

Can Terrorism be Justified?

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1. The Difficulty in Posing the Question

To justify terrorism seems an impossible task. The dominant view is that acts of terrorism are wrong, a presumption that is virtually unquestioned within the mainstream media, governmental agencies, and scholarly studies around the world. There is ample reason to concur. As usually understood, terrorism is violence directed against those who are not themselves directly involved in carrying out military operations, notably, civilians. Extending the familiar moral guidelines of just war theory to all political violence, terrorism appears to directly violate one of its central norms, namely, the *jus in bello* principle of discrimination according to which attacks on noncombatants are prohibited.

Yet, there are at least two reasons to pause before embracing this conclusion. In the first place, terrorism is as ancient as organized warfare itself, emerging as soon as one society, pitted against another in the quest for land, resources, or domination, was moved by a desire for vengeance, or, found advantages in military operations against noncombatants or other “soft” targets. It is sanctioned within holy scriptures,¹ and has been part of the genesis of independent states and the expansion of empires from the inception of recorded history. The United States itself emerged through the systematic ethnic cleansing of native Americans, a nearly 300-year campaign that featured the destruction of homes and crops, the theft of land, forced expulsions, massacres, and tears.² In the past 70 years, U.S. politicians have

sanctioned bombings in Japan, Germany, Korea, Vietnam, Cambodia, Iraq, and Afghanistan that have knowingly taken the lives of hundreds of thousands of civilians, actions that have been supported by substantial numbers of U.S. citizens.

Such violence is not always called ‘terrorism,’ nor are its perpetrators identified as ‘terrorists’, and this brings me to the second reason for hesitating before condemning terrorism, namely, the fact that a rhetoric of ‘terror’ has emerged which has obscured serious philosophical thought about this mode of violence. Within it, the terms ‘terrorism’ and ‘terrorist’ have acquired an intensely negative connotation as well as an egocentric character whereby they are used to describe actions and persons to whom the speaker is politically opposed but never the actions of oneself and one’s allies. So, few people will admit to supporting, planning, or committing terrorism, preferring, instead, to use other terms to describe the violence in question. Of course, neither feature is grounds for moral opprobrium; terms like ‘enemy’, ‘stranger’, ‘foreigner’ also harbor a degree of negativity and egocentrism, but they apply to everyone, saint and sinner alike.

Yet, even when these points are understood, they do little to reduce the powerful impact that the rhetoric of ‘terror’ has had upon our thinking. The negative connotation runs so deep that affixing the ‘terrorist’ label to individuals or groups automatically places them outside the norms of acceptable social and political behavior, portraying them as “evil” people that cannot be reasoned with. As a consequence, the rhetoric of ‘terror’ serves not only to discredit those who are charged with terrorism but also, to

- dehumanize any individuals or groups described as “terrorist”;

- erase any incentive an audience might have to understand their point of view so that questions about the nature and origins of their grievances and the possible legitimacy of their demands are never raised;
- deflect attention away from one's own policies that might have contributed to their grievances;
- erase the distinction between national liberation movements and fringe fanatics;
- repudiate any calls to negotiate with those labeled 'terrorist' and, instead, pave the way for the use of force and violence in dealing with them.³

While some might think that terrorists deserve to be so discredited, the problem is that the rhetoric is effective enough to preclude a more patient discussion of the historical circumstances from which acts of terrorism have arisen, much less to raise the difficult issues of appropriate response and possible justification.⁴

To complicate matters, the semantically unwarranted perspectivalism of the 'terrorist' label means that it is not consistently employed. Just ask yourself; who gets described as a "terrorist"? All and only those who commit violence against civilians to achieve political ends? Guess again. In fact, the answer depends on where you are and to whom you are listening. If you are tuned into the mainstream U.S. media, or into the various agencies of the U.S. government, or, for that matter, into the statements of virtually any government and their associated media, it quickly becomes apparent that the term 'terrorism' is ascribed selectively. When our political opponents commit acts such as those mentioned we readily label it 'terrorism' and the perpetrators 'terrorists', but if we or our allies engage in similar sorts of activity we use different terms, e.g., 'retaliation' or 'counter-terrorism' to describe

their acts. If the agents are a sub-national group we approve of, then we use ‘freedom-fighters’ used to describe them.

A few examples should suffice to make the point. Some of the violence directed against civilians that were committed by sub-national groups include attacks upon civilians in Nicaragua by the U.S. financed “contra” rebels of the 1980s that claimed several thousand civilian lives, the massacre of over 2000 Palestinian civilians by the Israeli-supported members of Lebanese militias in the Sabra and Shatilla refugee camps in Beirut in 1982, and the massacre of Bosnian civilians in the mid-1990s. None of these atrocities were labeled as acts of “terrorism” by the mainstream media or by western governments.

If we broaden our scope and examine overt actions committed by states, there are numerous examples that are not usually labeled as “terrorist” even though they qualify as such under definitions that allow for state terrorism. These include Israel’s invasion of the Gaza Strip in December 2008-January 2009, its massive incursions into the West Bank in the spring of 2002, and its bombardment of Lebanon in the summers of 1982 and 2006.⁵ Other governmental armed forces have engaged in similar actions, for example, the U.S. bombing of Fallujah and other Iraqi cities in 2004,⁶ the destruction of Grozny by Russian forces during the Chechnya war in 1999, the Syrian army’s attack on the city of Hama in the spring of 1982, and the Indonesian invasion and occupation of East Timor from 1975-1998. This violence pales in comparison to more large-scale campaigns such as the U.S. bombing of North Vietnam and Cambodia during the Vietnam war, or the Allied bombing of German and Japanese cities near the end of WWII. From March to August 1945, for example, nearly 800,000 Japanese civilians were killed in US air raids against Japan’s 62 largest cities, with

about 85,000 of these died on March 9 1945 on the first day of the bombing in Tokyo. Again, the word ‘terrorism’ is rarely applied to violence against civilians on this scale.

The inconsistencies of usage and the politically-charged rhetoric of ‘terror’ aside, the fact remains that there is a peculiar mode of political violence that has come to be referred to as ‘terrorism’ in scholarly discussions as well as in mainstream media and political rhetoric. Whether its perpetrators are non-state agents or governmental militias, questions about its legitimacy are vitally important to moral discussions about violence and war. Other terms could be used in its place, but given the precedence, I will not shy away from using the terms ‘terrorism’ and ‘terrorist’ in what follows. As long as we fix our terminology, employ it consistently, and remain aware of the politically-charged rhetorical uses of the terms ‘terrorist’ and ‘terrorism’, we can confront the ethical questions about the justification of terrorism in a more rational manner.

2. What is Terrorism?

Despite the danger of being misled by the rhetoric of ‘terror,’ there is a real phenomenon of terrorism that merits our attention. Among the various questions that can be asked about it are the following:

What is terrorism?

Why would anyone engage in terrorism?

Are any terrorist actions justifiable?

