

Drawing the Line on Opprobrious Violence¹

Augustus Richard Norton

A detailed excursus into moral philosophy is hardly required to convince most members of the human race that the intentional slaughter of innocent people is morally indefensible. No cause, no matter how just, and no national interest, no matter how elegantly or passionately formulated, justifies the purposeful murder of innocents merely to punctuate a claim or to deliver a lesson. There is no room for moral relativism on this point. Such tactics are absolutely evil and cannot be viewed otherwise. The time has come for the international community to delegitimize absolutely this form of political violence.

For all of the justified indignation that terrorism arouses, it is altogether remarkable that the quest for a definition of terrorism has bedeviled diplomats and international lawyers. In fact, there is no internationally accepted definition of terrorism. The standard practice has been to proceed inductively, criminalizing specific acts such as air piracy, attacks on diplomats, or the theft of nuclear materials, rather than attempting to define “terrorism” as an offense.

The perpetrators of abhorrent acts of violence appropriately earn opprobrium, whether what they do is called “terrorism” or not. As the deluge of published pages on the subject testifies, no matter how precisely we strive to define terrorism, there is a zone of ambiguity where terrorism fades into political violence and warfare. This is why

¹ This article is a revised version of a paper delivered at the Carnegie Council’s Faculty Institute on “Teaching Ethics and International Affairs,” at Yale University, June 11–17, 1989.

The author would like to thank Russ Howard, Deanna J. Lampros-Norton, and Robin Wright for their critical readings of the manuscript. They each provided some very useful comments and insights. The views expressed are naturally those of the author and should not be construed to represent necessarily the positions of the Carnegie Council or the U.S. Military Academy.

some observers even believe the term may be beyond repair. As John Murphy observes in a new book, some legal experts would prefer, if it were possible, to drop the term entirely.² Often, conventional and adequately descriptive terms, such as hijacking, kidnapping, and murder, do suffice.

Yet, there is merit in solidifying a consensus on those acts of violence that are simply impermissible, but this will be impossible unless a parsimonious definition of terrorism is adopted. The central premise of this article is that there are some forms of terrorism that raise no arguments: they are morally obnoxious pure and simple. The murder of innocents, the "tool of those who reject the norms and values of civilized people everywhere,"³ is despicable by any humane standard, no matter what name is used to describe it, and it is precisely these acts that richly deserve to be labeled "terrorism." Patent examples would include the anonymous car bomb exploded on a crowded shopping street in Beirut, random shooting in the Rome and Vienna airport departure lounges, the destruction of Pan Am 103, or the wholesale slaughter of patients in a Mozambican hospital.

In point of fact, the problem with much of the commentary and thinking about terrorism is precisely that statesmen and scholars too readily accept the shopworn cliché that "one man's terrorist is another man's freedom fighter." If the term "terrorist" is used with the care and consistency urged here, one man's terrorist is simply another man's terrorist.

Even warfare has a framework of moral rules. Although these rules will necessarily fail to make warfare anything less than horrific, without them war would be even more horrendous. Noncombatant immunity is a basic principle of the laws of warfare. As a minimum standard, what is impermissible in war—specifically and especially the intentional targeting of civilians—should be impermissible outside of the war zone.

The clear delineation of an ethical boundary separating clearly objectionable forms of violence from other acts of violence is not only morally compelling, but of practical utility as well, and, as Stanley Hoffmann has noted, "necessity is the mother of morality."⁴ In a complex, increasingly intertwined world, the minimal expectation must

² See John Murphy, *State Support of International Terrorism: Legal, Political, and Economic Dimensions* (Boulder: Westview Press; London: Mansell Publishing, 1989), p. 3.

³ Deputy Secretary of State John C. Whitehead, in an address before the Brookings Institution Conference on Terrorism, Washington, D.C., December 10, 1986.

⁴ Stanley Hoffmann, *The Political Ethics of International Relations* (The seventh Morgenthau Memorial Lecture on Ethics & Foreign Policy) (New York: Carnegie Council on Ethics and International Affairs, 1988), p. 17.

be that people can travel without fear of being blown up or raked by machine-gun fire.

