means of escape. Jones, who is carrying a gun himself, shoots at Smith and kills him.<sup>41</sup>

Fullinwider says that from the principle of Self-Defence, Jones is justified in killing Smith. Smith posed a direct and immediate threat, so from the perspective of self-defence, "...these facts about Smith's actions are the *only* relevant ones."<sup>42</sup> In this simple case, the "moral facts" rest only on the Principle of Self Defence. Fullinwider next fills in details of the story - perhaps Smith's wife made advances on Jones, and when turned down she told her husband that Jones had raped her. Spurred on by his wife, Smith sets out to Kill Jones. Or, perhaps Smith has a gambling debt owed to the mob, or perhaps the mob kidnapped Smith's children, and the only way out of either one of these scenarios is for Smith to kill Jones. None of this information, says Fullinwider, changes the moral status of Jones' killing of Smith. "Whatever prompted Smith to fire at Jones," argues Fullinwider, "the justification for Jones' killing of Smith lies solely in the fact that Smith was the direct and immediate agent

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<sup>41</sup> Robert K. Fullinwider, "War and Innocence," in *International Ethics*, eds. Charles R. Beitz and Thomas Scanlon (Princeton: Princeton University Press, 1985), 92.

<sup>42</sup> Ibid.

of a threat against Jones' life. From the point of view of self-defense, this fact justifies Jones in killing Smith - and *only* Smith."<sup>43</sup>

Fullinwider further concludes that Jones could not justifiably turn his gun on Smith's wife, or the mobsters, if they were present to watch Smith try to Kill Jones. Though Smith's wife and the mobsters would be causally implicated in Smith's actions of murderous intent against Jones, Fullinwider says that, "the wife and the mobsters were not posing a direct and immediate danger. From the point of view of justifiably killing in self-defense, they are not justifiably liable to be killed by Jones; they are immune."<sup>44</sup>

Fullinwider next mentions a point of view where the background details of the Smith and Jones story would become morally relevant, and that is from the point of view of retribution or punishment. Smith's wife and the mobsters would be morally answerable for their contribution in getting Smith to try to kill Jones. So, Jones may be justified in killing Smith's wife or the mobsters in retribution, even though that action's permissibility cannot be derived from the principle of Self Defence. Thus Fullinwider concludes:

The moral relevance of the distinction in war between combatants and noncombatants will be derived from the Principle of Self-Defense. Because we most commonly speak of innocence in connection with crime and punishment and because we also speak of innocent victims of war, Anscombe and Ramsey have been led to defend the innocents in war by appeal to the wrong model.<sup>45</sup>

Fullinwider believes that his argument improves on the immunity theorists' argument. The immunity theorists tried to get the moral distinction between combatants and non-combatants by assigning guilt and innocence according to the principle of Retribution or Punishment. But Fullinwider argues that killing beyond the Principle of Self Defence, which

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid., 93.

<sup>45</sup> Ibid., 93.

says you can only kill immediate and direct threats, is not permissible. Though still guilty, Mr. Smith's wife and the mobsters are impermissible targets. Where Fullinwider achieves one of the aims of the immunity theorists is that this view retains the natural character of the dividing line between combatants and non-combatants, escaping Mavrodes' convention based division.

There is a strong and a weak version of Fullinwider's immunity thesis. The weaker version recognizes that nations may have the right to kill at least some non-combatants based on the Principle of Punishment or Retribution. Fullinwider admits that critics may argue that nations have the right to punish in war, especially since nations are in a Hobbesian state of nature.<sup>46</sup> The critic will conclude from this that both the Principle of Self-Defence and the Principle of Punishment or Retribution apply to killing in war, not just the Principle of Self-Defence. The strong version of Fullinwider's response is that nations are only justified in killing guilty non-combatants, and in any conflict there is sure to be an identifiable group of innocent non-combatants. However, the very indiscriminate nature of modern warfare makes it impossible for nations to strictly target the guilty and not bring harm to innocent non-combatants. Therefore, killing in war cannot be based on the principle of Punishment or Retribution. If warring parties could accurately and correctly only target guilty non-combatants and not bring harm to innocent non-combatants, Fullinwider admits that nations

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<sup>46</sup> In a Hobbesian state of nature, all individuals are at war with each other. Because of the equality condition, which states that we are all smart enough and strong enough to kill each other, everyone has a fear of everyone else. This kind of fear Hobbes calls diffidence. Diffidence, Hobbes argues, can lead to all out civil war. Since you are strong enough and/or smart enough to kill me, and I am aware of this, and given that we compete for limited resources, it is in my best interest to somehow immobilize or kill you. Not only to prevent you from getting the materials I want, but since I am strong enough and/or smart enough to kill you, and I am aware of this, I cannot trust that you will not kill me to get the resources, or as a pre-emptive strike in order to prevent me killing you. In order to avoid this state of nature, Hobbes says we submit to a Sovereign who will keep people in check and make sure we stick to contracts we make. Nations can be thought of as individuals. But given that there is no international sovereign, the individual nations are therefore in a state of nature. On this view, nations punishing their enemy nations when at war are not doing anything wrong or illegal, since absent of some kind of sovereign terms like right, wrong, legal and illegal make no sense.



might be motivated to adopt a convention to still refrain from targeting any non-combatants. This is Fullinwider's weak version of his improved immunity theory.

Lawrence Alexander calls Fullinwider's improved immunity theory into question. He argues that, "the permissibility of killing innocents in self-defense does not, as Fullinwider maintains, justify the moral distinction between combatants and non-combatants."<sup>47</sup>

Alexander begins his argument by quoting Fullinwider's various versions of the story of Smith and Jones. From the stories Alexander avows some important conclusions:

Fullinwider is correct that *after* killing Smith, Jones may not invoke the Principle of Self-Defense to then turn and kill the mobsters. *The threat to his life has been removed*. At most the mobsters may be punished for their guilt in instigating the attempted murder. However, Fullinwider's hypothetical is inapposite when we are discussing whether noncombatants along with combatants may be killed in an on-going war.<sup>48</sup>

Alexander uses another version of the story of Smith and Jones to flesh out his point. Smith has once again been sent to kill Jones by the mobsters, who are parked in their car across the street from Jones so they can watch the action. What is Jones to do? According to Fullinwider, Jones is justified in removing the direct and immediate threat, which is Smith. The mobsters, though morally guilty and deserving of punishment, cannot be killed based on the Principle of Self-Defence. Alexander disagrees with Fullinwider, and his argument says that Fullinwider is mistaken on the interpretation of the Principle of Self-Defence:

Jones not only could, but should kill the mobsters rather than Smith if killing them would be no riskier than killing Smith and would remove the threat to Jones by removing Smith's motive for killing him...From the standpoint of the principle of Self-Defense, both the Mobsters and Smith are

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<sup>47</sup> Lawrence A. Alexander, "Self-Defense and the Killing of Noncombatants: A Reply to Fullinwider," in *International Ethics*, eds. Charles R. Beitz and Thomas Scanlon (Princeton: Princeton University Press, 1985), 99.

<sup>48</sup> Ibid.

necessary causes of the danger to Jones because killing either the mobsters or Smith removes the danger.<sup>49</sup>

Alexander's argument states that a defender has the right to remove *threats to his or her existence* based on the principle of self-defense. On this point Alexander is correct. We have already seen that warfare is about removing obstacles that threaten the imposition of one's will by force upon one's enemy. Von Clausewitz said that, "Violence, that is to say, physical force... is therefore the *means* [of fighting a war], the compulsory submission of the enemy to our will is the *object*. In order to attain this object fully, the enemy must be disarmed, and disarmament becomes therefore the immediate object of hostilities in theory."<sup>50</sup> By shooting the mobsters, Jones removes the threat on his life, thereby disarming his enemy and achieving his goal - to save his own life.