My concern here is with the last of these questions, though it is nearly impossible to answer it apart from addressing the first two.

There is surprising amount of disagreement about the very meaning of the term ‘terrorism.’ It is sometimes used so broadly as to become synonymous with ‘coercion’ or ‘coercive intimidation,’ hence, no different from ‘violence’ (Wilkinson 1986, 51, Primoratz 2004a, 16). Often, an explicit definition is not even attempted—perhaps deliberately, to conceal inconsistency—and even a cursory glance at the relevant literature reveals that there is no single universally accepted definition of the term. Even the various agencies of the U.S. Government are not united.⁷ While lack of a clear definition need not be a problem for rhetorical purposes, policy-making, legislation, and scholarship about terrorism require greater clarity in order to identify the phenomenon, justify ascriptions, and motivate moral judgments. Otherwise, how can we determine which actions and agents are “terrorist” and which are not? How else can we fashion policies and statutes to deal with what some regard as a fundamental challenge to world peace? How else could proponents of a “war on terror” identify the enemy and justify their actions?

While it is to some extent arbitrary how we define terms that we choose to use in our arguments, we cannot make much headway without some agreed-upon definition, and it is helpful to respect ordinary usage in such a way that secures the label for widely acknowledged instances of terrorism. Most writers on the topic agree that terrorism is,

- (i) a deliberate use or threat of violence,
- (ii) politically-motivated, and
- (iii) directed against non-military personnel, that is, against civilians or noncombatants.

Taking these as the only essential features of terrorism, perhaps the simplest and most accurate reportive definition is this:

Terrorism is deliberate politically-motivated violence, or the threat of such, directed against civilians.⁸

Several points must be addressed to clarify this standard definition of ‘terrorism’.

First, where ‘violence’ refers to any coercive action or policy that causes physical or mental harm, then violence is politically-motivated if caused by desires to achieve political goals, where those desires might be those of the agent *or* those of others whose actions have moved the agent to react. This allows that action born out of frustration over a political situation, brought about others pursuing their political agendas, is politically-motivated even if the agent does not act from a plan within which terrorism is a means to a definite political goal.

Second, there are different types of terrorism depending on facts about the agents and about the modes and mechanisms whereby harm is carried out. One contrast is that terrorism is *strategic* if employed to achieve a political goal, but *reactive* if it derives from an emotional response to politically induced grievances, e.g., anger, outrage, desire for vengeance, despair. Since strategy and emotion can be jointly operative, and actions can have multiple agents, a given act might manifest both modes of violence. A second contrast concerns the causal route whereby harm is inflicted. *Direct terrorism* consists in assault or an immediate threat to do so, for example, killing someone or giving the orders to do so. But violence can also be committed by other means, say, by imprisoning people, depriving them of clean water, food, or necessary medical supplies, destroying their shelters, or damaging the institutional fabric of their society, e.g., hospitals, schools, factories and businesses. States, in particular, accomplish such *structural terrorism* by forcibly implementing—or impeding—institutions, laws, policies, and practices that result in harm to noncombatants.

Third, the term ‘civilian’ is ambiguous. In the widest sense, ‘civilian’ designates any person who is not a member of a state’s military organizations. In a narrower sense, ‘civilian’ applies to all and only those who are not members of any militia, be it a state militia or a non-state militia. Terrorism is also defined in terms of the broader notion of noncombatant, where a combatant is someone who is actively engaged in carrying out military operations—as distinct from the cooks and medics that might also serve in a military organization, or soldiers home on furlough. I will use ‘civilian’ in the narrower sense—those who play no role in a military organization—but my argument applies even if ‘terrorism’ is defined in terms of violence directed against noncombatants.

Fourth, the occurrence of ‘deliberate’ implies that the perpetrator is intentionally using or threatening violence to achieve political objectives *and* is identifying the victims *as* civilians. But while the combination of ‘deliberate’ with the phrase ‘directed against’ suggests that actual or threatened violence is *intentional*, harm to civilians might be incidental to the main aim of a terrorist action, say, to destroy property, to gain attention, or to provoke a government’s response. For example, if the attacks on the World Trade Center towers were aimed solely at provoking an American military action, as some contend, then, while harm to civilians was foreseen and deliberate, it might not have been viewed as essential to the action plan intended, and if so, it was not itself intentional. What was intentional was destroying those buildings in order to engage the U.S. militarily in the Middle East, not killing civilians, though the latter was a foreseen consequence of what was intended. This is why I do not want to define ‘terrorism’ in terms of *targeting* civilians where targeting implies intentionally harming. But even if one insists that intentional harm to civilians is essential to terrorism, it need not be the primary objective of the act. Some

distinguish the *primary targets* of terrorism, viz., those whom the perpetrators wish to move in some way, typically, governments, from the *secondary targets*, namely, the civilians, harm to whom is viewed as a means of moving the primary targets.

Fifth, it might be thought that etymology demands that terrorism involve the creation of terror, fear, and alarm. While several writers speak of such psychological effects as essential to terrorism, the use of ‘deliberate’ in the definiens of the standard definition once again requires care. Fear and alarm are typically the byproducts of actions that deliberately expose civilians to violence, and certainly many instances of terrorism have had such effects, especially since they are unexpected and unpredictable. But if the perpetrator’s aim is simply to cause outrage and thereby provoke a response in order to achieve political objectives, then fear and alarm may very well be unintended and inessential. In this way, also, terrorists might carefully choose their secondary targets, making it erroneous to require that an act of terrorism be “random,” “indiscriminate,” or “irrational.”

Sixth, the standard definition does not *imply* that terrorism is unjustifiable. It might seem to have that implication given the use of ‘deliberate’ and ‘civilians,’ but a separate argument is needed to establish that a given act of violence directed against such persons is morally unjustifiable. Definitions that *explicitly* make terrorism illegitimate through such adjectives as ‘illegal’, ‘unlawful’, ‘random’, ‘indiscriminate’, etc. make it more contentious to classify a given action as a terrorist act. A definition that avoids this implication, by contrast, has the advantage that a moral assessment can be defended upon an examination of the case rather than being settled by arbitrary stipulation. Moreover, it makes it less difficult to classify an action as “terrorist.”

