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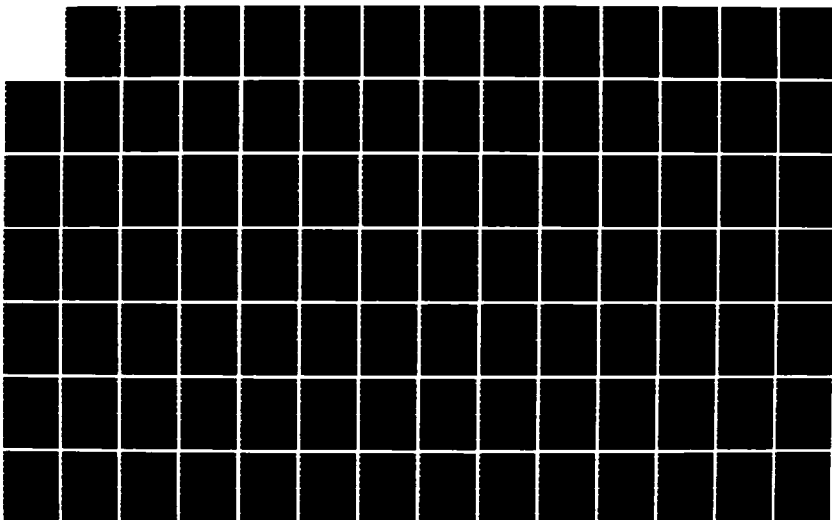
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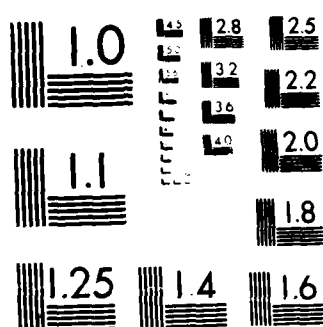
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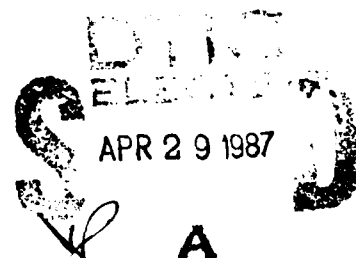
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AN ETHICAL RESPONSE TO STATE-SPONSORED TERRORISM

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Submitted 17 April 1987

Approved for public release; distribution unlimited.



A Thesis submitted to the University of North Carolina in partial fulfillment of the requirements for the degree of Master of Arts in the Department of Philosophy.

AN ETHICAL RESPONSE TO STATE-SPONSORED TERRORISM

by

Thomas Joseph Begines

A Thesis submitted to the faculty of the
University of North Carolina at Chapel Hill
in partial fulfillment of the requirements
for the degree of Master of Arts in the
Department of Philosophy



Chapel Hill

6 April 1987

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THOMAS JOSEPH BEGINES. An Ethical Response to State-Sponsored Terrorism (Under the direction of Dr. E. MAYNARD ADAMS.)

This thesis delineates the parameters of an ethical response at the national level to the use of terrorism by a de jure or de facto state. I begin by deriving a philosophically relevant definition of terrorism which focuses on the nature of such acts per se. In Chapter 2 I show how it is that different cultures can have radically dissimilar and sometimes antagonistic structures of values, some of which promote terrorism, and I argue for the notion of the moral agency of collectivities. In Chapter 3 I explore and rebut the most prominent religious and secular justifications offered for the use of terrorism. These discussions furnish the basis for my assertion of five normative principles in Chapter 4 which ought to govern morally acceptable responses to terrorism and for my delineation of proactive, passive, and active measures which constitute an ethical response to state-sponsored terrorism.

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Chapter 1

Defining Terrorism

Any deliberation of an ethical response to terrorism must begin with an understanding of what is meant by the term "terrorism". This is no easy task. Although most people have strong intuitions in this regard, as Martha Crenshaw has wryly observed, whenever political scientists and philosophers gather to discuss the issue of terrorism, the first half-day of the conference is invariably spent in the fruitless pursuit of a mutually agreeable definition of what the word "terrorism" encompasses.¹ Those with a pacifist bent are prone to regard almost any threat or act of violence as terroristic. Militarists are inclined to exclude from the definiens those acts committed as acts of "military necessity" by uniformed personnel in the pursuit of national objectives, unless those acts are clear violations of the laws of armed conflict (some of which are outdated or vague). Paul Wilkinson has noted that "the nominalists want to deny that there is any particular violence which is terrorist in nature, modus operandi, and sociopsychological effects"² and maintain that "one man's terrorist is another man's freedom fighter." Various commentators give varying or exclusive weight to different aspects of this sociopolitical phenomenon: the nature of the act per se, the intended effect, the actual effect, the status of the doer, etc.