There is little difficulty in agreeing on the protected status of civilian air transport, or civilian facilities at airports or rail stations, where the potential victims are literally innocents who have had the misfortune of stepping into harm's way. Hence, there is broad agreement in international law that acts such as skyjacking are in nearly all conceivable instances impermissible. Other clear-cut cases include attacks upon children, the elderly and, usually, women. The intentional targeting of innocent noncombatant civilians—whether they are found in encampments, villages, towns, cities, or airports—is simply morally objectionable, and such wanton acts deserve universal condemnation.

I

Academics have been struggling with the definition of terrorism for years. Acts that one state denounces may be—and often are—justified by another. Some authorities stress the illegality of terrorism;⁵ however, legality is a sticky point (and, unfortunately, often an irrelevant one in the international arena). The laws of a state, taken as a whole, may be morally commendable or morally reprehensible. To argue that an act is unlawful (a factual statement) is not the same as arguing that it is illegitimate (a normative conclusion). Paul Wilkinson, one of the more careful thinkers on this subject, distinguishes between those political systems where citizens may effectively voice their demands and those in which categories of citizens are disenfranchised. In the first category of states, political violence is both illegal and illegitimate because the enfranchised citizen need not resort to violence to be heard and to enjoy the protection of the state. In contrast, in the second category of states, those in which the state is deaf to its citizens and residents, violence may be justifiable and legitimate even though it is deemed illegal.⁶

Although many “official” definitions have been proffered, one developed by the United States Department of State comes closest to capturing terrorism in most of its possible dimensions. The definition is

⁵ For example, see the *Public Report of the Vice President's Task Force on Combatting Terrorism* (Washington, D.C.: February 1986), p. 1, where it is argued that terrorism is the “unlawful use or threat of violence against persons or property to further political or social objectives. It is generally intended to intimidate or coerce a government, individuals or groups to modify their behavior or policies [emphasis provided].”

⁶ Paul Wilkinson, *Terrorism and the Liberal State* (New York: John Wiley & Sons, 1977). Also see Oleg Zinam, “Terrorism and Violence in the Light of Discontent and Frustration,” in Marius H. Livingston, ed., *International Terrorism in the Contemporary World* (Westport, CT: Greenwood Press, 1978), pp. 240–65.

particularly meritorious because it does not exclude states as sponsors or perpetrators of terrorism:

Terrorism is the threat or use of violence for political purposes by individuals or groups, whether acting for, or in opposition to, established governmental authority, when such actions are intended to influence a target group wider than the immediate victim or victims.⁷

The defect of this definition is that it does not clearly separate or delineate political violence from terrorism. In short, the very breadth and ambiguity of the definition ensures controversy, not consensus.

As defined above, the tactic of "terrorism" may be employed in a variety of contexts, including widely sanctioned struggles, as well as regional conflicts. For instance, the right of a people to resist foreign occupation is widely, if somewhat erratically upheld. Few observers outside the Soviet Union described the Afghan resistance fighters as terrorists, even though some of their attacks were decried as terrorism by the USSR. So long as the Afghan *mujaheddin* directed their efforts against the Soviet presence in Afghanistan, right was literally on their side. By the same token, though agreement is less general, especially in the United States, the resistance by the Lebanese to the continuing Israeli occupation of a portion of southern Lebanon would be similarly sanctioned, despite Israel's penchant for describing those who attack its soldiers and client-militiamen as "terrorists."

However, when the Afghans or the Lebanese resistance forces broaden their campaigns to encompass protected categories of noncombatants, their actions tend to lose their privileged status. Whatever our politics, we can readily distinguish between attacks on soldiers occupying foreign lands and attacks on persons in universally accepted protected categories, such as children or, more broadly, noncombatants.

Thus, in general, it makes more sense to concentrate on the moral legitimacy of the means, rather than on the technical legality of the ends. It is also sensible to attempt to focus on categories of objectionable acts that may be clearly distinguished from general political violence. Clearly, legal character notwithstanding, there is a big difference between an attack on a police station and an attack on a crowded shopping street.

⁷ United States Department of State, *Patterns of International Terrorism 1982* (Washington, D.C., 1983).

In this essay the focus is upon the deliberate, unjustifiable, and random uses of violence for political ends against protected groups.⁸ This is a functional and nonpolemical approach which has the merit of parsimony and universality. (This narrow perspective merely helps us to deal effectively with the problem on an appropriate ethical level; it does not excuse actions that fall outside of the definition. There are still names for the other acts.) The perpetrators may be states, agents of states, or individuals acting independently. The qualifying condition is that their actions constitute—in the eyes of the world—uniquely abhorrent and morally objectionable attacks upon noncombatants.