Alexander has captured what goes on at the most fundamental level of warfare. War is about disarming threats, so one is justified in removing those threats as deemed necessary. At this level, there is no moral distinction between combatants and non-combatants. Those that pose a threat are permissible targets. Alexander offers a formula for determining whether a target is permissible or not:

X may be killed in self-defense, regardless of X's moral innocence, if the defender perceives (reasonably) that:

- (1) there exists the requisite threshold level of danger or greater;
- (2) killing X will reduce that danger;

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<sup>49</sup> Ibid., 100.

<sup>50</sup> Von Clausewitz, 5-6.

- (3) more desirable courses of action, such as killing fewer or guiltier persons, or not killing at all, will not eliminate condition (1);
- (4) more desirable courses of action will not reduce the danger as much as killing X.<sup>51</sup>

Alexander's position, though correct, is not complete. A distinction between combatants and non-combatants can still be established if a convention that recognizes such a distinction exists between warring parties. Alexander's "threat condition" can be taken as the base, to which must be added any conventions that exist. If two warring parties have no conventions limiting their warfare practices, then each side is permitted to target the threats against them according to the Principle of Self-Defense. However, if a convention exists between the warring parties that further limits who can be targeted and when, then each side is morally obligated to uphold the convention unless a better alternative surfaces, as argued by Mavrodes.

Part of the difficulty in understanding war arises from our attachment to conventions, existent or potential. Generally, it is in everyone's interest to have limits placed on war. The reason we have government, according to Hobbes, is so that we can limit warfare and continue on with our lives. He writes that, "The Passions that encline men to Peace, are Feare of Death; Desire of such things as are necessary to commodious living; and a Hope by their industry to obtain them. And Reason suggesteth convenient Articles of Peace, upon which men may be drawn to agreement."<sup>52</sup> Hobbes was specifically talking about what drives people to make peace instead of war, but his comments also apply to what makes people try to place limits on war. As Mavrodes suggested, limiting warfare to single combat is highly

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<sup>51</sup> Alexander, 101-102.

<sup>52</sup> Hobbes, 188.

desirable, but the outcome would not, in most plausible cases, drive people to make peace. However, conventions placed on unrestricted war can emerge and limit the number of lives lost and other damage as well. This limiting of lives lost and other destructions is highly desirable to us, so much so that we can get extremely upset and confused when actions occur that threaten to break down our conventions that limit war. But von Clausewitz is careful to warn us about becoming attached to conventions very early on in his book, *On War*:

If the wars of civilised people are less cruel and destructive than those of savages, the difference arises from the social condition both of the states in themselves and in their relations to each other. Out of this social condition and its relations war arises, and by it war is subjected to conditions, is controlled and modified. But these things do not belong to war itself; they are only given conditions; and to introduce into the philosophy of war itself a principle of moderation would be an absurdity.

Thus, in a conventionless environment the immunity of all non-combatants cannot be established. War “itself” permits the removal of threats, be they combatant or non-combatant. Only where there are conventions that modify this practice can any other distinction be drawn. There are two troubling categories. The first category is cases where a convention exists but actions by at least one warring party violate the conditions of the convention. In these cases, parties signal each other through their actions their willingness to uphold or exit the convention. The other category is where one warring party wants to have some convention adopted which places limits on targeting, and that party unilaterally follows the practice until the other parties adopt the convention. But just because one party wants a convention does not mean that such a convention does or even ought to exist. Suppose country A and country B begin hostilities. Country A wants the targeting of non-combatants to be impermissible. Suppose that country B has never engaged in the practice of not targeting non-combatants before, and naturally targets combatants as well as some non-

combatants deemed to be a threat. Country A can signal to the enemy that they want the convention of only targeting force targets to be adopted by only targeting B's force targets. Furthermore, the signal can be sent by declaring country B's targeting of country A's non-combatants as horrific or cowardly. Since no mutually practiced convention exists, country A's calling of B's targeting of Country A's value targets as morally wrong is a way to signal what way Country A thinks the situation *ought to be*, rather than the way the situation *actually is*. If country B decides to limit targeting to force targets, then "a new convention has begun its precarious life".<sup>53</sup> But if country B shows no willingness to place any limits on combat, then, "there is no obligation and no benefit associated with the unilateral observance of a convention".<sup>54</sup> If this were the case, country A may be better off targeting country B's non-combatants that pose a threat to country A in order to maximize their chance of successfully defending themselves in the war.

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<sup>53</sup> Mavrodes, 88.

<sup>54</sup> *Ibid.*, 87.

## Chapter 4

### Targeting

Our definition of war states that we target our enemy in order to get the enemy to bend the enemy's will to our own. There are a number of targeting strategies that a warring party has available to them. Further, the number of strategies available will change depending on whether one is fighting a relatively unlimited war, or a war where many conventions are upheld. From the debate between Mavrodes, Fullinwider and Alexander, we concluded that we are allowed to target threats, whether they be combatants or non-combatants. All combatants pose a threat, so combatants are always permissible targets. Not all non-combatants are threats, so not all non-combatants can be targeted. If a convention of championing exists, all combatants can be targeted, but no non-combatants can be targeted.

From this, we can see that in war there can be legitimate combatants, illegitimate combatants, legitimate non-combatants, and illegitimate non-combatants.<sup>55</sup> A legitimate combatant is a combatant who has the authority to be a combatant. An illegitimate combatant has no right to be a combatant; in fact, an illegitimate combatant has violated his obligation to not become a combatant. A legitimate non-combatant is someone who is not a combatant at all (not even in secret), while an illegitimate non-combatant does not truly have the status of non-combatant (illegitimate non-combatants could be draft-dodgers or combatants disguising themselves as non-combatants).

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<sup>55</sup> The uses of the words legitimate and illegitimate here are not used in a *legal* meaning, and instead should be thought of as meaning justifiably true/unjustifiably true. For example, a combatant posing as a non-combatant is not truly a non-combatant.

Let us look at two types of war in order to flesh these distinctions out. The first type of war is a war where warring parties adhere to the Principle of Self Defense. In such a war, a legitimate combatant would be a person appropriately designated as a combatant. These combatants may or may not be called soldiers. An illegitimate combatant would be a person who joins in combat who is not permitted to join in combat by one's group. The enemy may send over some soldiers, and one fighter may come over who is not authorized by the enemy's government to be in combat. That fighter would be an illegitimate combatant. A legitimate non-combatant would be someone who is not a threat to the enemy and cannot permissibly be targeted. The 8-month-old children tucked in their cribs at home among warring parties are legitimate non-combatants. An example of an illegitimate non-combatant would be a combatant who fights and then removes any identifying features that indicate the status of combatant. One cannot switch on and off one's combatant status like that.

For the second type of war, imagine warring parties who practice the convention of championing. In this case, the principle of Self Defense still restricts the actions of the players, but actions are further limited by the rules of the convention. A legitimate combatant here would be a champion - the soldiers. An illegitimate combatant would be a legitimate non-combatant who picks up a rifle and fires upon the enemy soldiers. A legitimate non-combatant would be those who are not champions and do not engage in combat, even if they pose a threat to the enemy, such as truck drivers transporting ammunition to supply ships. An illegitimate non-combatant here once again would be a combatant who attempts to shed his or her

appearance of being a combatant and hides amongst the non-combatants which cannot be targeted.

These categories can be mapped on a grid which can then serve as a quick reference as to what is going on with targeting in war. To simplify things, we will assume that there are only 2 warring parties. The first grid maps war that is limited only by the Principle of Self Defense. The grid allows us to see what we call the 4 targeting combinations available.

War Limited Only by the Principle of Self Defense

	Legitimate Combatant	Illegitimate Combatant
Legitimate Target	1	2
Illegitimate Target	3	4

Figure 3: Combatant/Target Matrix

Box (1) is the most familiar; legitimate combatants attacking legitimate targets. The legitimate targets will include all combatants (Principle of Self Defense) and any permissible non-combatants (Alexander's threat theory). So, no problems there.

Box (2) is a bit problematic. We have legitimate targets, but the targets are being targeted by illegitimate combatants. What do we call this? Calling illegitimate combatants who target legitimate targets terrorists does not seem to fit. After all, the targets are



legitimate - they are threats to the targeters in question. In this version of war, the illegitimate combatants would be those who break their own group's laws which describe who can and cannot be a combatant. This means that there is some form of criminal activity going on here. The illegitimate combatants are criminals, and anyone they attack, even legitimate targets, can defend themselves against these criminals.