Seventh, the standard definition excludes no kind of person or organization—including a government or state—from being an agent of terrorism. There are several reasons to resist the U.S. Code’s stipulation that terrorism is practiced only by non-state agents or clandestine state agencies, never *states*. For one thing, there are no semantic grounds for restricting ‘terrorism’ to non-state agents, if we are to judge from the most recent editions of the *Oxford English Dictionary*, *Webster’s Dictionary of the English Language*, the *Encyclopedia Britannica*, and the *Encyclopedia Americana*. Etymologically, ‘terror’ and, hence, ‘terrorism’, imply nothing about the identity of the agent. The *Oxford English Dictionary* (OED) does not restrict the definition of ‘terrorism’ to non-state agents, and the 15th edition of the *Encyclopedia Britannica*, vol. 11, pp. 650-651, explicitly allows that governments can be the agents of terrorism when it speaks of “establishment terrorism.”⁹

The restriction of terrorism to actions by non-state agents is ultimately disingenuous. The term ‘terrorism’ has become the term of art in labeling illegitimate methods of political violence. Exempting states from being agents of terrorism yields an unfair rhetorical advantage to established governments, especially since the weaponry and organization that modern states have brought to bear in pursuing their ends through violence against civilians consistently dwarfs any amount of harm achieved by non-state actors engaged in terrorist activity. That states can commit criminal acts of warfare has long been recognized in international law, for example, by the Hague Conventions and the Geneva Conventions. But, not to be unduly stubborn, we may speak of what non-state groups do as *ordinary terrorism* and what states do as *state-terrorism*. Interestingly, the argument I am about to present concerning the justification of terrorism can easily be restricted to ordinary terrorism.

3. An Argument for Justified Terrorism

As mentioned at the outset of this paper, attempts to justify terrorist actions on moral grounds are likely to be met with expressions of incredulity, at both the scholarly and popular levels. Robespierre's ominous "virtue without terror is powerless" lost whatever credibility it might have appeared to have long ago, at least as a moral maxim. It is more common to hear sweeping denunciations of terrorism on the grounds that it is a brutal violation of the human rights, fails to treat people as 'moral persons' (Katchadourian 1998), does not differ from murder (French 2003), indiscriminately attacks the innocent (Walzer 1988, 238), targets those who are innocent of the grievances from which it stems (Primoratz 2004a, 21; Jaggard 2005, 212), or, simply, is a violation of the *jus in bello* discrimination rule.

Terrorism is also likely to generate disgust, hatred, and vengeance, not only within the targeted community, but also among the external audience with little understanding of the relevant history, rendering it a strategy that backfires by increasing the determination and volume of one's enemies. Michael Walzer contends that no sort of "apologetic descriptions and explanations," e.g., that it is effective, a last resort, the only alternative, or not distinct from other forms of political struggle, provide an excuse for terrorism (Walzer 1988, 239-242). Recalling Kant's insistence that war can be justified only if it is expected to contribute to future peace, it is precisely because terrorism is capable of generating intense feelings of hatred and vengeance that it threatens to undermine trust and the possibility of future coexistence (Katchadourian 1998). As Kant realized, criminal stratagems raise the frightening possibility that genocidal annihilation of one or both parties might be the only way to end a conflict.¹⁰

Yet, it is not obvious that these considerations trump all others *if* terrorism is the only means available to secure an *overridingly justifiable end*, that is, when *not* committing terrorism would have morally worse consequences than engaging in terrorism. Can such a scenario ever exist? We have already noted that history is replete with defenses of terrorism as a necessary means of conquering territory, or as a mechanism for advancing the interests and safety of “the people.” Apart from such dubious identifications of the public good or glorifications of territorial theft, some have justified state terrorism on defensive grounds, say, in the case of “supreme emergency,” and others have added that terrorism by communities other than states might be justified in similar cases of self-defense.¹¹

Let us employ a generalized notion of *community* to include any society of persons having some level of geographical and political unity and containing entire families that ensure its continued existence through the usual reproduction of individuals who *ipso facto* become members. States are communities possessing sovereignty over territory, but there are various levels of non-state communities as well, e.g., those constituting political or regional divisions within a state, local municipalities, religious communities, ethnic minorities, etc. Any community can be subjected to threats and attacks stemming from civil disorder, government oppression, foreign invasions and occupations. Normally, the job of defending a community is vested in the sovereign power, but the sovereign might not deliver, especially if it is too weak, has been decimated or destroyed, or, is itself the aggressor. Just as individuals have a right of self-defense in the absence of police protection, so too, a community has the right to collective self-defense when state protection is unavailable—at least when it is legitimately constituted within the territory where the aggression occurs. If so, the constraints imposed by just war theory can be considered in relation to nonstate agents

(Valls 2000), for refusing to apply the considerations of *jus ad bellum* and *jus in bello* to violence waged by non-state agents would be to delegitimize any resistance to repression by a non-state community, including all revolutions, national liberation movements, and resistance to tyrannical government. That is an implausible conclusion.

We must set forth, then, the generalized rules for justified violence by all communities, non-state as well as state. In brief, the generalized correlates of the familiar *jus ad bellum* criteria are the following:

1. *Just Cause.* Violence may be launched only for the right reason. The just causes most frequently mentioned include: self-defence from external attack, the defence of others from such, and the protection of innocents from brutal, aggressive regimes.
2. *Right Intention.* Agents must intend to fight the war only for the sake of its just cause(s).
3. *Competent Authority and Public Declaration.* A community may use violence only if the decision has been made by the appropriate authorities, according to the proper process, and made public, notably to its own citizens and to the enemy state(s) or communities.
4. *Last Resort.* A community may resort to violence only if it has exhausted all plausible, peaceful alternatives to resolving the conflict in question, in particular diplomatic negotiation.
5. *Proportionality.* A community must, prior to initiating a war, weigh the total goods expected to result from it, such as securing the just cause, against the total evils expected to result, notably casualties. Only if the benefits are proportional to, or “worth”, the costs may the war action proceed.

6. *Probability of Success*. A community may not resort to war if it can reasonably predict that doing so will have no measurable impact upon achieving the goal of the just cause.

Similarly, the relevant criteria of *jus in bello* are these:

1. *Discrimination*: Noncombatants should be immune from attack.
2. *Proportionality*: Use no more force than is necessary to achieve just military objectives.
3. *Legitimate Means* (No means *mala in se*): There should be no use of weapons or methods “evil in themselves,” e.g., rape, genocide, poison, treachery, use of human shields, forcing captured soldiers to fight against their own side, and using weapons whose effects cannot be controlled, like biological agents.
4. *Benevolent Quarantine*: Prisoners of conflict must be treated humanely.

Let us now apply these provisions to the case where a community faces an aggressive threat to its very existence. This can take different forms (Gilbert 2003, p. 26), with attempted extermination of its members being the clearest threat warranting a community’s recourse to self-defense. But even where extermination is not at issue, an aggressor might try to destroy a community in other ways, say, by enslavement or forced conversions of its members, destruction of its vital institutions (economic, agricultural, political, cultural), appropriation of its natural resources, seizure of its territory and dispersion of its members. Each of these threats to a community’s survival is an *existential* threat and, typically, will be viewed as unjustifiable from that community’s perspective. Such a situation is a paradigmatic case where a community may exercise its right of collective self-defense, though the right may also be exercised in other instances, say, when there are threats to a society’s political independence, territory, resources, technological and military capabilities,

or “basic freedoms of its citizens and its constitutionally democratic political institutions” (Rawls 1999a, 91).