Admittedly, the international system is biased in favor of the state (the alternative, at present, would be chaos), and states can often get away with heinous activities which nonstate actors would not even contemplate. But, the fact that less can be done directly about the behavior of a state—particularly when it is acting within its own borders—by no means precludes a moral indictment which often has more weight than may be presumed. Even, and perhaps especially, the most autocratic and ruthless governments are preoccupied with their image. Of course condemnation is a sword that can swing both ways. Thoughtful scholars like Raymond Aron describe the Anglo-American carpet bombing of Germany in World War II as terrorism precisely because it was, by design, indiscriminate.

II

Unilateral responses to terrorism—though viscerally satisfying—often undermine multilateral cooperation which, in the long run, may be more effective in dampening the incentives for people to resort to opprobrious forms of violence.

Throughout the 1980s the relationship between the United States and the Soviet Union was marred by the trading of charges and countercharges in which one side accused the other of supporting, promoting, or carrying out acts of terrorism. Moscow's support for Third World revolutionary movements that engaged in a range of violent activities was used by the U.S. to indict the Soviet Union for supporting terrorism. Washington's support for a variety of governments that used violence to suppress and eliminate political opponents was seen as supporting a form of state terrorism. But, as Moscow grew increasingly skeptical of its revolutionary clients (and of the Third

⁸ This perspective, though developed independently, is close to that of Michael Walzer who argues that terrorism's method is "the random murder of innocent people. Randomness is the crucial feature of terrorist activity." *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977), p. 197.

World in general), Washington came to appreciate the fact that states like Libya, Syria, and Iran were the real state-sponsors of terrorism and that the USSR, at worst, provided only very indirect support for terrorists.

These developments, coupled with the extraordinary changes in Soviet foreign policy under Mikhail Gorbachev, created a fertile opportunity for the two superpowers to find common ground for a dialogue on the problem of terrorism. In January 1989, an unofficial U.S.–USSR exchange, involving scholars, former officials, and lawyers, began in Moscow and was followed by a September meeting at the RAND Corporation, in California. Significantly, both sides proceeded from the implicit view that there are some forms of violence that are simply beyond the moral pale. Thus, rather than stressing their marginal disagreements, the two sides focused, rightly, on the real core of the problem.

Encouraged by the success of these private meetings, the two governments have begun a series of official exchanges. If the unofficial sessions, which will continue in 1990, are any guide, it is quite possible that the two governments will reach agreement on a range of practical steps, including:

- Exchanges of intelligence data
- Cooperation in early warning measures
- Steps to dissuade clients from using terrorist tactics
- Cooperative steps to buttress international law, including the promulgation of a convention to make the deliberate targeting of civilians an international crime.

If the dialogue continues to develop productively, as now seems likely, the dynamics of the exchange will necessarily induce a growing reluctance to lend support to groups or states continuing to pursue their aims through the use of opprobrious violence. This implication of the dialogue may be more important than any concrete bilateral measures springing from it. Each side should reasonably expect that its interlocutor's clients will risk losing material and diplomatic support should they persist in using terrorism.

Equally important, the superpowers' progress could well help to foster a growing multilateral consensus on the need to prevent opprobrious acts of terrorism. One obvious setting for multilateral discussions is the Council of Europe, but the United Nations, which is enjoying a rejuvenation, should not be foreclosed as an appropriate forum either.

When the United Nations was created 45 years ago it was thought that it would function as a mechanism of collective security. Cold war

bipolarity rendered collective security impossible. But now that the organization, especially the Security Council, is beginning to function as a more collegial body, the potential for enforcement measures no longer seems an idealistic pipe dream. Enforcement actions to deter, disrupt, or punish perpetrators of morally obnoxious forms of violence probably represent a clear textbook case for Security Council cooperation. Granted, permanent members' veto powers would inhibit a range of direct military actions against relatively powerful states like Iran, but steps to counter extremist organizations resembling gangs less than states will not necessarily be precluded in the 1990s.⁹

A key tenet of the extant protocols on aerial hijacking, the theft of nuclear materials, and attacks on protected persons (such as diplomats) is that the state apprehending the perpetrators will either prosecute them or extradite them for prosecution. Two different factors have robbed this tenet of full effectiveness: divergent views of a given act of violence and a not unreasonable concern that convicting and jailing perpetrators will only be a magnet for further attacks to free them and to punish the government responsible for their incarceration.

