

Moles, Martyrs and Sleepers

The End of the Hobbesian Project?

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The paper addresses two issues: the events of September 11 in terms of the traditional vocabulary of terrorism, and the implications of these acts for the modern political project. I argue that the traditional vocabulary of the law of war, adapted to the circumstances of armed conflict, remains useful. In appraising the effect of these actions on the realization of the political project of modernity, I look to Hobbes, as he suggested peace was possible only when “fundamentalist” questions were eliminated from the political agenda. Only under a secular version of political rule can the sovereign become an effective guarantor of law. Hobbes’s arguments resulted in a new vision of politics based on fear and its manipulation, but also on a certain rationality allowing individuals (and sovereign states) to pursue their own interests. Insofar as both the domestic and international social order is based on such notions, the emergence of fundamentalist-inspired terrorism decisively challenges the modern political project.

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Introduction

Whatever the long term consequences of the September 11 attack will be, one thing seems certain: this event has not only victimized the US but has challenged some of the most basic assumptions underlying our social life. We are accustomed to think that conflict is above all a result of poverty and ignorance, yet the attackers of the World Trade Center and their fellow travelers were neither exemplars of the downtrodden of the earth, nor were they people who did not understand the modern world. Well at home in our midst, they chose to reject our way of life with a decisiveness, characteristic of fanaticism, that is seldom encountered.

But beyond the wanton thirst for fame these deeds reflect, we feel there is a wider danger that issues from a political “project” so alien to us that we hardly can find a way to comprehend it. Gone are our familiar notions of the inevitable secularization of modern life; gone is the idea that political projects have to be based on the largely “private” pursuit of happiness; gone is the idea that in politics the “right” somehow has

to take precedence over the “good”; gone is the notion that “politics” has to take place in or among demarcated spaces by citizens or their authorized agents

In a way, this act of fanaticism might have borne out the fear that the pursuit of the “good life,” if at the expense of individual rights, can end in disaster. Yet the self-evidence of this position has been shattered. Precisely because we can no longer take this political ideal for granted, new threats emerge: traditional institutions such as the state, or even the practices of “war,” no longer bind violence. Governments past and present have been repressive, and wars have taken on horrendous proportions, but there was always some understanding, and hope, that the spread of human rights, or the stabilization of the balance of terror, might mitigate or even prevent violent conflagrations. Perhaps we even adhered to the Kantian idea that despite breakdowns in civilized conduct, “humanity” was advancing along a path that, whether through the cunning of nature or of history, would eventually result in the eman-

cupation of humankind. After September 11, nothing seems farther from those hopes: for the first time in memory all aspects our way of life seem to be threatened.

What we need in such a situation are proper diagnostic tools to allow us to appraise where we are and what has changed, now that our conventional understandings and theories have failed us. It is therefore useful to take a step back and examine the concepts and vocabularies that constitute our political practice, and ascertain whether they still help us understand events or can help us (re)-orient our actions. Such an investigation necessarily leads us to identify the linkages between concepts and general vocabulary. Because the social and political world is not “natural” but is created by actors and their actions, we have to see how practices are part of a particular social and political project, and of its concomitant discipline. In other words, we need to both examine the cognitive framework that determines what can be said, and the set of “self-fashioning” prescriptions that link the individual to others, be they friends or foes.

Thus, in this paper I want to probe the origins of the political vocabulary of modernity, to show how it constitutes and frames the political project we usually identify with a liberal order, though that political project actually is more encompassing. It sets the “bounds of sense” in the political arena not just for liberals, in the classical sense, but also for traditionalists, communitarians, and even “nationalists.” It provides the practices we use to fashion ourselves as individuals and as members of a community. By observing certain “do’s” and “don’ts,” which through practice become our ingrained habits, we can be “secure,” or without worry (*sine cura*) because certain things are taken for granted. They are cared for by institutions, and certain otherwise problematic issues of social life are no longer focal points of political disputes, as they have been relegated to the “private” realm. Inequality is one of the crucial problems for any social order, for example, but because the political project of modernity has placed wealth differences, along with questions of moral “truth,” into the “private” category, they have largely been eliminated

from the public agenda. Likewise, the “economy” largely determines issues of distribution, and any truth claim based on revelation is sequestered into “private” religion.