Box (4) also shares the criminality charge that the second box has. But the interesting thing is that boxes (3) and (4) share an important feature; in both cases combatants are targeting illegitimate targets. This is a very fundamental breakdown of limitations placed on warfare which are intended to save human lives. Though this version of war has no conventions which restrict how one is supposed to wage war, the Principle of Self Defense still places limits on who can be targeted. So boxes (3) and (4) are a violation of the principle of self defense. I submit that this is in fact what terrorism is. Terrorism is the targeting of illegitimate targets in warfare. Illegitimate targeters can be captured under criminal categories. If terrorism is to make sense in military terms, this is the only place left for it. I think that it makes the most sense to call terrorism the targeting of illegitimate targets in warfare.

Analyzing a more limited form of warfare will only bolster the findings above. In a war where Championing is practiced, you have legitimate and illegitimate combatants, as well as non-combatants. All combatants are permissible targets, no non-combatant is a permissible target. So the only difference between the war that is limited only by the Principle of Self Defense, and a war that is further limited in any way, is that the latter wars will have an illegitimate target category that scopes over a

larger percentage of a population. In limited wars, there is a potential for more actions being terrorist actions, because of the larger list of illegitimate targets.

## Chapter 5

### What is Terrorism?

Combining the definition of war that was worked out, as well as the debate between Mavodes, Fullinwider, and Alexander, and bolstered by von Clausewitz and Hobbes, we now have a definition of terrorism:

**Terrorism is the targeting of illegitimate targets by any combatant, legitimate or illegitimate, in a war, where war is a state of affairs in which acts are performed to disarm our opponent in order to compel our opponent to fulfill our will, with the use of force being a necessary component in the range of activities.**

One important point should be addressed here regarding the immunity of persons in combat. The immunity of non-combatants enjoyed in a war where championing is mutually practiced, as outlined from the debate between Mavrodes, Alexander and Fullinwider, is a contingent one. Though many people are troubled by the idea that non-combatant immunity is only a contingent feature, it really should not come as much of a surprise. The practice of championing is, after all, a *convention*, and non-combatant immunity is a feature of the championing practice. Furthermore, all conventions are contingent - there is no feature of the practice of championing that is a necessary feature of war. The practice came about in an attempt to reduce the lives lost in war, so the immunity of non-combatants exists only as long as the practice of championing is upheld.<sup>56</sup> Practices other than championing could have the immunity of non-combatants as one of their features, but championing is important for us because it is how we fight wars.

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<sup>56</sup> Paul Viminitz, *A Defence of Terrorism*, University of Lethbridge, 12.

So non-combatants are immune as long as the practice of championing is being upheld. But even within the practice of championing, non-combatants are not always immune from being targeted. This point is related to the contingency of features like the immunity of non-combatants in practices of war. War is a practice aimed at getting one's enemy to bend their will to one's own. In the practice of championing, we would send our champions out to engage our enemy's champions and if we win, our enemy is to submit to our will. What happens if our enemy's non-combatants refuse to bend their will to our own? Are we left to pack up our troops and go home, since the enemy is refusing to bend their will to our own? Not at all. Another feature of the practice of championing is that once a population's champions are defeated, that population must bend their will to their enemy's will.<sup>57</sup> It is this feature upon which the immunity of non-combatants is hinged. If our champions defeat our enemy's champions and the non-combatant population refuses to bend the population's will to our own, the population therefore risks the immunity status the population has. Our champions are then free to actively engage the non-combatant population. Otherwise, why would any group field combatants? If combatants are not allowed to pressure a population which refuses to bend their will, it would be irrational to send combatants against one's attackers. All you would need to do is refuse to do what your enemy wants you to do, and this would be enough to make them cease hostilities. Obviously, that is not the case.<sup>58</sup>

This is precisely what occurred during World War II after the fall of France. The German military were legitimate occupiers and the French resistance movement decided to still oppose the Germans. The resistance fighters were therefore illegitimate combatants and not subject to the same rules and protections that the practice of championing offered. Since

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<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

the French resistance fighters broke the championing convention, the German military were free to pursue the resistance fighters pretty much as they pleased.

It is interesting to note that any resistance movement that arises which breaks the championing convention will put all non-combatants at risk. Though resistance fighters are combatants and may see themselves as legitimate, the enemy will see them as illegitimate combatants - the only legitimate combatants in the practice of championing are the champions. Therefore, resistance fighters are seen as armed civilians, and it is to be expected that the occupiers would look at all civilians as potential threats. Resistance fighters cannot be seen as just more combatants for the cause. Champions are legitimate fighters that are part of a practice which tries to limit lives lost in a war. In an environment where championing is practiced, the emergence of resistance fighters therefore breaks the convention of championing and therefore breaks the immunity of non-combatants.

This targeting strategy, that of champions targeting champions, is most familiar to the West, as this is the “normal” way of conducting a war. Ask as many people as you wish in the developed world what war is and you will get descriptions of soldiers in uniforms using tanks and planes and such against similarly equipped opponents. Championing dominates *our* practice of war.<sup>59</sup>

But consider a war where parties adhere to the Principle of Self Defense, but otherwise there are no conventions. In this case, a much larger percentage of people are permissible targets, but there are still going to be impermissible targets. But even this set of targets is only protected so far as the enemy abides by the Principle of Self Defense. Moral laws are unlike physical laws. Try as we might, so long as conditions stay the same on earth we will never be able to jump into the air and float into space.

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<sup>59</sup> Why championing dominates our practice of war will be discussed later.

The laws of gravity cannot be violated. However, moral laws can be (and all too often are) violated. In the case of a war limited only by the Principle of Self Defense, one can still target the small group of illegitimate targets, which according to this thesis would be an act of terrorism. However, the very notion that impermissible targets exist is a contingent one itself; this is contained in the very definition of war. For at war's most fundamental level, no one is immune from attack; in fact, everyone is a target. War is an act committed in order to get one's enemy to bend to one's will. Any time combatants are fielded, those who do not fight are required to surrender to the will of their enemy if their own champions are defeated. Or else, they will have to become combatants themselves and fight. For one's enemy will not engage combatants only to return home after the non-combatant population refuses to bend their will to the enemy's will. It is in this sense that everyone always is a target. What the Principle of Self Defense and further conventions do is make it so that some people can *actively* be targeted immediately, while the protected people ought not be targeted. But if the protected people pick up arms, or if their combatants are beaten and they refuse to bend their will to the enemy's will, then they can be *actively* targeted.<sup>60</sup>

This picture was first outlined by Hobbes. In a state of nature, fighting is everyone for oneself. No one is a protected target. Once people enter into a covenant and get a sovereign to enforce the contract, then all sorts of protections will be in place designed to save human lives. But if the contract is breeched and the sovereign can no longer protect people, then everyone is permitted to actively target everyone else again. This is captured in Hobbes' first law of nature, "*That every man, ought to*

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<sup>60</sup> Ibid.

*endeavour Peace, as farre as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre.*"<sup>61</sup> Even when fighting a war we try to seek peace as much as possible - this is done through the Principle of Self Defense and conventions. These will limit the costs in lives of war. But if the champions of the people who are protected by the limitations (namely the illegitimate targets) are beaten and the people refuse to bend their will to their enemy, the enemy ceases to have any reason to limit the conduct of war.<sup>62</sup> The protected status of the people remaining disappears. In a war with no limitations on targeting, 'terrorism' will make no sense. But as long as there are recognized groups of people who are illegitimate targets, then terrorism is a concept that will do much work for us. Target those illegitimate targets, and you are a terrorist.

As I have tried to show, terrorism is the military strategy of targeting illegitimate targets. One thing that is obvious about this definition is the lack of emotive language, as compared to definitions earlier discussed. Many definitions of terrorism, as we saw, have the creation of feelings of terror as a central feature; terrorism is terrorism because terrorists do what they do in order to cause terror. Definitions of this type are easily dismissed. It may be that Osama Bin Laden targeted the World Trade Center towers in order to cause terror. But clearly this is not the only reason. The PLO, Al Qaeda, and the IRA do not target non-combatants just to cause terror, but to thereby achieve some goal other than simply the

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<sup>61</sup> Hobbes, 190.