The first factor will not be fully erased in the foreseeable future. Some acts will continue to be viewed as political in nature and therefore exculpatory. The case of assassination is illustrative. Though assassination is certainly murder, there are many instances in which natural law and positive law conflict, thus assuring some assassins a safe haven in many countries. Other crimes, such as the hijacking of ships and planes, are increasingly unlikely to be viewed sympathetically, regardless of the circumstances or the motives of the perpetrators. On the whole, progress toward drawing the line on opprobrious violence will further diminish the likelihood that perpetrators will escape punishment.

The second factor, the fear that the prosecuting state will only invite terrorist attacks so long as it holds a terrorist in its prison, may be mitigated by the creation of an international jail administered by the United Nations. This type of facility would not only symbolize international resolve to punish terrorists, but it might ease the dilemma of states that find themselves holding terrorists. A related step, which has already been recommended by some legal experts, would be the creation of an international criminal court, which could be a major contribution to world order.

⁹ See Augustus Richard Norton and Thomas G. Weiss, *Soldiers with a Difference: The Rediscovery of U.N. Peacekeeping* (New York: Foreign Policy Association, Headline Series, forthcoming).

III

Admittedly, terrorism is neither the most important nor the most dangerous problem facing civilized society, but there can be little argument about the extent to which terrorism has continued to capture the attention of audiences and government officials around the globe. Terrorism both compels attention and inspires fear. As Raymond Aron wrote, its "lack of discrimination helps spread fear, for if no one in particular is a target, no one can be safe."¹⁰ (How many readers of this essay have—following a deadly episode of aerial piracy—at least contemplated changing an upcoming flight or switching to a "safer" air carrier?)

The fact that terrorism, which physically touches very few people, has maintained its grip on the public's consciousness is a macabre tribute to the nature of the phenomenon. Indeed, it is easy to minimize the threat of terrorism, especially in contrast to risks more common in everyday life, such as traffic accidents, lightning, and even falls in the bathtub. Yet, terrorism does cut a wide emotional swath, even if the physical dangers are often more obvious than real.

For democracies, which are especially, but, by no means, uniquely vulnerable, the risk of overreaction may be more dangerous than the threat itself. In this regard, the penchant of many "experts" to exaggerate and misconstrue the threat of terrorism is, at best, mischievous, and, at worst, repugnant. Some of the writing on terrorism, especially in the United States and the United Kingdom, is more akin to special pleading and downright deception than dispassionate and objective analysis. Books and articles are filled with unsubstantiated claims that confound independent confirmation and play to public opinion rather than to accuracy. Scholarly studies are not immune to this charge, and some of them are particularly egregious examples. The field seems to beg for exploitation, and one is sometimes prone to conclude that the entrepreneurs of terrorism studies are more numerous than the terrorists themselves.

Although there is no magic antidote to bad writing or muddled thinking on terrorism, there is much to be said for a clearheaded approach to the problem, especially if governments are to avoid falling in their own slippery language.

Paul Bremer, former U.S. Department of State ambassador-at-large for counterterrorism, observes, "the word 'terrorism' in current literature is freely used to describe any violent political activity with

¹⁰ Raymond Aron, *Peace and War: A Theory of International Relations* (Garden City: Anchor Books, 1973), p. 153.

which the writer happens to disagree, and thus the word is robbed of its meaning.”¹¹ How true! Ambassador Bremer then goes on to reject the label of terrorism when affixed to the U.S.-supported contras in Nicaragua, as though it were inconceivable that Washington could lend support to people who would actually commit terrorism.

The point, of course, is that “terrorism” is a marvelous epithet with which to bludgeon or tar one’s enemies. But the moral indictment inherent in the term is debased if it is used only to label acts of which we disapprove, while turning a blind eye to equally contemptible acts carried out by friends or allies for congenial goals. Used in this way, “terrorism” simply becomes a rubric for all forms of opposition violence.