Further complicating the issue is the fact that "terrorism" is

a highly emotive term which tends to tap deep personal biases and moral beliefs, whether subtle or pronounced, which often give a partisan shading to definitions of terrorism. This emotivity is especially apparent in public commentaries which frequently strike a note of restrained hysteria. For example, a recent article in Time averred that "terrorism has become a virtual war that pits mindless barbarism against all civilized society."³ Yet another difficulty in defining terrorism is invoked by R.G. Collingwood's observation that

the historical past, unlike the natural past, is a living past, kept alive by the act of historical thinking itself. The historical change from one way of thinking to another is not the death of the first, but its survival integrated in a new context involving the development and criticism of its own ideas. 4

In other words, our appraisal of current events leads us to reexamine and sometimes revise our understanding of past events, so that, from our increased historical perspective, we see those past events in a context unavailable (at the time) to those who performed them. For example, I am going to argue later (in Chapter 3) that the massive Allied aerial bombing attacks against German civilian population centers in the waning months of World War II were acts of terrorism. For those who directed and conducted the bombing campaign, believing the attacks to be morally justifiable, and for those who grew up in societies venerating the individuals who defeated Naziism and never questioning the tactics employed, such an allegation vies against entrenched beliefs. Yet, to define terrorism in such a way that the definition "protects" the morality of certain past events yields an unjustifiably diluted conception. To

ignore or discount the past in our present conception leaves us vulnerable to charges of inconsistency and "tu quoque" arguments.

*

Before advancing my definition of terrorism, let me briefly note why I believe finding an ethical response to terrorism is a timely and important project. First, terrorism as a sociopolitical phenomenon is increasing, seemingly inexorably, in both scale and scope. Although the criteria for compiling statistics in this area are notoriously disparate (owing largely to different definitions of terrorism), the statistics do tend to validly indicate trends. Since the inception of "modern" terrorist incidents (taking for the moment the widespread conception of paradigm terrorist acts such as international commercial air hijackings and hostage takings), what was once a novelty has escalated to the point that there were approximately 650 terrorist attacks world-wide in 1984⁵ and 800 attacks in 1985⁶ resulting in 938 deaths (in 1985).⁷ Some of this increase in scale (in both number of incidents and number of victims) is explicable in the light of a purely practical appraisal: "weapons have become more destructive, more readily obtainable, and easier to conceal,"⁸ terrorist groups have become more efficient, better organized and better trained, with better intelligence networks and with greater cooperation between terrorist groups, etc. But, contributing also to the increase in scale is the heightened perception amongst disgruntled peoples that terrorism can work to achieve sociopolitical objectives.

Whereas terrorism initially achieved prominence in only the Middle East and Mediterranean, it is now global in scope and

threatening to become more prolific in relatively untouched regions such as North America. As Edward Mikolus has noted: "Terrorism by rebel factions of every ideological hue has become the characteristic mode of conflict in our time."⁹ A major factor in this continual increase in scope is the growing perception between many terrorist groups that any blow against a Western nation is a blow for disenfranchised and repressed peoples -- they are all "allies" in a "general war". This is evident in the increasing tendency for many terrorist groups to claim responsibility for a single act or, conversely, for the group committing the act to retain anonymity and "justify" the act (via the media) in terms of a general objective (i.e. "a blow against Western imperialism").

Although relatively few people have as yet suffered directly at the hands of terrorists, the spectre of terrorism has adversely affected the quality of life and the life-plans of hundreds of millions of people and has diverted substantial portions of the energy and resources of many governments from more positive social projects. Further, although the present scale and scope of terrorism is not catastrophic, the proliferation of nuclear devices and technology and the availability of enormously lethal chemical and bacteriological agents raises the horrifying possibility that these weapons could be employed by terrorists in the near future.

Second, in the voluminous literature on the subject of dealing with terrorism, there is remarkably little attention given to ethical considerations. While there is general condemnation of terrorists, scant consideration is given to their arguments. Responses almost universally tend to focus on prudential aspects. Although these

prudential responses often incorporate an underlying moral structure, this moral basis is often tacit, or if evoked, is addressed only superficially. Even in the case of professional military officers whom one might expect to be most concerned with the ethical issues (since these individuals are required by their office to deal directly and often violently with terrorism), Geoffrey Best has ruefully remarked: "the subject <ethics> itself cuts a negligible figure in most military writing, even much of the best of it. This neglect seems to me lamentable and damaging."¹⁰ Thus, I believe my project here is well warranted.