<sup>62</sup> Experience has shown that there are always people who resist bending their will to a superior enemy. Currently in Iraq we are seeing almost daily attacks against American forces, though the majority of the Iraqi population are not resisting the American forces. But here I have in mind a more widespread resistance, where passive resistance is practiced by many members of the non-champion population. For the most part, an enemy will accept that with, say, 90%+ submission, there will be some remaining resistance to deal with. The large amount of submission would mean that the "enemy" would have few rational reasons to assault the non-champion population. However, if only 30% of the population submitted to the enemy after the population's champions were defeated, then, other things being equal, it will be rational for the enemy to use force on the civilian population until the scale of submission by the population increases significantly.

creation of terror, be they the release of political prisoners, monetary gain, etc. Terrorists do not cause terror as an end in itself.

We also dismissed definitions of terror which say terrorism is terrorism because of the terror caused by the actions of terrorists. A bus ride may be terrorizing to a small child, but we hardly want to label the bus driver a terrorist. Even in a just war, with champions lobbing shells at opposing champions, it would not be shocking if we discovered that the champions were terrified! But we do not want to call those champions terrorists either. Furthermore, there are many cases of people using the terrifying psychological effects of weapons for good reasons. In “Kill or Get Killed”, a classic manual for police and military personnel, Col. Rex Applegate says, “...the large bore of the sawed-off shotgun (usually 12-gauge) has a deterring effect on anyone who looks at it from the muzzle end.”<sup>63</sup> These examples indicate that any definition of terrorism that would label the causers of terror ‘terrorists’ must be rejected.

One may recommend, then, that we give what I have defined as terrorism here another name. Or one may ask this question in a different fashion: what, then, puts the terror in terrorism? An answer to these questions can be found in Hobbes, and a look at the logic and psychology involved in prisoners’ dilemmas.

Thomas Hobbes’ equality condition, found in his book *Leviathan*, is a succinct analysis of the “worth” of the physical and mental differences between different people. The first part deals with physical power:

Nature hath made men so equall, in the faculties of body, and mind; as that though there bee found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himselfe any benefit, to which another may not pretend, as well as he,

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<sup>63</sup> Colonel Rex Applegate, *Kill or Get Killed* (Boulder: Paladin Press, 1976), 259.



For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe.<sup>64</sup>

In this paragraph, Hobbes acknowledges that there are differences in physical abilities between people. But he reminds us that differences are context-dependent. My skin tone and that of my MA supervisor's bears no difference to a blind person. Yet it would matter for a photographer shooting a "Men of Philosophy" calendar. What Hobbes is telling us is that there really is no difference that we can count on in our physical ability to kill one another. Obviously a 250 pound man has the strength to choke the life out of a 150 pound man. But with the right technique, a 110 pound woman could choke a 400 pound man to death. However, the force of Hobbes' claim is much stronger than this.

Near the end of the paragraph, Hobbes mentions two other methods we can use to overcome the strengths of others. The first is secret machination. By this, Hobbes means the use of tools. When firearms first appeared on European battlefields, the way wars were fought quickly changed. There was not much that a peasant drafted into the King's army, wearing leather armour and with a wooden spear tucked under his arm, could do against a knight wearing chain and plate armour, armed with lance, sword, and war hammer. With the introduction of firearms, a lowly peasant could easily, at least much more so than before, kill a knight. Technology is an equalizer, today as much as it was in the 14<sup>th</sup> century. All women have strength enough to pull a trigger and kill anyone who tried to rape a woman. News reports (tragically) confirm that even six year olds are strong enough to aim a gun and pull a trigger.

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<sup>64</sup> Hobbes, 183.

The second method for overcoming the strengths of others is by confederacy. Sure enough, I have the strength to kick and punch my own sweet granny into submission, if I so desired. In fact, I have strength enough to kick and punch into submission all of the grannies and grandpas on her block. But my granny has strength enough to team up with her neighbours and together proceed to punch and kick me until I give up. So, either through the application of one's own body alone, by confederation, or the use of technology, no one can claim complete physical dominance over everyone else.

With respect to our mental abilities, Hobbes says, "I find yet a greater equality amongst men, than that of strength. For Prudence, is but Experience; which equall time, equally bestowes on all men, in those things they equally apply themselves unto."<sup>65</sup> When I was younger, a friend of mine named David was arguing with his younger sister over the possession of some object. Cleverly, David suggested they leave things to chance with the flip of a coin. Ordinarily there is not much that is interesting in a coin toss, but this toss was special, as he said to his sister, "We'll flip a coin for the object: heads I win, tails you lose." It turns out that the coin came up tails, and David's sister claimed victory, that is until David repeated the parameters of the coin toss - heads he wins, tails she loses. David's sister turned to an arbiter, as their father had heard the whole thing take place. Their father upheld David's win and told his daughter to be more careful next time. This story helps show the force of what Hobbes says about the equality of our mental abilities. Though there may be differences in our survival mental abilities, with experiences, these differences disappear. My friend's sister was fooled with the 'heads I win, tails you lose' type of situation once, but she never will be again. You and I could come upon a coconut tree with only one coconut in it, and you may suggest we share the coconut, and that I should go look for a stick to bash the coconut

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<sup>65</sup> Ibid.

open with. And once I turn my back, you beat me with a stick already in your hand, and take the coconut for yourself. The next time we come upon a coconut tree with one coconut in it, there is no way I'll turn my back to you! So Hobbes' equality condition rings true. We all are strong enough and smart enough to kill each other. Though there may be some differences in the relative strengths or cognitive capacities between people, such differences do not amount to anything we can count on. For the weakest have strength enough to use tools to overcome their weakness, and they are smart enough to realise that they are going to need a gun to fight over coconuts with Mike Tyson.

The equality condition is the first step in a dangerous spiral. Hobbes continues:

From this equality of ability, ariseth equality of hope in the attaining of our Ends. And therefore if any two men desire the same thing, which neverthelesse they cannot both enjoy, they become enemies; and in the way to their End... endeavour to destroy, or subdue one an other.<sup>66</sup>

The equality condition makes us enemies when we desire the same things. One may ask in the coconut example given above why you and I just do not share the coconut and avoid becoming enemies? Hobbes has the answer:

And from hence it comes to passe, that where and Invader hath no more to feare, than an other singe mans power; if one plant, sow, build or possesse a convenient Seat, others may probably be expected to come prepared with forces united, to dispossesse, and deprave him, not only of the fruit of his labour, but also of his life, or liberty. And the invader again is in the like danger of another.<sup>67</sup>

Because of the equality condition, we live in fear of one another. Suppose you and I go to that coconut tree and I spend half an hour telling you how much I like sharing and how I hate to hurt a fly, and so on. You still cannot trust me enough to turn your back to go look

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<sup>66</sup> Ibid., 184.

<sup>67</sup> Ibid.

for a stick to strike the coconut tree with. As soon as you turn your back, I am going to hit you with a stick! But the situation is much more serious than this. For not only will I smack you with a stick when you turn your back, I had better do it, as it is the only rational thing for me to do. For how can I trust you? How do I know that you will not strike me with a stick as soon as the coconut falls to the ground? In fact, I do not know. You are strong and smart enough to kill me, and I am strong and smart enough to kill you. And since we both want the coconut, it seems the only course of action is to take the opportunity to kill or subdue each other as soon as possible.<sup>68</sup> This realisation of the equality condition, and subsequent fear and distrust of each other that arises from it, is what Hobbes calls diffidence. Diffidence leads to war where every person is against every other person. Describing our lives in this condition, Hobbes says, “And the life of man, solitary, poore, nasty, brutish, and short.”<sup>69</sup>

The logic driving diffidence has been worked through by game theorists since 1950.<sup>70</sup> A prisoner’s dilemma is usually set up with a story of 2 bank robbers; as we can tell from the title of the dilemma, the robbers do not fair so well. Assume you and I have robbed a bank, but unfortunately for us, we got caught. While sitting the back of the police van on our way to the police station, we talk and agree that we should just get our stories straight so that we can throw the cops off when they question us. Once taken to the station, however, we are separated and questioned individually. The detective says to you, “Alright, we know you did it, so there’s no use in wasting our time here. If you confess and your partner keeps his mouth shut, we’ll let you get off Scott free, while your partner spends ten years in jail. If you both

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<sup>68</sup> Killing would be in most cases the preferred method of “securing coconuts”, as subduing an enemy leaves the possibility of the enemy gaining freedom, along with more reasons to come after us specifically.