The priests of the ten-second sound bite, in tacit alliance with policymakers impatient with details and analysis, have intoned “international terrorism” so frequently that sensible scholarship sometimes seems a mere heretical whisper. But, like monolithic communism in the 1950s, the bugbear of “international terrorism” in the 1980s does not stand up well to close inspection. As many academics and government experts have long known, terrorism is not simply a cabalistic international phenomenon uniquely targeted against the free societies of the West. The phenomenon of terror-violence is neither unique to the present era, nor is it practiced only by one’s enemies. It is certainly not monopolized by one or another ethnic, ideological, or religious group.

IV

Nineteenth-century examples notwithstanding, modern terrorists do not proudly don the label “terrorist.” In fact, much of the writing by terrorists is precisely for the purpose of claiming that they are not the “real terrorists” and that what they are doing is therefore justified. But, not only is the tactic and the vocation of terrorism unjustifiable on moral grounds, but also on practical grounds. Terrorism is patently counterproductive. Rather than weakening the resolve of the target population, terrorists supply the argument (and all too often the methods) for their own eradication. The reaction, in Europe and the United States, to the downing of Pan Am 103 is illustrative. If nothing else, the destruction of Pan Am Flight 103 has stiffened the resolve in many corners to catch the perpetrators and prevent a repeat performance.

Terrorism has a contagious effect. As Adam Roberts reminds us in a fine article, legitimate counterterrorism campaigns all too often end

¹¹ L. Paul Bremer III, book review in *Parameters*, Vol. 19, No. 2 (June 1989), pp. 102–3.

literally as counterterrorism.¹² This is an observation, as well as a cautionary note. Terrorism breeds contempt for limits and inspires imitation. Consider the following pairings, each representing a case in which terrorism has inspired imitative acts of terrorism:

- Israeli Jew and Palestinian Arab
- Greek Cypriot and Turkish Cypriot
- Catholic and Protestant in Northern Ireland.

Terrorism may be the product of popular struggles, but it is hardly a substitute for it. Indeed, all too often the use of terrorism stereotypes a community and inflicts heavy societal costs. Rather than enhancing international support for a community's claims, it corrodes sympathy and support. Consider the heavy moral baggage the Palestinian Arabs must lug around as a result of past outrages. The Israeli view of the Palestine Liberation Organization (PLO) as a terrorist organization is not, as some Palestinians unfortunately still presume, merely a negotiating tactic or a negotiating scheme, but the response of a population faced with attacks that have no moral limits. Conversely, the *intifada*, a popular revolt with clear moral limits, has not yet erased the visceral fears of the Israeli public. (It is not too far afield to wonder how long it will take to erase the memory of the brutal Israeli response to the *intifada*; these problems seem to come in pairs.)

The case of the Shi'a Muslims in Lebanon, who certainly represent an array of legitimate demands, is particularly striking. The Shi'a have found themselves stigmatized as a result of the despicable actions of some members of their community. Not surprisingly, there is good evidence to indicate that many Shi'a have come to resent the kidnapping of foreigners, sometimes on the admirable stance of moral principle, but often simply out of pragmatism. It is no joy to be seen in the eyes of the world as a potential terrorist.

V

An ethical response to terrorism begins with the recognition that all states share an interest in protecting the political and social environment, just as the whole world shares an interest in preserving the quality of the physical environment. States that sponsor opprobrious violence usually disclaim their sponsorship, not just because of the risk of retaliation, but to avoid censure. The weight of that censure must be

¹² Adam Roberts, "Ethics, Terrorism and Counter-Terrorism," *Journal of Terrorism and Political Violence*, Vol. 1, No. 1 (January 1989), p. 62.

increased. In this regard, the now gestating U.S.–Soviet dialogue is very promising, especially if it will provide a platform for a more encompassing multilateral discussion.

The exploration of the world that lies beyond the boundaries of the cold war is only just beginning. This is a moment to applaud and encourage the peaceful transformations that are under way in Eastern Europe. But this is also a propitious period to prepare against the worst. Although the 1990s may hold marvelous new opportunities for people everywhere to savor the elixir of freedom, familiar demons may also lurk ahead. In Europe, revived nationalistic and ethnic sentiments come in train with old grievances, which might well spark violent irredentist campaigns aiming to repair old tears in Europe's political geography. Terrorism may well be the vehicle that some will choose to draw attention to their demands or to strike fear in the hearts of opponents. Thus, as we embark on the last decade of a violence-ridden century, the time is ripe for concerted international action to ethically disable terrorism by underlining the notion that certain acts of violence are wrong and will not be tolerated, period.