For a number of reasons I will indicate below, this modern understanding of politics and how it is connected to the state, as well as the project of modernity, is thoroughly Hobbesian – though his particular solutions (establishing an “absolute” sovereign or church; having a supreme power (Leviathan) authorized to settle all disputes with finality) have not been followed. In this the crucial antecedent point, in founding a body politic, was to base the social order not on a shared notion of the common good but on a “negative” consensus based on avoiding the particular evil violent death represented. A secondary point was Hobbes’s reformulation of happiness, not in the Aristotelian sense of a state of contemplative insight, but rather as the *pursuit* of pleasure (happiness could not be gained by a state of existence but only by fleeting moments of satisfaction).

Both moves created a thoroughly secular space that has been characteristic of modern politics since. That secular space is fundamentally challenged by a notion of politics as rule in the name of a creed, which is a concept of politics that in its turn eliminates the other conceptual distinctions that are part of the project of modernity, such as the distinction between state and society, or between public and private. Politics in the name of a creed also dispenses with a further (though not necessary) move of modernity, namely the prohibitions against using violent means, due to alleged exceptional circumstances.

Hobbes thus stands, in my view, as a modern antithesis to the Aristotelian “political project,” which had an idea of the good life that encompassed both the individual and politics. Hobbes also articulated ideas about establishing a state and steering it, laying the groundwork of what became an international system. In both cases, his political notions were thoroughly secular. Indeed, the modern international system is based on secular ideas that it is the public authority that determines what is public and what is private (and not an individual’s conscience), that individuals in nation-states

are ultimately subject to and loyal to political authority (even if they follow religious authorities in matters of faith or belong to a community of believers), that war and intervention are political decisions (and not questions of faith), and so on. Later elaborations about civil liberties, the neutrality of states, the balance of power and the like derive from Hobbes's "moves."

In this context, I want to focus in particular on how one deals with incommensurable moral claims if they appear as "the truth" demanding recognition and obedience, and thereby engender conflicts. Hobbes suggested that in such a case, political order could no longer be based on a common ontological understanding, or on some universally accepted revealed truth, because these mutually exclusive truth claims sooner rather than later engendered the jurisdictional issue of *quis judicabit*. Yet to enable the sovereign to settle such questions, the sovereign had to be buttressed by newly articulated common understandings that did not contain justifications based on a revelation. Hobbes, not wanting to dispense with the foundational notion of the existence of some form of a transcendental authority, resorted to the Laws of Nature, which he construed as commands of universal human "reason".

Thus, we can see why Hobbes's two conceptual moves were more important in structuring the political project of modernity than the particular solution he himself advocated (the creation of the Leviathan), a theme upon which I elaborate in the second section. In the third section, I adduce the conceptual apparatus of the classical Laws of War, and their more recent elaborations, in order to analyze in greater detail the problem of "terrorism" and appraise the threats posed by sleepers, moles and martyrs. A brief summary of the main lines of the argument concludes the paper.

The Hobbesian Project

Though it is common to interpret Hobbes as a theorist who took a mechanical and naturalist approach to politics, given what his emphasis on power and on the fear of violent death seems to indicate, his analysis is far subtler. For despite Hobbes's insistence on power and sanctions, it

is the complementarity of expectations among actors that makes social order possible, even if power and punishment may be the most important means to structure expectations. Thus, unlike the "realists" in international relations today who focus on "power" and capabilities, Hobbes is well aware a sovereign's effectiveness cannot rest primarily on his capacity to exert sanctions: "actions of men proceed from their opinions; and in the well governing of opinions consisteth the well governing of men's actions, in order to their peace and concord" (Hobbes 1983: 223).

After all, the Hobbesian sovereign is not by accident the "fixer of signs." Most of Hobbes's *Leviathan* is devoted to definitions and arguments about proper names and instructions that will permit sedition to be nipped in the bud (Hobbes 1983, chaps. 5–9 and 30), and some of the most telling passages of *Behemoth* are devoted to the power of imagination, prophecy, fantasy and folly. Despite his alleged materialism, Hobbes pays particular attention to the role of ideas and emphasizes the powerful force of "names" for politics, including whom to call a "traitor," for example (Hobbes 1990: 37). He is also well aware that norms such as traditional legitimacy engender loyalty and have to be overcome by appeals to other sources of legitimation.¹

In this context, Hobbes is particularly suspicious of teachings that are promulgated by a clergy who rely on personal revelations or on alleged divine authority. As Hobbes himself suggests in his *Elements of Law*, the fundamental disagreement between sacred and secular authority creates a radically different situation for which neither Biblical examples nor those of the classical *polis* provide any templates. Hobbes writes:

"This difficulty hath not been of very great antiquity in the world. There was no such dilemma amongst the Jews: for there civil law, and divine law was one and the same Law of Moses. Nor is it a controversy that is ever taken notice of amongst the Grecians, Romans, or other Gentiles. Also those Christians that dwell under the temporal dominion of the bishop of Rome are free from this question... This

difficulty, therefore, remaineth amongst and troubleth those Christians only to whom it is allowed to take for the sense of the Scripture that which they make thereof, either by their own private interpretation, or by the interpretation of such as are not called thereunto by public authority” (Hobbes 1994:141f).