<sup>69</sup> Hobbes, 186.

<sup>70</sup> An experiment was conducted at the Rand Corporation by Melvin Drescher and Merrill Flood in 1950 which first introduced what we call the Prisoner’s Dilemma. But it was A. W. Tucker who is responsible for the story associated with Prisoner’s Dilemmas. For the first publication of this story, see: On Jargon: The Prisoner’s Dilemma, UMAP Journal 1, 101. 1980.

keep your yaps shut, we'll still be able to nail the both of ya, but you'll each only get two years in prison. If each of you rat each other out, you'll both get five years in prison though! But hey, if you keep your mouth shut and your partner spills the beans on you, he's gonna go free while you rot in prison for ten years. So, whatcha gonna do, pal?"

To help organize the information given in this game, it is useful to put it into a couple of matrices. Matrices are used in game theory to map all sorts of information. First, we'll make an outcome matrix. An outcome matrix for a prisoner's dilemma lists the two game players on adjacent sides of the matrix. A prisoner's dilemma is simple to map because players can only choose from two possible actions. In the background story for the Prisoner's dilemma, you and I agreed not to rat each other out. So, both of us have the option of either doing the action we agreed upon, namely keeping our mouths shut, or we can tell the cops the truth. We will call sticking to the action agreed upon 'staying the course'. This is represented on the outcome matrix as a 'S'. The action of telling the cops the truth will be called 'defecting', and this will be represented on the matrix by a 'D'. Though we could use people's names in the matrix, since we are generalizing here we will just follow standard practice and call the player on the top of the box 'Column', while the player on the side of the box will be called 'Row'. Any numbers pertaining to Column are found in the upper portion of the sub-boxes, while numbers pertaining to Row are in the lower portions of the sub-boxes. All we need now do is plug the outcomes - the numbers of time in jail that will result from our actions, into the outcome matrix:

		Column	
		S	D
Row	S	2, 2	10, 0
	D	0, 10	5, 5

Figure 4: Prisoner's Dilemma Outcome Matrix

With the values of each outcome placed in the matrix, we can easily produce a preference matrix. To make a preference matrix, all we do is replace the values in the outcome matrix boxes with a rank ordering. So, the preference matrix for a prisoner's Dilemma looks like this:

		Column	
		S	D
Row	S	2, 2	4, 1
	D	1, 4	3, 3

Figure 5: Prisoner's Dilemma Preference Matrix

From the preference matrix, we see that it is in your best interest to rat me out! And going back to the outcome matrix, we can show that in a prisoner's dilemma, all things being equal, the dominant strategy is to rat your partner out. If I am going to keep my word and

seal my lips, should you keep your mouth shut too? No! If we both keep our mouths shut, you and I spend two years in prison. But if you know that I am going to keep my mouth shut, you should rat me out and spend no years in jail. On the other hand, if I am going to rat you out, what should you do? If you keep your mouth shut, you spend 10 years in jail and I get off for free. On the other hand, if you rat me out too, we each spend five years in jail. But that would be five years less than you otherwise would have spent in jail. So, no matter whether I am going to rat you out or keep my mouth shut, the rational thing you to do is to rat me out. And likewise for me.

Preference matrices are useful to construct for two reasons. First, they will put into rank order which choice we should make. Find your number 1 on the preference matrix, and do that! Secondly, preference matrices more clearly indicate the structure of the game you are in. We could use many different values in the outcome matrix boxes and still end up with the same preference matrix. Once we have the preferences in rank order, we can just choose our #1 choice. However, notice that in our Prisoner's Dilemma, that puts us each in jail for five years. If we could just find a way to co-operate and keep our mouths shut, we can shave 3 years off of each of our sentences, achieving an outcome we both prefer to both of us ratting each other out. There are solutions to these types of problems in the various games that game theorists have identified. Once we have the preference matrix, we will know which game is being played and which solution is required to maximize our payoff.

We can now see that Hobbes' arguments for the equality condition, diffidence, and their causing civil war share the same structure as a Prisoner's Dilemma. The best outcome for me would be that I convince you to turn your back and search for a stick to strike the coconut tree with, so that we can share the coconut. And as soon as you turn your back, I

ought to hit you with a stick. I had better hit you with a stick while I have the opportunity, as you are strong and smart enough likewise do me in if you think of it first. On the flip side, you may try and hit me with the stick and take the coconut for yourself, perhaps because you don't want to share or you are afraid of me hitting you with a stick while you turn your back. So, whether I convince you to share with me or not, the rational course of action for me is to attack you with great conviction, as it is really my life I am fighting for, not simply coconut milk. But the situation is likewise for you. So we are doomed, it seems, to chase at each other with our sticks until there is one victor. But even if I win, there is a great chance that someone else was watching the two of us, waiting for us to fight. And when it was all over and done with, the third person will sneak behind the distracted victor, smack him on the head with her stick, and claim the coconut prize. Without a solution to this problem, we are doomed to chase each other with our sticks, doomed to live in a Hobbesian state of nature, and suffer through a life that is solitary, poor, nasty, brutish and short.

It is out of the equality condition, diffidence and the state of nature that our practice of championing arises. To see this, we must first identify Hobbes' own solution to the prisoner's dilemma of the state of nature:

The Passions that encline men to Peace, are Feare of Death; Desire of such things that are necessary to commodious living; and a Hope by their Industry to obtain them. And reason suggesteth convenient Articles of Peace, upon which men may be drawn to agreement.<sup>71</sup>

Hobbes' solution to the prisoner's dilemma is an example of what is called externalist solutions. Hobbes says that our mutual desire for peace - no one wants to live solitary, poor, nasty, brutish, and short lives - leads us to draw up an agreement for peace. Hobbes says we

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<sup>71</sup> Hobbes, 188.



draw up a contract between each other with articles for preserving the peace so that we can go about scavenging coconuts without being assaulted. And then we hire a leg breaker to enforce the contract. I would rather us keep our mouths shut in the original prisoner's dilemma; otherwise we will each spend another three years in jail. And I would rather split a coconut with you than try to split your head with a stick as you likewise attempt to split my head. By hiring an external party to enforce our contracts, the third party acts as a barrier to the slide that the equality condition and diffidence lead us down. This is the purpose of government.

In most cases we will want to avoid a state of nature, so for the most part we should not revolt against our government. Getting rid of our leg breaker returns us to a state of nature, and even a government like that of the Taliban is less brutish than life in a state of nature. Today most people would argue for a much lower toggling point for revolt. Even if a people's life is decent under a government, if the people can do better under the rule of another, we think it permissible for the people to remove the government and install a better one. While Hobbes may be wrong on where he sets the toggle point for revolting against our government, the warning embedded in his claim is of utmost importance. Though we can revolt against the government, actions against the Sovereign are actions that head us down the spiral towards a state of nature. With the removal of the Sovereign, we are stuck with diffidence in full force once again. And, as we know from Hobbes arguments and the structure of Prisoner's Dilemmas, diffidence leads us to war. When revolting against oppressive governments, we must keep in the front of our minds that this action, though done with good intentions, dangerously destabilizes our society. We will return to this problem shortly.