When a community faces such an existential threat, the *jus ad bellum* criterion of just cause is readily satisfied. Without a protective sovereign, a community is justified in taking self-defense into its own hands through strategies that it judges will best end or abate the threat, whether these involve acquiescence, surrender, flight, or resistance. The situation is similar to what we, as individuals, encounter when assaulted or threatened with assault in the absence of police protection; we have a right of active self-defense. However, for a community to justifiably defend itself, its chosen courses of action must also satisfy the requirement of *competent authority*, either through endorsement by the acknowledged leadership of the community or by the community itself through the best available means of determining consent. Moreover, if the goal of the agents of that contemplated action is to end or reduce the existential threat, then they act with *right intent*. These conditions can be readily satisfied.¹²

What methods might a community use for self-defense when confronted with what it takes to be an unjustifiable existential threat? Obviously, this depends upon the broader legal and political orders that the community exists under, but the following are what might be called the *standard measures* of self-defense that a community may take when threatened by an aggressor:

- Offers of direct negotiation with the aggressor to resolve the problem.
- Appeals to external agencies, institutions, and laws in order to arbitrate and work towards a peaceful solution of the problem.

- Appeals to a recognized sovereign, or to external powers to forcibly intervene to stop the aggression.
- Resort to non-violent resistance to halt or retard the aggression.

If these measures fail, then the community has the right to

- Resort to military resistance, whether through conventional or guerrilla warfare, against the aggressor's military forces.

While this latter measure is usually accorded to organized states, if a community is not being protected by a state then it has the right to direct its members to take up arms in pursuit of collective self-defense. This is not a surprising allowance given that the government of a state might persecute its own population or a segment thereof.

Suppose, now, that the leadership of the community under threat has resorted to each of the standard measures for self-defense against the aggression. In particular, this leadership has appealed to the aggressor for direct negotiations, publicly argued its case by appeal to international law, requested assistance from international organizations (say, the United Nations), regional alliances, and major world powers, resorted to non-violent methods of protest, and confronted the aggressor's military within the standard *jus in bello* guidelines. Suppose, furthermore, that repeated efforts of these sorts have proved unsuccessful. In such circumstances, the targeted community faces a *radical* existential threat, namely, a situation when it is subject to an unjustifiable existential threat, and its recourse to the standard measures of self-defense have failed to end or abate that threat. A situation of radical existential threat qualifies as a "supreme emergency" and a paradigmatic *just cause*—namely, to eliminate or reduce the threat—if anything does.

Would terrorism be a justifiable option when a community faces a radical existential threat? If so, then either the *jus in bello* principle of discrimination can be overridden or it must be suitably refined, otherwise we would step outside the bounds of generalized just war theory. I am going to favor the refinement option herein, but before articulating it, let me first observe how the other criteria of generalized just war theory can be satisfied by communities contemplating a campaign of terrorism.

By the very way a radical existential threat is described, recourse to terrorism can easily satisfy the *jus ad bellum* requirements of *proportionality* and *last resort* given that the aggression is unjustified and that standard measures of self defense have been tried and have failed. Terrorism would then be a *Machiavellian* course of action since it would violate widely shared standards for the sake of an overridingly just goal, namely, to reduce or end an unwarranted existential threat. Machiavelli's allowance for occasional cruelty was offered as a "last resort" strategy for the sovereign, but, in a situation of radical existential threat a community is its own sovereign. In plain fact, communities have and still do face radical existential threats, and some have tried the standard measures of self-defense before resorting to terrorism. It is precisely because of gross disparities in economic and military resources between oppressor and oppressed, and because of the continual technological improvements in protection of military personnel, that terrorism might be the only means of resistance available. Suicide terrorism, in particular, is viewed by its agents as a strategy of last resort when embroiled with a zero-sum conflict (Pape 2005, 89-94).

If a proposed act or campaign of terrorism is to satisfy the last resort condition, not only must it be assumed that terrorist acts can be carried out, its proponents must have evidence that there is a *reasonable hope of success* that they might enable the community to reach the

goals related to the just cause. This is often the most difficult *jus ad bellum* condition to satisfy (Fotion 2004, 49-53), but a few points should be kept in mind. First, although some argue that terrorism never works to advance a community's political goals (thus, Walzer 1988, 240, Katchadourian 1998, 27), there are a number of counterexamples. It has already been mentioned that state terrorism has sometimes achieved desired goals; the American 'manifest destiny' was partly achieved through terrorism against native Americans, and it has been argued that the terror bombing of Japanese cities in 1945 was a least one factor hastening the end of WWII (though see Tanaka 2009). Non-state terrorism has also been effective (see Wilkins 1982, 39 and Pape 2005, 61-76), notably, in achieving both short-term and long-term goals by non-state groups in the struggle over Palestine.¹³

Second, in the case of a radical existential threat, it is not difficult to understand how a threatened community's resort to terrorism against powerful unwarranted aggression *could* be successful in advancing its goal of self-preservation.

1. The aggressor concludes that the price of its aggression is too high and, to avoid the effects of terrorism upon its own civilian population, decides to desist from that aggression.¹⁴
2. External states and alliances are caused to intervene to bring an end to the aggression.¹⁵
3. By retaliating against aggression, the threatened community gains credibility and recognition, both from external parties and from other members of their own community who might thereby become more confident, more hopeful, and more committed to joining a resistance whose likelihood of success is increased with greater participation and unity.¹⁶

The probability of success is enhanced if the aggressor has itself used terrorism in either its direct or structural modes. Such *parity of means* in the method of violence might strengthen the conviction in external parties, as well as in the aggressor's own population of, either that it is appropriate to return terrorism for terrorism or that tit for tat violence has escalated out of proportion. An asymmetrical use of terrorism, by contrast, runs the risk of evoking contempt for the threatened community among external parties and in alienating members of the threatened community who would normally be opposed to such tactics.

Up to this point, the argument has been consequentialist; communities have a right to defend themselves against radical existential threats by terrorist means because the consequences of failing to act in this way are worse. Barring a pure utilitarian consequentialism, however, concern for a *just* distribution of the value of the expected consequences must also be factored in, and here we come to a direct challenge to any attempt to justify terrorism. If one party is innocent of an aggression against another, then the latter's violence against the former in pursuit of redress would be a gross violation of justice (Primoratz 2004a, 20-21). So, how could violence against civilians be justified if they are innocent of the terrorists' grievances?