To that extent, the Hobbesian problem of order is one in which the individual’s free conscience no longer interferes with the exercise of authority by the secular sovereign, because individuals need no longer fear that there is “*the danger of eternal damnation from simple obedience to human laws*” (152f).

As Hobbes well knew, belief cannot be enforced. Yet men may believe whatever they want as long as it is a “private” belief that keeps its prescriptions for personal conduct in tune with the requirements of public order, as well as within the “natural law” to seek peace. The demand for the sovereign to publicly display his adherence to a particular religion is not incompatible with freedom of conscience. As he points out, it cannot be considered as a voluntary act: *it is not attributable to the individual but to the sovereign* “nor is it he that in this case denied Christ before men, but his Governor, and the law of his country” (Hobbes 1985: 528).

Yet it is also an order in which individual beliefs can no longer be used for the delegitimization of the public authority on the basis of conscientious objections either.² Much of *Leviathan* is therefore devoted to demonstrating that it is the sovereign who has the right to determine which interpretations are to be admitted, as they are the ones conducive to peace and stability in a society.

Thus, an entirely new picture of the Hobbesian project emerges when we read his texts at the level of the controversies Hobbes was observing and participating in. Far from postulating some “natural” foundation, Hobbes knows that even the passions are powerfully formed by cultural factors and ideals. They give rise to “ways of life” that can powerfully counteract the “law of nature” that seeks peace. Even our emotions are not “natural” or pristine in their immediacy but are instead part of a specific cultural milieu whose influence becomes

visible only when we reflect upon it.

So even in the case of the “fear of violent death,” Hobbes is again not referring to something that is un-problematically given. Rather, he is engaged in a deeper political struggle over public authority and the effectiveness of “secular” sanctions that buttress political order. After all, St. Augustine already had remarked that it was eternal *damnation*, and not the *fear of violent death*, that represents the *summum malum*. Such a belief, if accepted, tends, however, to weaken the deterrent power of secular punishment, as Hobbes was quick to point out. In drawing the clear lessons with respect to the English Civil War, Hobbes argues that: “As much as eternal torture is more terrible than death”, so much more (the people) would fear the “*clergy more than they would the King*” if such a belief was prevalent in society (Hobbes 1990: 14f).

Seen in this light, some recent interpretations of Hobbes become more plausible as they stress the “rhetorical” character of his work and view it as an attempt to persuade his audience, rent at the time by civil strife and a ruinous competition for honor. Far better to “seek peace” (Hobbes 1985: 190) and pursue happiness by following their “interests” rather than risk life and limb for ultimate truths, or reputation, or prestige. Only with such a reformulation of the project of individualism—a change that requires an individual to coolly calculate his advantage rather than pursue glory and honor—can the political project of securing peace succeed.

In addition, important elements of power are “privatized” in this project, since property is largely exempted from public intervention (other than for reasons of eminent domain). Later, in the Lockean version of the liberal project, government is viewed as the trustee of civil society, and is created to perfect it: by guaranteeing property rights and by preventing disputes among its members who recognize each other primarily as property owners (Locke 1965: 361ff) rather than as members of an estate or a community of co-religionists. Yet even the moderate liberal individual pursuing his self-interest had to be fashioned and “normalized,” and was far from a “natural” person.

We also can now see why the Hobbesian

project became so fundamental for our modern political order – it relied essentially on deterrence or the manipulation of fear. Sanction and punishment became a characteristic of law, and for theorists of the state, even the characteristic that distinguished the public order from “private” notions of the good.³ The tender reeds of the international order are the result of “deterrence” as well, not of some Aristotelian idea of a substantive “good” as the foundation for societies.