I said that our practice of championing arises out of the Equality Condition, diffidence and the state of nature. It is easy to recognize that the practice of championing saves a lot of lives. By limiting the possible number of combatants, and thereby the permissible targets, we have a great chance of limiting the number of deaths on 'our side', and on 'theirs'. But with terrorism, we now have groups targeting non-champions. In effect, the practice of terrorism simulates the abandoning of the convention of the mutual immunity of non-combatants that is inherent in the mutual practice of championing.

As said, there must be a distinction between legitimate and illegitimate targets for the word 'terrorism' to even be meaningful. Furthermore, terrorism is a military strategy that can rationally be chosen. For example, a country may choose to target an enemy's non-permissible targets because it is seen as the only way to stop the enemy from defeating one's own country. That terrorism is a strategy that can be rationally chosen is a conclusion that Martha Crenshaw shares:

Terrorism is not the only method of working towards radical goals, and this it must be compared to the alternative strategies available to dissidents... The practitioners of terrorism often claim that they had no choice but terrorism, and it is indeed true that terrorism often follows the failure of other methods... In the Palestinian-Israeli struggle, terrorism followed the failure of Arab efforts at conventional warfare against Israel.<sup>72</sup>

After losses in the first Arab-Israeli war in 1948, the Six Day war in 1967 and the Yom Kippur war in 1973, it was rational for the Palestinians to abandon their attempts at a conventional, direct fight with Israeli military forces and do something different. Of the options available, including legal channels such as appealing to the United Nations, staging mass passive resistance, some Palestinians decided that practicing terrorism as a part of the first and second Intifadas would improve their conditions.

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<sup>72</sup> Martha Crenshaw, "The Logic of Terrorism: Terrorist Behavior as a Product of Strategic Choice," in *Origins of Terrorism*, ed. Walter Reich (New York: Cambridge University Press, 1990), 8-9.

A country that practices championing which is the victim of terrorist attack has only a few options to respond to a terrorist attack. The country can:

- 1) act as though the country and the country's enemy are still practicing mutual championing, respect the immunity of non-combatants and just retaliate on the enemy's champions.
- 2) act as though the country and the country's enemy are still practicing mutual championing and retaliate by going after the enemy's legitimate champions and the terrorists.
- 3) Abandon the practice of championing, and with it the practice of recognizing a difference between combatant and non-combatant, champion and non-champion, and refraining from targeting immune non-combatants, which are impermissible targets under championing.

For the most part, terrorists want to avoid option three, as the practice of championing helps terrorists by protecting innocent non-combatants on their side. Terrorists may benefit from a breakdown of the practice of championing, capitalizing on the propaganda value of the possibly excessive response by their enemy. However, such gain comes at the (very high) price of many more dead and/or injured. If an enemy is prepared to abandon the practice of championing, it appears that any propaganda value that could come from this response would have to be able to draw more support (allies to one's side, more civilians becoming champions, etc.) in order to counter the enemy's response. However, an informed and rational enemy would refrain from abandoning the practice of championing if any benefit from a larger scale response (attacking once-immune non-combatants) would irreparably

damage the enemy's long-term chances of success. Option two is a good option for terrorists if they think their action(s) in the short run offer enough of a contribution for their side to win the war. What terrorists count on in this case is similar to what a "dirty" fighter counts on when having a fistfight with a person who upholds a convention of no low blows. But one person (the terrorist) takes advantage of the open low section and strikes his opponent there. Though this action will invite retaliation in kind, that the first person (the terrorist) did it *first* may create enough of an advantage to win him the fight. This is precisely what happened during military operations in Afghanistan following 9-11. The United States and allies targeted Taliban (Champions) and Al Qaeda (combatants, *possibly* illegitimate), but did not target Afghanistan's civilian population.<sup>73</sup> This was, of course, in response to Al Qaeda's targeting of the Pentagon (Champions) and the World Trade Center (*possibly* innocent non-combatants). It is too early to tell yet whether Al Qaeda's action on 9-11 was 'worth it' for them, but in the short run we can reasonably conclude that Al Qaeda's tactic failed. The 9-11 attacks have only increased The West's presence, especially America's, in the Arab world. The first option is one that terrorists would fair best in. If their target people desire to uphold the championing convention so much that they refuse to target any non-combatant, innocent or not, then the terrorists would have free reign to conduct violent campaigns without fear of retaliation on themselves.

Of course, whether option (1) would ever come about seems highly unlikely. Option (1) is included in the list to draw out Hobbes' worry about actions that leads to the state of nature. Notice that options (1) through (3) vary in the degree to which they stray from what I will call the strict observance of the practice of championing. Option (1) stays with

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<sup>73</sup> At least that is what we are led to conclude from testimony by the American, British and Canadian governments. However, I acknowledge that this claim can be argued against.

championing the most strictly, in that the attacked party still recognizes the immunity of non-combatants and only retaliates against champions. Option (2) modifies the immunity of non-combatants portion of the practice of championing, now recognizing that some of their enemy's non-combatants are permissible targets. The second option introduces a new distinction, that being the difference between innocent non-champions and non-innocent non-champions. The language here is tricky, and needs to be fixed. But this is where we need to improve on mere talk of the immunity of non-combatants. For some non-combatants can clearly be seen as impermissible targets - the 8 month olds in a nation. Some non-combatants are clearly permissible targets - the civilians working at the Pentagon are not combatants, but they are fair game. Also, not all combatants are champions. A father may see his soldier son get shot in a city battle, and out of anger go pick up a rifle laying on the ground. The father is now a combatant, though we treat this combatant differently than we would a soldier; the father would be an illegitimate combatant and wouldn't be protected by any convention that restricts what can be done to legitimate combatants in war. Now our third option is a complete abandonment of the practice of championing. Out with the practice of championing goes the distinction between combatant and non-combatant, immune non-combatant and non-immune non-combatant. Without these conventions, everyone is seen as a permissible target. And if we attack their "citizens" in retaliation for them attacking ours, as well as mutual strikes on "champions", then what we have is a situation awfully close to a state of nature. If all of us are now fair game to their bullets, "there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea."<sup>74</sup>

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<sup>74</sup> Hobbes, 186.

Things are not quite that bad yet. There is an important difference between people fighting in the absence of championing and a state of nature. In a state of nature, it is everyone for herself. But at this point, each side finds all members of the other side to be permissible targets. However, each side still finds the members of one's own group not to be permissible targets; we do not target members of our own group, but we will target any member of the enemy group. So, this is still a case of "us against them", and not "everybody for themselves". But Hobbes' worry is still a good one to have. For an option (3) situation looks much more like a state of nature than an option (2) or option (1) situation. When non-combatants target innocent non-combatants, it invites the abandonment of distinctions which protect people. And this is a huge slide towards a state of nature.

To slide all of the way, we need to go from an "us against them" stance to "everybody for themselves". Terrorism again proves to be an unstable strategy, as it provides the framework for the rest of the slide. The discussion above was worded to sound as though two countries were targeting each other, and one decided to target the other's innocent non-combatants. A key aspect of champions is that one must go through champion-making rituals in order to be one. I can go down to the local army surplus store, purchase a set of fatigues, sew an American flag on the arm and parade around my back yard. But this will not make me a real American Army Ranger! No more than simply carrying around a stethoscope and putting the prefix 'Dr.' before one's name makes them a physician. Even in an "us against them", there is an "us" and there is a "them" which are recognized by warring parties. In a state of nature, there is no us and them, there is only me and the rest of the people out there. But what makes terrorism a strategy that is unstable - sliding dangerously close to a state of nature - is that it is simply a strategy of targeting impermissible targets, and one need not go

through any elaborate rituals in order to do that. As long as I find a people my enemy, by targeting their innocent non-combatants I have become a terrorist. It is easy to become a terrorist, and really anyone can become one. A one legged, half-blind sixteen year old cannot become a Canadian soldier, but that same person can easily become a terrorist.<sup>75</sup> Cases where the terrorists are members of “them” and not members of “us” may look identical to an “us versus them” situation. In the 9-11 incident, it was easy to do this as the terrorists were just “no good Arabs” who lived in distant deserts. Those lines are easy to discriminate on. Terrorists could be just “damned Arabs”, or they could be our neighbours who were over for dinner last week. Champions also could be terrorists. Anthony Quinton says that, “a terrorist is a kind of unofficial soldier”.<sup>76</sup> Quinton is mistaken. Terrorism is a military strategy and a terrorist is one who engages in that strategy. A soldier could be a terrorist, as can a nurse or a school teacher.