Answer? Violence directed against an innocent person *cannot* be justified, but it is incorrect to suppose that civilians are automatically "innocent" of their community's aggression against another community. They might be culpable of that aggression in a number of ways and in varying degrees (Holmes 1989, 187). For one thing, civilians might participate by voluntarily paying taxes or by publicly supporting political, economic, or national policies and activities that generate and sustain that aggression. For another, the aggressor might have a representative political system that operates under the principle of

popular sovereignty, namely, that ultimate political power is vested in the citizenry and exercised by the governing institutions through the consent of that citizenry. Popular sovereignty entails *shared responsibility* for the laws, policies, and actions of the state insofar as these represent the consent of the collective of which each individual is a member. Those who voluntarily join *any* association or institution share in responsibility for its actions, and citizenship in a representative system is voluntary; it can be renounced, even if there are dramatic consequences for so doing such as imprisonment or exile. Responsibility in a representative system is not avoided by belonging to the political opposition or having been critical of the government's policies and acts, even though, in such cases, one's culpability might be of a lesser degree. In sum, terrorism is justified only if a further *culpability condition* is satisfied, namely, that those who would direct violence against civilians within the aggressor community must have evidence that those civilians share in the responsibility for that aggression.¹⁷

While this might seem a brute tossing of the *jus in bello* rules to the wind, the departure is less dramatic than might appear. The *jus in bello* demand of proportionality can continue to be respected; not every imagined act of terrorism by the threatened community could be justified, and no more should be used than is necessary to end or reduce the existential threat. Further, the prohibition on using illegitimate means can be respected; the weapons used by terrorists, bombs, guns, knives, etc., are more primitive forms of the weapons in the arsenals of state militaries; that *some* terrorism is justified does not imply that terrorism through any means, for example, nuclear weapons, nerve gas, etc., would also be justified. Similarly, the requirement of treating prisoners of war humanely is satisfiable; even though the weaker parties in asymmetric conflicts usually do not have the resources to take prisoners of war,

when they do, there is no reason they could not respect the standard conventions on prisoners of war. Finally, and perhaps most importantly, while the principle of noncombatant immunity is abandoned in the case of a radical existential threat, a modified principle of discrimination, remains: *in redressing a grievance, those innocent of that grievance are to be immune from harm*. In yet other words, there is no reason why terrorism cannot discriminate, targeting only those members of the aggressor community who are guilty of that aggression (Valls 2000, 76). The truly non-culpable, e.g., children, the mentally ill, and so forth, should be immune from attack.¹⁸

Let me now bring this to a head. I have argued that where various conditions are met, then terrorism against an aggressor can be justified. More precisely, *if* the members of a community have adequate evidence that

- their community is subjected to an unjustifiable radical existential threat from an identifiable aggressor (hence, that the *jus ad bellum* just cause and last resort conditions are met);
 - a projected campaign of terrorism would satisfy the *jus ad bellum* conditions of competent authority, proportionality, right intent, and reasonable hope of success;
 - the aggressor is using terrorism against their community (parity of means condition);
 - the adult civilians of the aggressor are culpable of the aggression that constitutes the existential threat (the culpability condition); and
 - the *jus in bello* demands of proportionality, legitimate means, humane treatment of captives, and modified discrimination (do not target innocents) are to be respected;
- then* their recourse to terrorism against the aggressor community for the purposes of ending or reducing that threat is morally justifiable.

It should be noted that this provides only a sufficient condition for terrorism, not a necessary condition. Nothing I have said precludes defenses of terrorism on yet other grounds.

4. Case Study: The Israeli-Palestinian Conflict

It might be thought that the scenario of a radical existential threat is highly contrived and that the conditions for justified terrorism never actually materialize. This is plainly mistaken.

During the 16th-19th centuries, the societies of indigenous peoples in North and South America were systematically obliterated by European invaders. Closer to our own time, there are communities in Africa, southern Asia, and China that feel that they are similarly threatened. There is one case of a radical existential threat that has consumed a good deal of diplomatic attention for the past century, namely, the threat that the Arab community of Palestine has faced from the Zionist movement and the state of Israel. Terrorism has been practiced by both sides in this conflict, often with devastating results that are almost impossible to justify. But using the argument from radical self-defense presented above, there is a *prima facie* case for the legitimacy of both past and current Palestinian terrorism directed against Israelis. Let's look at the situation.

First, the Palestinian community throughout Palestine, and the Palestinian communities in various regions within Palestine, have faced, and still face, an existential threat from Zionism. This threat has been demonstrated by

- the forcible imposition of a Jewish state in Palestine in 1947-48, engineered by the Zionist movement, against the wishes of the vast majority of the population in Palestine and throughout the entire Islamic world;
- Israel's expulsion of Palestinians from Palestine in 1948 and again in 1967, and its refusal to repatriate Palestinian refugees;
- Israel's colonization, land confiscation, and other forms of structural terrorism in the occupied West Bank that began in 1967 and have continued until the present, including throughout the period of the Oslo Accords 1993-2000;
- Israel's systematic violation of the human rights Palestinians in the occupied territories, including the use of lethal force (see note 5);
- Israel's refusal to comply with international resolutions calling for its withdrawal from the territories occupied in the 1967 war;
- Israel's opposition to peace initiatives, e.g., repeated calls for an international peace conference on the Middle East, the Rogers Plan of 1969-70, the Reagan Plan of 1982, Prince Fahd's peace plan of 1982, the PLO's offer of peace in 1988, and the Arab League's proposals of 2002.
- Israel's deliberate efforts to destroy the Palestinians' capacity to establish and maintain an independent state in the occupied territories;
- Israel's assassinations of Palestinian political leaders, extending from the 1970s to the first decade of the 21st century;
- the expressed intention by the dominant Israeli political parties to retain control of the West Bank or large segments thereof;

- the refusal by Israel's leadership to permit a viable Palestinian state to be established in the occupied territories, extending from Moshe Sharett's agreements with Abdullah (Rogan and Shlaim 2001), to Ehud Barak's breaking off talks at Taba in Jan. 2001 (Reinhart 2002, chp. II), to Ariel Sharon's rejection of the Arab League's peace overtures in spring 2002, the 2002 Geneva Accords between moderate Israelis and Palestinians (Shuman 2003), and the Bush Administration's 2002 "Road Map" for peace.
- The almost unquestioned support for Israeli policies by the government of the world's most powerful country, the United States.¹⁹

That this existential threat is unjustifiable is due to its violation of the human rights of Palestinians including the right of self-determination (see Halwani and Kapitan 2008, chapter 1, section 10).

Second, in light of this threat, the Palestinians have a just cause for resorting self-defensive measures, but the just cause in this case is that of survival, not solely that of achieving political independence. A group's goal of self-determination is not always overriding and cannot, by itself, justify a campaign of terrorism, for not every impediment to a national group's quest for political independence poses a radical existential threat. The Palestinians' quest is for their survival as a community *in* their home territory, and in this sense their case is arguably different from the situation faced by Kurds, Tamils, Basques, Irish, etc., however legitimate the demands for self-determination for these groups might be.