Hobbes himself suggested that by creating the sovereign most of the security problems for individuals had been solved. While a type of radical equality exists among individual men, as even the strongest can be overpowered when he sleeps or is not mindful of his security, social organizations can take care of these problems. No equal strength is required between societies, as a weak nation must only make it unlikely it can be overrun by another nation in order to possess a viable deterrence. Such a calculation is based on common standards of acceptable risks, however, which in turn presuppose a certain “normalcy” of politics in which excessive goals are ruled out and “survival,” not only in the physical sense but as a way of life, is taken as the guiding maxim and is enshrined in “reasons of state.” Intervention and war for religious purposes are ruled out, as are acts of war involving excessive indiscriminate force, cruelty, or measures against “civilians.” War, as Rousseau will later remind us, is a relationship between states, not individual persons.⁴

These notions could not be farther from those inspiring the terrorist violence of recent times. It is not states but believers who have to be organized; it is not a political project that safeguards rights and “privacy” in pursuit of the good life, but instead fundamentalist and radical notions of the good that are being pursued. The ideal is not to ensure a “civilized” life, but rather to pursue a life of glory and eternal reward – that “believers” are to devote themselves to, irrespective of the costs to life and limb.

Against such a background, the foundationist attempts of much of our contemporary political theory seem downright quaint (Rawls 1971; Habermas 1981). Having forgotten the

heavy conditioning that is part of becoming a “normal” person in our society, our only worry now seems to consist in demonstrating that the rules and practices we utilize in our political life are those which stand to reason, i.e. would be chosen by all. Or that all of our political problems can be talked out in an ideal speech situation from which consensus will emerge. The last flickers of the Enlightenment combine here with a political project in which privacy and consumption have become paramount, and in which most politics seems to revolve around how both can be reached in an efficient and conflict-free way.

To that extent, September 11 is a ghastly reminder that the Hobbesian project is not only not universally shared but also downright fragile. It can be challenged by reopening questions which have long been silenced, and since the old answers do not seem to be convincing, at least to some, the Hobbesian project is in danger: with it, our basic understanding of the social order is also endangered. That helps explain the prevailing feeling of insecurity (noticeable particularly in the US), a fear that can easily be misdirected and create still more problems. It is not clear what can be done, other than efforts at greater surveillance, which themselves may subvert the goals of “privacy” and individual rights that are part of the Hobbesian project. It is therefore important to take stock and see to what extent the events of September 11 defy our assessments and necessitate new departures in thinking and acting. Here the traditional Laws of War provide useful instruments for assessment.

The Phenomenon of Terrorism and the Traditional Laws of War

Despite the shock of September 11 and the use of high tech “weapons,” using extreme violence against indiscriminate targets is not without historical precedent. Even the self-immolation of perpetrators in the course of attacking has well-known parallels, both of individuals and of groups. The *sicarii* zealots of biblical times,⁵ who used personal assassination to eliminate opponents and instill terror, come to mind, as do the sect of Assassins who operated out of Persia.

Genghis Khan's war conduct, which often seemed more like extermination campaigns than "normal" wars, is also a case in point. And we should also remember the Japanese kamikaze pilots in World War II who tried to force a decision by their suicidal attacks. Despite these similarities – which basically consist of the unconventional ways force was used – significant differences exist among such cases. The kamikaze pilots may be closest to our conception of warfare, since we are dealing with soldiers used against an enemy's armed forces, although their acceptance of death in completing their mission was unusual and led to higher than usual casualties in the conduct of hostilities. On the other hand, the massacre and deportation of the civilian population, as practiced by the Assyrians or Genghis Khan, come much closer to our notion of terrorism, in that the violence is no longer addressed to the agents of the opposing power.

Since the attackers of the World Trade Center chose this target because of its highly significant symbolic character, well aware that numerous civilians not only of the enemy but also of *other groups and nations* would be among the victims, the September 11 attacks reflect a further important rupture of certain traditionally accepted limits. In addition, the "private" character of Al-Qaeda's attacks distinguishes these events from attempts by Mongols to extend their rule, for no ruler is here trying to extend his realm. Rather, as with the sect of the assassins, we are dealing here with a group assembled by a self-appointed leader, or prophet, who has no political legitimacy or apparatus of a traditional society. Despite the astonishing submission of individual followers to this prophet, even to the point of self-extinction, the model that seems best for categorizing this phenomenon is not that of the maladjusted individual personality – a favorite defensive mechanism when we encounter the unusual – but Weber's charismatic ruler or prophet.

Weber argued that such a ruler unites the group by proclaiming a "truth" that radically contradicts the projects and ideals of the surrounding society. In this way, Weber draws our attention to the social dimension of the phenomenon and the crucial role of shared

beliefs among the members of the group. It has been observed that Weber himself dealt with the phenomenon of charisma largely in negative terms, by contrasting it with the other two forms of legitimate domination, traditional authority and legal authority. But since charisma sooner or later gets "routinized," and since claims to traditional rule are hard to sustain under the onslaught of modernity, and result in the demystification of the world (*Entzauberung*), Weber suggests charisma largely belongs to "prerationalistic periods." True, he is aware that with the advent of mass democracy, populist leaders may come close to charismatic figures – his remarks about Napoleon III are significant in this respect – but the role of charisma under conditions of modernity remains a largely unexplored problem within his magisterial work *Economy and Society*.