What puts the terror in terrorism is that it breeds diffidence. Terrorism invites us to modify our championing practice, making some non-combatants who were once immune available for targeting. Or, terrorism may cause us to abandon the practice of championing altogether, putting even more people at risk. And since anyone, really, can be a terrorist, we start sliding awfully quick towards a state of nature.<sup>77</sup> The practice of championing came about in part to keep us out of a state of nature, while terrorism encourages us to slide back in one. Trudy Govier argues towards a similar conclusion:

Terrorism threatens us deeply because it puts into question our ordinary lives and the trust we need to conduct them. Our vulnerability stems

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<sup>75</sup> We must recognize that some terrorist organizations may have terrorist-making rituals which are more elaborate and stringent than the champion-making rituals of, for example, the Canadian military. Furthermore, it is clear that my analysis allows for soldiers (champions) to be terrorists. The important point here is that far more people could potentially become a terrorist than could become a champion.

<sup>76</sup> Anthony Quinton, “Reflections on Terrorism and Violence,” in *Terrorism, Protest and Power*, eds. Martin Warner and Roger Crisp (Aldershot: Edward Elgar Publishing Company, 1990), 38.

<sup>77</sup> A look at the impact that 9/11 has had on civil liberties in the United States of America will confirm this.

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? Especially if he were willing to lose his own life in the process? For many North Americans, the fundamental factor that changed after September 11<sup>th</sup> is the spread of fear. What was mundane can no longer be so; what we took for granted for so many years, we can presume no longer.<sup>78</sup>

The particular type of fear that Govier refers to in the quote above is diffidence. She is also right that what September 11<sup>th</sup> did was remind us of the diffidence that Hobbes talks about in *Leviathan*. All terrorist attacks increase the diffidence we feel.

There is a second reason why we in the West may find terrorism so terrifying. The debate between Mavrodes, Fullinwider and Alexander brought two important guidelines. The first is that warring parties have a right to eliminate threats to their existence according to the principle of self-defence. This came from Alexander, and is the most fundamental level of war. But conventions can exist which warring parties practice, and those conventions will further limit which targets are permissible ones in combat. If a warring party that is used to practicing limited targeting in war fights an enemy who does not and refuses to limit targeting at all, then in many plausible cases it would be irrational, assuming everyone is interested in survival, for the first party to continue following any convention unilaterally.<sup>79</sup>

We in the West have become very accustomed to fighting wars with the convention of limiting targeting, for the most part, to force targets. I do not doubt that one of the reasons we have stuck with this convention is that it helps reduce the number of deaths in war - the

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<sup>78</sup> Trudy Govier, *A Delicate Balance: What Philosophy Can Tell Us About Terrorism* (Boulder: Westview Press, 2002), 3.

<sup>79</sup> There may be cases where there are benefits from following conventions in war unilaterally, and that these benefits are great enough to make it rational to unilaterally follow a convention. However, I think that these cases would be fewer in number than cases where it would be rational to simply abandon unilaterally following a convention.



convention lowers the costs of war, which is good for everyone. However, I submit that we are attached to the custom because we have become extremely good at fighting and winning such limited wars. The military forces of the United Kingdom, Germany, France, the United States and Canada have developed the technologies and strategies to place us in the West as the best force on force fighters in the world. Night vision equipment, especially since 1990, has allowed our forces to fight our enemies at a time where traditionally combat could not effectively take place. We have the option of launching “dumb” bombs or a host of “smart” bombs guided by laser beams, by satellites using global positioning system co-ordinates within inches of aiming points. These three technologies alone allow us to bomb an enemy any time of the day in any weather condition at all. Ballistic missile submarines can evade detection and launch nuclear weapons on any city in the world at the commands of several Western leaders. Our snipers can hit targets over a mile from their locations. Many aircraft developed in the West are now capable of evading and confusing radar through various stealth technologies. And much work is being done by the United States to try to erect an anti-ballistic missile defence shield to protect North America from any ballistic missile attack. We are experts at wars where counter-force targeting is the only permissible targeting. The allied actions in Afghanistan and America’s invasion of Iraq proved that regimes can be changed in a matter of weeks by our military might.

In a war where a convention limiting targeting to force targets exists, it is rational for us to be angry and feel terrorized if our enemy violates the convention and attacks our innocent non-combatants. We feel terrorized because a convention designed to lower the costs of war is at risk of becoming extinct. But we also feel terrorized because our specialty is in reciprocal counter-force targeting. The more troubling cases would be where we engage

in war with an enemy who does not practice limiting targeting to only force targets, and has no intention of adopting such limitations. We are so used to having our non-combatants protected that we would cry foul; we would claim that our enemy is morally evil. But if the non-combatants that our enemy targets are seen as a threat to our enemy's survival, according to the Principle of Self-Defence as outlined by Alexander, our enemy is justified in targeting those non-combatants.

Calling our enemy evil in these cases is a rational course of action if our intention is to try to get our enemy to adopt the convention of limiting targeting to force targets.<sup>80</sup> As long as we have some kind of leverage against our enemy, calling the enemy actions evil actions is a signal sent to the enemy that we would like the enemy to refrain from pursuing the acts we labelled as being evil. Those acts may not really be evil at all, but it would be rational to call them evil if doing so will motivate our enemy to engage in a convention with us. However, calling our enemy evil for targeting our non-combatants in these cases is not a correct moral claim. In the absence of a convention, any of us posing a threat to our enemy's survival can legitimately be targeted.

Terrorism is a military strategy of targeting impermissible targets. In war not limited by conventions, the number of permissible targets will be larger than if conventions existed limiting the targeting strategies available. Breaking the lines of immunity is terrorism. But we in the West will, at least in the immediate future, continue to claim that anyone who targets anything other than counter-force targets is a terrorist.<sup>81</sup> In the cases where our enemy

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<sup>80</sup> It is also rational to call our enemies evil if our intention is to rally our group members "behind the flag". This can work whether an enemy really is evil or not, or whether going to war really is justified or not. If you convince your people that the enemy is evil, then you can help secure support for military action.

<sup>81</sup> One notable exception to this is nuclear warfare. From its beginnings, nuclear warfare has been predominantly about counter-value targeting. You point these weapons at your enemy's civilian population and our enemy is compelled to comply with our will, as there is not really any way to intercept these nuclear weapons. When two nations point their nuclear arms at each other, you have a practice called mutually assured

has targeted impermissible targets, then calling our enemy a terrorist is appropriate. In cases where our enemy has targeted permissible targets, calling our enemy a terrorist is a misuse of the word. But we may misuse the word 'terrorism' because we are emotionally attached to mutual counter-force targeting, we are historically conditioned to be attached to mutual counter-force targeting, and given the superiority of our military forces, it is rational for us to employ any signalling tactic available, including the misuse of the word terrorism, in order to compel our enemies to limit our enemy's targeting to our force targets.

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destruction. Assuming that your enemy wants their civilian population to live as much as you want yours to, then both sides will be compelled to threaten, but never launch. The logic of nuclear warfare is definitely paradoxical. It is the one clear case where Western nations that are nuclear freely admit that they are willing , or in fact do, target enemy innocent non-combatants. This would then mean that nations with nuclear weapons are practicing a form of terrorism. The only reason this might be different is if one can claim that with nuclear warfare, no practice of limited targeting has ever really existed, therefore the targeting of enemy cities is permissible. I suspect that given the logic of nuclear warfare, a strong argument that nuclear warfare is not terrorism can be made. See Gregory Kavka's book, *Moral Paradoxes of Nuclear Deterrence*.

## Chapter 6

### Applications

Here I shall consider three cases, and using the definition of terrorism argued for in this thesis we can see if they are cases of terrorism. The three cases are the Israeli-Palestinian struggle in recent times, 9-11, and nuclear deterrence. Note that these applications are very general in nature and are meant to show how the definition of terrorism that I have come up with could be applied. A more detailed case study could be done, but would be beyond the scope of this thesis.