Third, the Palestinians have attempted the standard measures of self-defense noted above (Holmes 1995, Saleh 2005). (a) The major Palestinian political organization, the PLO, has tried diplomacy by entering into direct negotiations with Israelis. The Palestine National

Council ratified the two state solution in 1988 thereby explicitly recognizing Israel's right to exist. The Palestinian Authority in the occupied territories has repeatedly stressed its acceptance of the two state solution. Yet, Israel has not reciprocated, since it has steadfastly refused to negotiate any deal with the Palestinians that would grant them a viable state in Palestine. Only the most naive or deceptive would claim that Israel's leadership has been interested in a meaningful compromise with the Palestinians. If they were, they would not have initiated the direct and structural terrorism in territories occupied since 1967 or persisted in its vilification and dehumanization of Palestinians (Kapitan 2008b, 142-54 and 160-64). (b) The Palestinians have also appealed to external agencies for assistance (for example, the League of Nations, the United Nations, the Arab League) and to external powers, they have supported international resolutions calling for a two-state solution to the conflict and they endorsed the Bush Administration's Road Map. (c) Palestinians have repeatedly used techniques of non-violence in combating the Israeli occupation, and have sought and received the help of like-minded Israelis, but to no avail. (d) The Palestinians have resisted established militaries, viz., the British military in 1936-39, the Zionist forces in 1947-48, and the Israeli military since the establishment of the Jewish state. None of these measures have been successful in ending or abating the existential threat they face, much less in securing their self-determination. In the atmosphere of ongoing hostilities accompanying the American occupation of the Middle East, there is even less likelihood that availing themselves of these standard measures of self-defense will be successful. By emasculating Palestinian diplomacy, intensifying the control over the West Bank, Israel has deprived young Palestinians of hope, leaving terrorism one of the few avenues of active resistance left. Thus, there is good reason to conclude that the Palestinian in the West Bank face a *radical*

existential threat, in which case terrorism presents itself as a last resort strategy for that community.²⁰

Fourth, there is evidence that recourse to terrorism has produced at least some desired results for the Palestinians, even though it has not yet secured Palestinian self-determination nor ended the existential threat posed by Israel. In plain fact, Palestinian terrorism has succeeded in perpetuating the cycle of violence that Israelis and Palestinian have been locked in for over eighty years. One result is that considerable attention is kept riveted upon the conflict and, thus, upon Palestinian suffering and Palestinian demands. As indicated in section 4 above, the result is that not only have many people pressed for answers to questions about why this sort of violence is occurring, but many people throughout the world have become more sympathetic and supportive of the Palestinians. For over eighty years, beginning with the British commissions of the 1920s, extreme violence *has* caused external players to play a more active role in resolving the Israeli-Palestinian conflict. It has led some Israelis to question policies of the Israeli government in the occupied territories, and, in a few instances, it has caused the Israeli government to make some concessions to the Palestinians (Pape 2005, chp. 5). Given the intentions of the Israeli leadership, quiet acquiescence on the part of Palestinians would have resulted in slow strangulation. Further, striking back against their oppressors has also reduced the Palestinians' sense of impotence against a powerful adversary and, thereby, strengthened the confidence, resolve and unity among their communities.²¹

Fifth, the remaining conditions for justifying the Palestinian's campaign of terrorism appear to be satisfied. Palestinian militancy has received enough popular support from the Palestinian residents of the territories to sanction at least the general strategy of violence

against Israeli civilians. This kind of support intensifies whenever the Israeli military increases the amount of terrorism it employs against the Palestinians (sections 3-5 above). Not only is the *parity of means condition* satisfied, thereby, but since Israel is a representative democracy with large percentages of its adult citizens publicly supporting the measures that constitute the existential threat to the Palestinians, then the *culpability condition* is also met. Indeed, the election of Ariel Sharon—arguably, the most aggressive and violent man towards Palestinians in the past 50 years—in 2001 and his reelection in 2004 provide concrete evidence that the Israel public supports Israeli state terrorism against Palestinians.

While these factors certainly do not justify every act of terrorism committed by Palestinians, they constitute a strong *prima facie* case that the Palestinians have been justified in resorting to terrorism against Israelis.

Notes

1. In the *Bible*, for example, such violence is mandated in *Numbers* 33: 50-56 and *I Samuel* 15:1-3
2. See the descriptions in Brown 1970, Churchill 1997, and Mann 2005. Holy scriptures were not far from the minds of those Americans who supported atrocities against native Americans. In 1794, George Henry Loskiel wrote that the American settlers 'represented the Indians as Canaanites who without mercy ought to be destroyed from the face of the earth, and considered America as the land of promise given to the Christians' (cited in Mann 2005, 151).
3. Noam Chomsky has made the point vividly: "... the term "terrorism" is commonly used as a term of abuse, not accurate description. It is close to a historical universal that our terrorism against them is right and just (whoever we happen to be), while their terrorism against us is an outrage. As long as that practice is adopted, discussion of terrorism is not serious. It is no more than a form of propaganda and apologetics." (Interview Number 5 with Chomsky on Znet at www.znet.com, accessed on September 7, 2005). Elsewhere (Kapitan 2003), I have advocate a stronger thesis: namely, that the rhetoric of 'terror' is itself a terrorist tool that states avail themselves of. The 'terrorist' label is a means of characterizing a certain group so as to dehumanize them, portray them as irrational beings devoid of any moral sense and beyond all norms. In so doing, governments find it easier to deflect criticisms of their own policies, and to justify military responses that deface the distinction between agents of terrorist actions and the populations from which they emerge. The logic of the strategy is simple: *to get away with a crime, demonize your victims*.
4. In a detailed study of eighteen suicide terrorism campaigns and 315 attacks from 1980-2003, Robert Pape concluded that desires for national self-determination and an end to military occupation were at the root of every instance of this form of terrorism (Pape 2005, 79). In chapter 5, Pape wrote that groups such as Hamas, Islamic Jihad, Hezbollah, and the Tamil Tigers, began with more conventional guerrilla operations against military targets, but after these operations proved ineffective, they resorted to suicide attacks which proved successful in coercing governments to negotiate.
5. According to Palestinian estimates, 1434 Palestinians were killed during Israel's invasion of Gaza, 960 of whom were civilians, including at least 121 women and 288 children. The Israeli military contests this figure but has not made its own analysis available for review.. UN investigators gave the total number of dead as 1,440, saying of these 431 were children and 114 women. In a filmed testimony and written statements released Wednesday, more than two dozen soldiers told an Israeli army veterans' group that they forced Palestinian civilians to serve as human shields, needlessly killed unarmed Gazans and improperly used white phosphorus shells to burn down buildings as part of Israel's three-week military offensive in the Gaza Strip last winter (see <http://www.reuters.com/article/middleeastCrisis/idUSL537222>, accessed on July 15, 2009). Again, the first three years of the Israeli crackdown during the Al Aqsa Intifada claimed the lives of 2600 Palestinians, three-quarters of whom were noncombatants. These figures have

been compiled from various sources, including the Israeli Ministry of Defense at www.israel-mfa.gov.il, the Israeli human rights group, B'tselem, at www.btselem.org, the Palestine Monitor at www.palestinemonitor.org, and Miftah at www.miftah.org. In the 1982 Israeli invasion of Lebanon, between 17,000-20,000 Lebanese and Palestinians lost their lives, the majority of whom were civilians (Hirst 2003, p. 569 and Fisk 2005, p. 268). The Reagan Administration, despite its support of the Israeli invasion, imposed a six-year ban on cluster-weapon sales to Israel in 1982, after a Congressional investigation found that Israel had used the weapons in civilian areas. Despite this, Israel employed cluster bombs again in southern Lebanon in the summer of 2006, "pretty much everywhere — in villages, at road junctions, in olive groves and on banana plantations" ("Israel May Have Violated Arms Pact, Officials Say," the New York Times, January 28, 2007).