It is only in the later debates about political religions⁶ and the attempts to come to terms with "totalitarianism" that add some insights by identifying the abolition of law in the name of an ultimate goal as the decisive element of the totalitarian project. For it is, as Arendt cites Cicero, the *consensus juris* that constitutes not just a people but the civilized world, "insofar as it remains the foundation-stone of international relations even under the conditions of war." Totalitarians, on the other hand, believe they can dispense with this basic consent by making mankind itself the embodiment of law, and on the other hand believe they will not fall into tyranny, lawlessness, arbitrariness, and fear (Arendt 1973: 462). Weber's discussion of values and of an ethics of responsibility, as well as the problem of existential choices, strikingly prefigures these observations. Responsibility is not owed to a definite group or audience, not responding to some legally constituted authority, but instead the individual and his or her conscience as ultimate judge and ultimate court of appeal (Weber 1958: 493–548). This notion stands in strange tension with Weber's own emphasis on shared meanings and the importance of historically formed collective representations.

As some critics have noted, Weber's emphasis on the prophet – and by extension, on individual conscience as a secularized version of the

demands made by a charismatic leader – leaves the social interaction between leader and followers strangely opaque, as all influence seems to radiate only from the prophet. But as Alberoni suggests, the prophet can become this central figure only when he is part of a group that is ready for his message (Alberoni 1984). The “group” is thus important for the formulation of the message itself, and its role is not limited to a later period after the death of the prophet when questions of succession and the routinization of charisma have to be addressed.

As social psychologists have remarked with respect to radical groups that confront society with a new way of life, the power of the group, and loyalty to it, may be more important for explaining its internal and external dynamics than its message, for “the cause is long term, [but] the group is tangible” (Paz 2001: 4). Though we do not well understand this internal process of identity formation, two problems attain to it: how do terrorists become convinced that their deed is not a simple suicide but a sacrifice for a higher cause? And how *in general* are the process of individuation and cultural forms linked?

The first issue is usually debated in terms of brainwashing techniques in sects and of induced dependency. The acolyte is usually rigidly separated from all familiar interactions with friends or family in order to transform his or her personality and to instill a new discipline based on absolute obedience. Point 4 of the instructions found among Atta’s belongings after the September 11 attack, for example, emphasized nearly pedantically that it was not only obedience but “100% obedience” that was required. The second issue points to the seemingly counterintuitive notion that an individual is not simply a “given” element of a society that comes into being by the aggregation of such persons. Rather, the individual is the *product of certain social and political ideals and strategies*.

One can examine this second point with reference to the perpetrators of the September 11 attacks, as one can roughly reconstruct the formation of their group from documents left behind and from various *Manuals of Jihad* in pamphlet form. All of these share a religious

idiom that is familiar to all Muslims, though the pamphlets are usually written in the idiolect of a specific group devoted to a specific, radical, and “fundamentalist” interpretation of the Koran. The contemporary situation of Muslims in the world is depicted as one of shame and degradation in all such writings, and that is in turn blamed on the activities of “Satanic” forces. A Hamas script published before the start of the *Intifada* suicide attacks states:

“The whole world is persecuting you and the satanic powers ambush you. The whole world is your front, and do not exclude yourself from the confrontation... The life of misery prevents you from grasping the meaning of life and turns life into death. You live as a dead man... We stand today at a crossroads: life or death, but life without martyrdom is death. Look for death and you are given life” (*Filastin al Muslima* 1991: 63 – as quoted in Paz 2001: 5).

The universal scope of the mission is outlined, after this invocation of the general threat, so that martyrdom can be seen as the glorious way out of individual and collective misery. Future suicide attackers are not only exhorted to not fear death but to submit to it and accept it as a duty. This “allegiance to death” that was introduced into the discourse by the chief ideologue of the Egyptian Islamic Jihad in his book *The Forgotten Duty* was also listed as Point 11 in Atta’s instructions. The cowardliness of enemies is shown by the defiance of death attackers, and the “72 beauties” waiting for the suicide attackers in paradise can then reward the martyrs for their rejection of a normal life. It is significant that this marriage in heaven is mentioned no less than three times in Atta’s instructions – it is apparently an element considered important for counteracting self-doubts and the weakness of will problem among the attackers. To minimize pity with the victims, the instructions also depict them as representatives of evil rather than as persons, enabling their death to be compared with the butchering of animals. The demand that one check one’s weapons again shortly before an attack is thereby linked to a Koran verse: “let every one of you sharpen his knife and kill his animal and