**Israeli-Palestinian Struggle:** The Israelis and Palestinians are definitely at war. Both groups utilized force to try to get their enemy to bend to their will. Whether or not to call any actions terrorist actions depends on the time that is considered. The four major wars before the two Intifadas (the first Arab-Israeli war, the Suez Canal war, the Six Day war and the Yom Kippur war) were cases of champions targeting champions. Seeing the ineffectiveness of this kind of fighting, the Palestinians utilized civil disobedience and also began targeting soldiers and civilians with force. At this point, attacks on civilians would be terrorism. The history of the conflicts with Israel were champion vs. champion conflicts which recognized civilian immunity. When the Palestinians broke from that practice, and assuming the Israelis continued to unilaterally follow the practice, the Palestinians were practicing terrorism. However, the first Intifada, which occurred from 1987 until 1991, largely saw attacks by Palestinians on soldiers. Soldiers in war are always permissible targets, so such attacks were not terrorism. The second Intifada began in September 2000; in this period, attacks on

civilians by suicide bombers have drawn the most attention. Suicide bombings on soldiers have occurred, but these are not terrorism, contra Israeli assertions, as soldiers are permissible targets in war. Whether the suicide attacks on civilians are terrorism is a little difficult to ascertain. The first Intifada was a break from conventional war where civilian immunity was recognized. The second Intifada is a continuation of the first, but it cannot be clearly described as a break from an old practice. Palestinian suicide bombings of civilians is terrorism if these targets of the Intifadas are to be seen as impermissible targets. If one takes this line, then a case can be made that Israel also practiced terrorism. Israeli military response to Palestinians grew increasingly indiscriminate as the Intifadas wore on. The first Intifada claimed roughly 1300 Palestinian lives and 80 Israeli soldiers. The second Intifada has so far claimed roughly 2400 Palestinians and 800 Israeli lives. The suicide bomber's blast kills active duty soldiers, retired soldiers and children upon detonation. Israeli artillery shells aimed at Hamas leaders kill the leader, his family, and Palestinians in the apartments next to the Hamas leader's apartment. These actions may be called terrorism, but the way the fighting has been going between Palestinians and Israelis, there has been less and less recognition of targets to be held as impermissible ones

**9-11:** To repeat, we are assuming here that Osama Bin Laden is responsible for the attacks on the Pentagon and the World Trade Centre. Osama Bin Laden has been linked by the United States Government to the following actions: 1993 bombing at the World Trade Centre, attacks on US and coalition forces in Somalia in 1993, a truck bombing at a military base in Riyadh, attacks on the Khobar military dormitories in Saudi Arabia in 1996, attacks on US embassies in Kenya and Tanzania in 1998. Even accepting the US allegations that Bin Laden is responsible for all of these attacks, what they show is that Bin Laden has never restricted

himself by adopting a convention which limits the permissible targets. Meanwhile, US responses to Osama Bin Laden have been largely restricted, arguably, to combatant forces. In Afghanistan, the US government repeatedly informed the media that the fight was not with Afghan civilians, but instead against Al Qaeda and the Taliban. The US made similar claims with its 2003 invasion of Iraq – action there was claimed by the United States to be against Saddam Hussein's regime and Iraq's military supporting the regime, not against the Iraqi people. The history of the conflicts between the United States and Osama Bin Laden indicate that there are no mutually practiced conventions which restrict targeting between the two warring parties. America arguably has restricted targeting largely to combatants, while Osama Bin Laden has attacked combatants and non-combatants.

The attack on the Pentagon during September 11<sup>th</sup> then would not be a case of terrorism. The Pentagon is a force target and can always legitimately be targeted in war. The World Trade Centre attack is a case of terrorism, though this would be in some dispute. Though there is no history of following conventions that respect the immunity of non-combatants by Osama Bin Laden, the people in the World Trade Centre arguably posed no threat to Bin Laden. One can target non-combatants that pose a threat according to the Principle of Self Defence, but making a case that the civilians in the World Trade Centre posed a threat to Osama Bin Laden's life would be an extremely hard one to make. One could argue that the World Trade Centre provides the financial backing for America's military, and therefore the World Trade Centre was a legitimate target. However, the World Trade Centre served civilian purposes much more than it did military ones. Also, the World Trade Centre was not connected as close to combatants as would be a civilian truck driver delivering ammunition to front lines. On the balance of things, I find the World Trade Centre

was an impermissible target (even outside the championing convention) and therefore the attacks on it were terrorism.

**Nuclear Deterrence:** Nuclear deterrence practiced between nations would at first seem like a clear case of terrorism. The majority of nuclear weapons are intended to be targeted at enemy cities and enemy missile bases. The targeting of enemy missiles is not shocking, but the targeting of cities is. With so many people in the cities who pose no threat to an enemy, clearly they must be impermissible targets, and therefore targeting cities with nuclear weapons is terrorism. However, some argue that nuclear weapons are unique in their deployment and/or effect, so we must think of nuclear deterrence differently.

Richard Wasserstrom suggests that nuclear war is significantly different from other ways we conduct and think about war in five ways. First, nuclear weapons cause damage on a massive and indiscriminate scale unmatched by any other kind of weapon. Second, nuclear weapons spread radiation and cause damage to ecosystems in a way which does not recognize political boundaries. Third, conventional wars, when started, have an indefinite duration. Nuclear wars, in comparison, unfold largely in the first few minutes, and the few days after the weapons are launched. Fourth, there is no time in a nuclear war to display the virtues and vices of war, or to see cases of bravery and cowardice, friendship and defection. Fifth, conventional wars require many decisions to be made by many people as the war progresses. With nuclear war, most of the decisions are made before the war starts.<sup>82</sup>

Given the indiscriminate destructive power of nuclear weapons and the fact that most of the decisions about how and when to use them must be made before a war starts, we are to believe that nuclear deterrence is not a form of terrorism. With virtually no time and no

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<sup>82</sup> Richard Wasserstrom, "War, Nuclear War, and Nuclear Deterrence: Some Conceptual and Moral Issues," in *Nuclear Deterrence: Ethics and Strategy*, eds. Russell Hardin, John J. Mearsheimer, Gerald Dworkin, & Robert E. Goodin (Chicago: The University of Chicago Press, 1985), 17-18.

mechanisms to defend against a nuclear strike, the best chance at preventing a nuclear exchange between nations is for the nations to target each other's civilian populations. Military forces are supposed to protect civilians. Since (for now, at least) military forces can do nothing to defend civilians against a nuclear attack, the only way to protect civilians is for nuclear parties to target each other's civilians. Since neither side wants their populations wiped out, neither side will initiate a nuclear exchange. Therefore, nuclear deterrence practiced between nations is not terrorism, as the targets of nuclear weapons in this case are permissible targets.

However, this argument does not go through. Chemical and biological weapons today can be as effective as nuclear weapons. If launched in large enough quantities, such weapons could be 'city killers', just as nuclear weapons are. Furthermore, conventional bombs are now being constructed with increasingly powerful yields. These bombs, often called daisy cutters, will soon rival the destructive power of small nuclear weapons. If daisy cutters, chemical weapons or biological weapons are launched from ICBMs, you have the same time constraint problems as identified as being (exclusively) associated with nuclear warfare. Or, one could imagine one warring party being able to covertly place small explosives in one half of their enemy's houses, and detonating these bombs at the same time. A massive amount of small explosives can be as devastating as relatively few but massive explosions. None of Wasserstrom's arguments suggest that nuclear deterrence is significantly different, for the purposes of trying to determine the permissibility of attacking targets, from other more conventional forms of warfare. Therefore, we should conclude that nuclear deterrence is a form of terrorism, but a rational form of it. The civilian population of an enemy city may be impermissible targets, but targeting that city with nuclear weapons would be a rational case



of terrorism if such targeting prevents the enemy city from launching their nuclear (chemical, biological or high-yield conventional explosive) weapons.

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