6. In January 2005, the Iraq Body Count Database website at www.iraqbodycount.net reported that up to 31,676 Iraqi civilians were killed in the first two years of the American invasion, actions by the U.S. military forces accounting for a sizeable percentage of this total. John Pilger reports that in May 2004, American forces killed approximately 600 civilians in Fallujah, 'a figure far greater than the total number of civilians killed by the 'insurgents' during the past year. The generals were candid; this futile slaughter was an act of revenge for the killing of three American mercenaries' (Pilger 2004). See also Pilger's "What is the Difference Between Their 'Terrorism' and our 'War'?" at www.axisoflogic.com/artman/publish/article_19213.shtml, which reports that after the American siege of Fallujah in November 2004, 60-70 percent of all buildings had been damaged enough to render them uninhabitable. The full force of America's arsenal, including F-16s, C-130s, Abrams tanks, and Apache Helicopters were unleashed on a few thousand rebels in a civilian enclave that contained at least 50,000 residents according to Red Cross estimates at the time. Among the 1,200 Iraqis killed in the first week of the siege, at least 800 were civilians (Jamail 2004), and some estimate that the final total was Iraqis killed in Fallujah was 6000 (see www.dahrjamailiraq.com, and www.afsc.org/pwork/0412/041204.htm).

7. The U.S. State Department (www.state.gov) takes its definition from Title 22 of the *United States Code*, Section 2656f(d): "The term 'terrorism' means premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents, usually intended to influence an audience. (The term 'noncombatant' is interpreted to include, in addition to civilians, military personnel who at the time of the incident are unarmed or not on duty.)" The FBI (www.fbi.gov/publish/terror/terrusa.html) offers this definition: "Terrorism is the unlawful use of force and violence against person or property to intimidate or coerce a government, the civilian population, or any segment thereof, in further of political or social objectives." The U.S. Defense Department (www.periscope.usni.com/demo/termst0000282.html) says something similar: "Terrorism is the unlawful use of threatened use of force or violence against individuals or property to coerce or intimidate governments or societies, often to achieve political, religious, or ideological objectives."

8. Compare *Wikipedia* : "Terrorism is the intentional use or threat to use violence against civilians and non-combatants "in order to achieve political goals" (accessed July 9, 2009).

Similar definitions can be found in several sources, e.g., Garnor 2001, Coady 2004, and Netanyahu 2001. In Article 2(b) of its *International Convention for the Suppression of the Financing of Terrorism* (May 5, 2004), the United Nations provided this definition of terrorism: ‘any act intended to cause death or serious bodily harm to a civilian or non-combatants, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such an act by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.’ An interesting list of definitions of ‘terrorism’ appears in Best and Nocella 2004, pp. 9-13.

9. The OED describes terrorism as “a policy intended to strike with terror those against whom it is adopted; the employment of methods of intimidation; the fact of terrorizing or condition of being terrorised.” The *Encyclopedia Britannica Online* defines terrorism generally as “the systematic use of violence to create a general climate of fear in a population and thereby to bring about a particular political objective,” and adds that terrorism has been practiced by “state institutions such as armies, intelligence services, and police” For example, the terms ‘terroriste’ and ‘le terreur’ were initially applied by the Jacobin leaders to refer to the actions by their own revolutionary government in eradicating its enemies. During Robespierre’s Reign of Terror, for example, it is estimated that some 400,000 men, women, and children were imprisoned by government authorities, and some writers estimate that the number executed was as high as 40,000.

10. See Kant’s sixth preliminary article in his 1795 essay, “To Perpetual Peace” (Kant 1983, 109-110).

11. Walzer 1977, 255-261 and Rawls 1999a, 98-99 and 1999b, 568, have defended a state’s recourse to terrorism by means of this supreme emergency exemption to the discrimination rule. As for non-state terrorism, Hare (1979b) suggests that the terrorism practiced by the European Resistance during WWII was morally justified, and Wilkins (1992, 26-28) similarly argues that Jews would have been justified in using terrorism against the Germans at that time. More recent defenses can be found in Valls 2000a, Honderich 2006, Young 2004, Held 2004a, 2005, Dahbour 2005. Both C.A.J. Coady (2004b) and Christopher Toner (2004) point out that the justification Walzer and Rawls provide for state terrorism under supreme emergency implies that individuals and non-state groups may also engage in terrorism against ‘innocents’ in supreme emergencies, and for this reason, both reject the supreme emergency exemption.

12. Andrew Valls writes: ‘if an organization claims to act on behalf of a people and is widely seen by that people as legitimately doing so, then the rest of us should look on that organization as the legitimate authority of the people for the purpose of assessing its entitlement to engage in violence on their behalf’ (Valls 2000a, 71). Virginia Held (2005, 185-188) points out that while democratic authorization of a leadership is not always possible when democratic mechanisms are inhibited, this does not preclude the requirement of legitimate authority from being satisfied for acts of terrorism by non-state groups.

13. Both sides in the Israeli/Palestinian conflict have achieved some of their goals through terrorism. One of the objectives of Jewish terrorists in the late 1940s was to make the cost of governing Palestine too great for a war-weary Great Britain. Another objective during the 1947-49 war between Jews and Arabs was to induce as many Palestinian Arabs to flee from their homes in Palestine as was possible. Through a few well-timed massacres, notably of some 250 civilians in the Palestinian village of Deir Yassin in April 1948, over 300,000 Palestinians fled from their homes, villages, and lands in the areas that eventually became part of Israel, paving the way for the establishment of a decisive Jewish majority in these areas (Childers 1961, Morris 1987, Flapan 1987). Chaim Weizmann, Israel's first president, described this flight of Palestinians, and the forced removal of some 400,000 others, as "a miraculous clearing of the land: the miraculous simplification of Israeli's task" (Hirst 2003, 268-69). Menachem Begin, head of the Jewish terrorist group, Irgun, wrote, "Of the about 800,000 Arabs who lived on the present territory of the State of Israel, only some 165,000 are still there. The political and economic significance of this development can hardly be overestimated" (Begin 1951: 164). One effect of Palestinian terrorism of the early 1970s is that it drew attention to the grievances of dispossessed Palestinians, grievances that had been largely ignored in the first two decades after the loss of their homeland and the crushing of their quest for self-determination. For example, after the kidnappings and killings at the Munich Olympics in 1972, the Palestinian leader, Abu Iyad, said the following: "The sacrifices made by the Munich heroes were not entirely in vain. They didn't bring about the liberation of any of their comrades imprisoned in Israel . . . but they did obtain the operation's other two objectives; world opinion was forced to take note of the Palestinian drama, and the Palestinian people imposed their presence on an international gathering that had sought to exclude them" (Abou Iyad 1978: 111-112).