bring about comfort and relief to his slaughter.”⁷

Such strategies for desensitizing the attacker to the suffering of his victims and of demonizing the “enemy” are well known and part of the (de)formation of the terrorist personality. The strategy is powerfully reinforced by two further gambits: the claim of an extraordinary threat, suspending for the believer the stringent restraints placed on pursuing even the most worthwhile goals, and the idea that the fighter is not fighting for a specific purpose, whose value he would then have to consider in the context of other values, but that he is fighting *evil itself*. To that extent, the impact of religiously inspired terrorism is powerfully heightened as it goes far beyond the limits of both unconventional warfare and simple terrorism. It shares with all forms of terrorism that its main targets are not the state or its apparatus as such, but targets with symbolic significance whose destruction will likely strike terror in the hearts of the population.

In selecting targets this way, terrorists try to undermine the general societal sense of security and confidence, one that is necessary for the reproduction of the social order *and* of the individual personality, and thereby disorient individual and public officials alike. A maximal psychological effect is expected from the use of relatively minimal means, at least when compared to the resources expended. One of the implications of this terrorist calculus is to erase the distinction between war and crime: rape, murder, arson, and kidnapping⁸ can all become tactics in this “struggle,” in addition to the more familiar, spectacular acts of destruction. Even classically constituted military detachments may resort to such terrorist tactics, as the events in Bosnia-Herzegovina and Kosovo amply demonstrated.

Relative to the patterns of classical warfare, there also seems to be a strange reversal of the relationship between power and resources, or between cause and effect. If the use of force through war is Clausewitzian (“war is the continuation of politics by other means” [Clausewitz 1984]), then two corollaries follow. First, the use of force is subordinated to politics, and thus the military is subject to civilian control, and second, that political goals are

themselves limited because “total” victory is hardly ever possible, or so costly, that pursuing such a strategy becomes self-defeating. “Unconditional surrender” is then the exception rather than the rule, even when a decision to do so is aided by the great decisive battle, on which Clausewitz focused his attention.⁹ The capitulation point of one of the parties is usually reached long before the decisive battle degenerates into a slaughter “to the last man,” particularly so when the terms of surrender offered are lenient and open the possibility of influencing the outcome through negotiation. The point in classical wars, in most cases, is less to “break” the will of the opponent than to “bend” it.

But in unconventional or guerrilla war, as well as in terrorist attacks, the logic seems reversed. Through the use of limited means, virtually unlimited goals are pursued and without compromise. Yet if guerrillas want to be successful, they have to concern themselves with building parallel political structures that can take over when the old regime’s structures collapse. Guerrilla tactics cannot themselves force a decision, so a guerrilla movement can only succeed if it can become powerful enough to change its tactics from hit and run to a form that will overpower the enemy (Giap 1970). Here conventional battle and psychological disintegration of the enemy play an important part, and are manifested in the disloyalty of the troops and in paralysis of the decision-making apparatus. Thus, the crises in the aftermath of the collapse of Japanese rule in China led entire Kuomintang military units to switch sides, and the pitched battle North Vietnam waged to subdue Saigon was similarly important.

All this requires at least a modicum of political responsibility, or observation of traditional rules, on the part of the guerrillas, despite whatever brutalities they perpetrate in their march to power. The “enemy” to the guerrilla is the regime and its structures, so the civilian population cannot, other than incidentally, become the target of attacks. This not only limits the scope of targets drastically but it makes a guerrilla conflict quite different from terrorism. Furthermore, because guerrillas seek to “liberate” a given society, and to become “free” to work out its political destiny, it entails claims made in

the context of the claims of other peoples and states. That makes it imperative in turn to be recognized by others, which itself means a modicum of the conventions and institutions that constitute the fabric of international life must be observed, including those that regulate the use of force.

But in terrorism, and particularly among religiously motivated terrorists, the project is different. We are not dealing with a given society (run by an old regime) or a specific people (overrun by invaders) but rather with “believers.” Their potential number is unlimited, and because of the alleged emergency situation (e.g., “the whole world is persecuting you”) those addressed are simultaneously absolved from the otherwise stringent limits on the use of force. The goals of these groups are usually ill defined, since it is the “survival” of a particular way of life that is at stake, not the goals of a state.

Furthermore, since the religiously motivated way of life cuts across traditional boundaries between public and private, internal and external, economic and political, or state and society, “victory” by definition can only be achieved when Satan’s grip on the world has been loosened. And that can come about only by dealing severe blows to all of Satan’s collaborators and representatives, as the (Feb. 23, 1998) *fatwa* of Osama bin Laden and several Islamic spiritual leaders stated:

“The ruling to kill Americans and their allies – civilians and military – is an individual duty for every Muslim who can do it in any country in which it is possible ... in order to liberate the al Aqsa Mosque and the Holy Mosque from their grip, and ... for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim. This is in accordance with the word of Almighty God: “and fight all the pagans all together as they fight you all together” and “fight them until there is no more tumult or oppression and there prevail justice and faith in God ... We, with God’s help, call on every Muslim, who believes in God and wishes to be rewarded, to comply with God’s order to kill the Americans and plunder their money wherever and when-

ever they find it. We also call on Muslim ulema, leaders, youth and soldiers to launch the raid on the Satan’s US troops and the devil’s supporters who ally with them.”¹⁰

This clarion call to violence is a chilling reminder that the “normalcy” of international life could become a thing of the past.

Nevertheless, it is also clear that the conceptual distinctions based on an adapted version of the Laws of War, are still useful for finding our bearings. To that extent, the argument that efforts at “defining” terrorism are futile (we cannot agree on what a terrorist is, your terrorist is my freedom fighter, etc.) is clearly false. Thus, because in many modern conflicts it is no longer states that are the relevant actors, it has been necessary to clarify the rights and duties of combatants, and the 1977 Geneva Conventions have been extended to apply not just to “wars” but to other forms of armed conflict. As one student of terrorism has pointed out:

“The normative principle relating to a state of war between two countries can be extended without difficulty to a conflict between a non-governmental organization and a state. This extended version would thus differentiate between guerrilla warfare and terrorism. Exactly parallel with the distinction between military and civilian targets in war the extended version would designate as “guerrilla warfare” the deliberate use of violence against military and security personnel in order to attain political, ideological and religious goals. Terrorism, on the other hand, would be defined as “the deliberate use of violence against civilians in order to attain political, ideological, and religious aims.” What is important in these definitions is the differentiation between goals and the means used to achieve these goals. The aims of terrorism and guerrilla warfare may well be identical; but they are distinguished from each other by the means used, or, more precisely, by the targets of their operation... By this definition, a terrorist organization can no longer claim to be “freedom fighters” because they are fighting for national liberation, or some otherworldly goal. Even if its declared ultimate goals are legitimate, an organization

that deliberately targets civilians is a terrorist organization” (Ganor 2001:1).

With these distinctions in mind, we can see that the difference between terrorism and unconventional force no longer coincides with whether force is being wielded by a state. Traditionally, states enjoyed a virtually automatic presumption of legitimacy and “private actors” did not, but as the prosecution of Milosevic and Pinochet have shown, even those acting in an official capacity can now be charged with engaging in terrorist activities, particularly since personal responsibility for atrocities committed in war has been long acknowledged to imply personal criminal responsibility.

Conclusion

Still, confronted as we are virtually every day with reports of child warriors, massacres committed by fanatic mobs or suicide bombers, of marauding bands that have suspended the rule of law in entire regions of several countries across the globe or about ethnic cleansing that is carried out by “private” groups as well as by troops under official command and control, one is inclined to question the usefulness of such academic distinctions. Isn’t it a case of hair-splitting, or the result of the tunnel vision that comes from hiding out for too long in ivory towers? What is the relevance of these seemingly ethereal discussions in view of the stark realities we face, and of the urgent need to find practical answers to these problems?

The reason for holding on to this vocabulary and these concepts is a belief that without them, we have great difficulty in orienting ourselves. Granted, such distinctions are not natural ones and cannot be justified by some reference to an independently existing reality. Their value derives instead from their heuristic power and connection to underlying political project. Rather than simply letting the debate continue on a superficial level (e.g., your terrorist is my freedom fighter) or arguing that new concepts are needed to understand allegedly new threats, the conceptually-oriented analysis here forces us to see that concepts are not simple descriptive labels of sociopolitical phenomena but instead a

means of appraisal or signals for action within wider political projects.

As to the heuristic dimension, the above distinctions show their value by putting things in perspective, though important problems remain for which the traditional notions of the Laws of War provide little or no guidance. The enemy in a terrorist attack is virtually invisible, and also has no way to be present in order to sign a capitulation. So how long is the target society then entitled to “self defense”? Given that the eradication of all terrorist cells throughout the world is hardly possible or has no clear boundary set to it, how much counter-measure is enough? *Quis judicabit* is also a big problem here, and as with organized crime or “domestic” terrorism of the ETA variety, many states have little choice but to live with considerable insecurity. In other words, a convincing argument for self-defense can only properly be made if the asserted “threat” is imminent, patent, and very serious. In that context, the justificatory arguments put forward by US decision-makers seem to be suffering from a troubling degree of “mission creep.”