14. Pape 2005, chapter 5, addresses the issue whether suicide terrorists calculate the benefits of their policies. He says that groups such as Hamas, Islamic Jihad, Hezbollah, and the Tamil Tigers, began with more conventional guerrilla operations but after these operations proved ineffective, they resorted to suicide attacks with an initial confidence that they would yield more positive results. Governments have entered into negotiations with these groups after the suicide campaigns began (pp. 64-65), and in some cases, governments have been coerced, as with the U.S. and France in Lebanon in 1983, Israel in Lebanon in 2000, and Sri Lanka in 2001 (p. 55). Pape conjectures that the government of Israel was coerced by Hamas in 1994-5 (pp. 66-73).

15. The motivation of intervening parties can vary. Some might see intervention as a means of either harming or defeating the aggressor or as an opportunity to extend influence over the threatened community. Again, the intervener might be caused to act because it is alarmed that the violence between the two communities has reached such proportions and poses greater threats to future peace and stability. Such intervention has repeatedly taken place since WWII, especially in Africa. The intervention by Western powers in the Balkans in the 1990s was partly caused by a desire to halt the continued aggression and atrocities in Bosnia and Kosovo. It is likely that the PLO adopted this strategy by provoking Israel into an extreme reaction that would bring Israel into conflict with neighboring states and discredit it in the eyes of the world community (O'Brien 1991, 13).

16. The positive effects of violence as a confidence building measure and as a means of unity among members of an oppressed community were argued for by Frantz Fanon (1963, p. 38). Pape 2005, chapter 6, provides further evidence in support for this strategy.

17. Similar reasoning can be found in Wilkins 1992 who cites Karl Jaspers' distinction between the *political guilt* that people within a community harbor when their state commits crimes, and the *moral guilt* of an individual who participates in, supports, or favors those crimes (Wilkins 1992, 21-22). Wilkins finds that political guilt is both collective and distributive, and only individuals who completely sever their ties to the political community are exempt from moral guilt (p. 25). On these grounds, he argues that terrorism is justified as a form of self-defense when all other political and legal remedies have been exhausted or are inapplicable and the terrorism is directed against guilty members of the aggressor (1992, 28). See also, Virginia Held who writes that '*If a government's policies are unjustifiable and if political violence to resist them is justifiable (these are very large 'ifs,' but not at all unimaginable), then it is not clear why the political violence should not be directed at those responsible for these policies*' (Held 2004b, 6). Some writers are skeptical of using 'collective responsibility' as a way of widening the range of legitimate targets (for example, Coady 2004a, 55-57, and Miller 2005), which argue that one shares in collective responsibility for a rights violation only if one 'intentionally contributed' to that violation, and, thus, where intention is lacking, so is the responsibility. However, the 'consent' one gives through membership in a voluntary association is a *general* intention to abide by, and accept responsibilities for, that association's policies and acts, whatever these might be. But, quite apart from this, it is doubtful that moral responsibility for a situation requires an intention to bring about or sustain that situation. Criminal law typically allows that one can be responsible for what one rationally foresees will happen as a result of one's action or inaction.

18. It should be mentioned that two main reasons are usually in defense of the principle of discrimination. First, targeting civilians is not essential towards achieving the military end of victory, for as civilians are unarmed, they do not constitute an impediment towards the prosecution of military strategy and violence against them is gratuitous. Second, targeting civilians is targeting those who are innocent of the terrorists' grievances. So, violence against civilians cannot be justified. I think it should be clear from what has been said above that while gratuitous violence directed against an innocent person *cannot* be justified, it is both incorrect to suppose that violence against civilians need be gratuitous and incorrect to suppose that civilians are automatically "innocent" of their community's aggression against another community.

19. See Kapitan, 2008b, 160-64. American support for Israel is well-documented (see, for example, Lilienthal 1982, Christison 1999, Chomsky 1999, Aruri 2003, Swisher 2004, Mearsheimer and Walt 2005, Petras 2006). Opposition to Israeli settlements moved from 'illegal' under the Carter Administration, to 'obstacles' under Reagan, to 'unhelpful' under Clinton. A letter from President Bush to Ariel Sharon dated April 14, 2004, stated that "it is unrealistic to expect that the outcome of the final status negotiations will be a full and complete return to the armistice lines" (www.whitehouse.gov), and in June 2004, the House of Representatives voted 407-9 to endorse the text of Bush's letter. The statements by some

Congressional leaders have been truly astounding. For example, the House Majority Whip in 2002, Dick Armey, publicly advocated Israel's confiscation of the entire West Bank and the expulsion of the Palestinian population (Abunimah 2006, 102). Again, Senator Hillary Clinton called for "total U.S. support of Israeli policy" while visiting Israel in February 2002. When a reporter asked Clinton whether Palestinians also deserve U.S. sympathy, she replied: "The United States' role is to support Israel's decisions" (*Chicago Tribune* 26 February 2002).

20. See section 6 above, and also, Pape 2005, 64-74. The Hamas leader, Dr. Abd al-Aziz Rantisi, assassinated by Israel in April of 2004, justified suicide bombings against Israel saying they were the "weapons of last resort" because "Israel is offering us two choices, either to die a meek lamb's death at the slaughter house or as martyr-bombers" www.infoimagination.org/islamnm/second_intifada.html. Smilansky 2004 claims that the Palestinians have not availed themselves of viable alternatives to terrorism. However, he gives a historically skewed summary of the choices Palestinians made and did not make (pp. 794-5), for example, that they could have had a state in 1948 alongside Israel, that they did not attempt a campaign of nonviolent resistance in the territories, that they, rather than Israel, derailed the progress towards a Palestinian state called for in the Oslo Accords, and that they rejected a 'generous offer' by Prime Minister Barak in the summer of 2000 (see Kapitan 2008a and 2008b, *passim*).

21. Igor Primoratz (2006), while acknowledging that the Palestinian community faces a "true moral disaster" (37), argues that terrorism "does not seem to have brought the Palestinians any closer to liberation, self-determination, and repatriation" and, therefore, cannot be justified since it fails to meet the condition of effectiveness (p. 40). This judgment seems premature. He underestimates Fanon's emphasis upon the role of violence in strengthening determination to combat a much more powerful adversary. The Palestinian cause is at the forefront of ever-widening Islamic resistance to U.S.-Israeli hegemony over the Middle East. The so-called "war on terrorism" may well strengthen the willingness of Muslims to support the Palestinians and confront this hegemony as they see their own fate as increasingly linked to the Israeli-Palestinian conflict, something that would likely not have happened had not tensions between Israelis and Palestinians been kept before the public eye.

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