The present wave of terrorist attacks is not a simple continuation of the “state terrorism” of former years either: they come from different sources and pose different dangers precisely because the threats have become *internationalized*. The target of this new terrorism is not simply the “West,” despite the prominent place it is accorded in the vitriolic rhetoric of the terrorists, but also regimes in Muslim countries charged with corruption and deviation from an imagined standard of Islamic purity. These efforts have also always had the fight against the state as an autonomous center of secular power as a subtext.

The double strategy of many regimes in response has been to try on the one hand to suppress these fundamentalist movements, and on the other hand to pay “protection money” to them – as long as they took their business elsewhere. Thus, the “internationalization” of terrorist networks (and the development of ideological support systems through Koran schools, through the Taliban, through foreign “volunteers” arriving to help fight in Dagestan, Kashmir, Kosovo, Afghanistan) was to some

degree the result of such response strategies by regimes. In some places, ethnic liberation movements have also been transformed into various kinds of universalistic armed struggles against “non-believers,” thereby providing further fuel (and recruits) for the present wave of terrorist attacks.

The September 11 events fundamentally challenged our political order not just because they represented heinous acts of violence, but also because they violated some of our most deeply ingrained understandings about the nature of politics. Nevertheless, we are neither analytically nor practically helpless. In practical terms, the sharing of information and the tracking of funds and persons have enabled some planned attacks to be prevented, though events in Bali, Saudi Arabia, Djerba and elsewhere show the record is far from satisfactory.

Experience also suggests that every uncovered, and thereby foiled, plan chips away at the image of invincibility of the terrorist. Terrorists are endowed with a mystique when they are spectacularly successful in shaking our confidence, but the mystique clearly suffers when it becomes an everyday reality that planned missions fail. Even convinced terrorists leave the movement, or begin to “sing” when they have been nabbed; their special status can be called into question by their lack of success. Time will likely lead to some internal organizational disintegration as well, because the high tension and motivation cannot be sustained forever. New recruits may also be difficult to find. But much will depend on whether we understand this challenge correctly.

In this vein, the present paper wanted to identify what the challenges to our political project were, in the belief that the first step to a successful cure is a correct diagnosis of the problem. The discussion of the Hobbesian project indicates the seriousness of the challenge, one that cannot be overcome by appeals to better communication precisely because what is lacking are aspects of a common life world that are taken for granted in every meaningful communication. The more detailed examination of the phenomena relative to the traditional vocabulary of the Laws of War indicated the

continued usefulness of that vocabulary in providing perspective and pointing to the lacunae.

Both examinations seem more useful than the conventional discourse on progress and development, which sees in this religiously inspired terrorism some atavistic reflex on the part of losers in the globalization game, a reflex that could be countered by using traditional economic and military measures. While these will obviously play a role, a reasonable counter-strategy cannot rely on the typical “carrot and stick” approach of politics as usual. The challenge is not an economic one, but is one about the meaning of life, and about a vision of the “good” that is quite different from the one of Aristotle of that of Hobbes. The challenge is also not a simply military one, because as Napoleon once so aptly put it, you can do a lot of things with bayonets, save one: you cannot sit on them!

Notes

1. For a general discussion see Holmes 1990, chap. 7.
2. See the interpretation of Pasquino (1996).
3. See Kelsen (1966: 5): “Delict and sanction are the two fundamental data of the law, which is a set of norms to which a coercive act, the sanction, is attached to a conduct.”
4. Cf. Rousseau (1967: 14): “In short each State can have as enemies only other States and not individual men.”
5. On the *sicarii*, a group of zealots who used terrorist tactics by hiding their daggers, killing people and disappearing in the crowd, as well as their role in seizing Masada and committing mass suicide when the Romans stormed that fortress, see Flavius (1989: 393ff).
6. See the discussion in Schmitt (1970).
7. See point 13 of the instructions to Atta, for a translation of the entire text see: <http://observer.guardian.co.uk/international/story/0,6903,560773,00.html>
8. See Skjelsbaek (2001: 211–238).
9. For a brief discussion of Clausewitz’s doctrine see Paret 1986: Chap 7.
10. Osama bin Laden’s Fatwa <http://www.ict.org.il/articles/fatwah.htm> (1998: 1).

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