**

Returning to the problem of defining terrorism, one uncontroversial mark of such acts is that they employ violence or the threat of violence. Further, it is generally accepted that the violence must cause or threaten serious harm to be considered terroristic (e.g. pelting a public speaker with rotten fruit minimally qualifies as assault, but few would consider such acts terroristic because of the absence of serious bodily or mental harm or the perception that serious harm was being sought). The threat of violence can be viewed in several contexts. If the threat is perceived as authentic (intended and possible), it is an offense against the security, peace of mind, and unimpeded freedom of action of those threatened. They suffer from a reasonable expectation that serious violence may be done to them. If, on the other hand, a vague or apparently insincere or impossible-to-carry-out threat is made, engendering the perception that the threat is mere rhetoric, then the violence is actually effected in this "attitude of dismissal", the issue of

whether or not a "real" threat was made becomes more complex. One could fault the victims for their lack of perspicacity if one believed they had been given sufficient reason to believe the threat was real (in terms of potential to be actualized). But the moral onus is on the threatener for failing to give his intended victims convincing grounds for perceiving the threat as real; hence, not giving them a reasonable opportunity to resolve the situation short of violence. In a similar regard, attempts at violence which fail to achieve their intended immediate effect (e.g. the bomb explodes prematurely in the bomber's hands before the concert hall is filled with people, as he intended) properly count as acts of terrorism if such an occurrence engenders the belief that the bomber intended to cause serious harm. The bomber did, in fact, create the climate of terror he desired, although he didn't commit the act of violence in the manner he had intended.

The clearest cases of terrorism are threats of violence or actualized violence against people; however, violence to things may be acts of terrorism in some instances. A militant group which conducts a bombing campaign against the physical symbols and institutions of a government (i.e. government buildings, public works, statues, etc.) with the declared intention to take every precaution against physical harm to people is, a fortiori, only minimally terroristic. However, a group which destroys the only water supply of an isolated village with the intention that this will cause serious deprivation, even death, in the populace is more substantially terroristic.

On this issue of harming people versus harming things,

Jonathan Bennett has made some salient observations on the supposed moral distinction between the direct effect and the indirect effect or between what is intended and what is foreseen.¹¹

Bennett's observations cut through much of the rhetoric often offered by both conventional military forces and para-military groups (some of them terrorist) which seeks to "justify" the death or maiming of people in an act of violence as "collateral damage" or "incidental effects". Bennet compares the mental state of a "tactical bomber" who intends to destroy (and does destroy) a factory with the indirect, but foreseeable, effect that 10,000 civilian workers are killed.

The "terror bomber" effects the same deed with the intention of killing the 10,000 civilians in the factory as a means of evoking terror in the surviving populace. It is indeed ludicrous to suggest that the tactical bomber dropping his bombs simultaneously on the factory and the civilians within is somehow only killing people "indirectly" (and this supposed distinction doesn't materialize if the deaths of the civilians are somehow separated in time from the destruction of the factory -- the deaths remain a foreseeable consequence of the act of bombing). One could contend that a moral distinction emerges in terms of what each of the bombers desires. The tactical bomber is hoping to destroy the factory, but hopes also that no civilians will be killed. The terror bomber hopes only to kill civilians and is unconcerned with the incidental destruction of the factory. Yet both bombers would not welcome the news that no civilians had been killed. To the tactical bomber, this would indicate that his hoped for objective (destruction of the factory) had not been achieved -- "his bombs had not exploded or had fallen in

open countryside."¹² The news that no civilians had been killed would likewise distress the terror bomber, because the terror he hoped to create probably hasn't been realized. Further, in Bennett's words:

It is true that the tactical bomber's wish for the civilian deaths is a reluctant one; if he could, he would destroy the factory without killing civilians. But the terror bomber too, if he could, would drop his bombs in such a way as to lower morale without killing civilians. 13

However, as E. M. Adams pointed out to me after an examination of a draft of this thesis, Bennett's perception of what each type of bomber desires or is hoping for seems to be misplaced. While our intuition is that the tactical bomber is seeking to minimize harm to civilians (ideally, to cause no harm to civilians), it is not clear that "the terror bomber too, if he could, would drop his bombs in such a way as to lower morale without killing civilians." The terror bomber is not primarily seeking to "lower morale", nor is his desire to kill civilians clearly "a reluctant one" -- his deliberate desire is to kill or harm a "sufficient" number of civilians to create an atmosphere of terror by that means. Unlike the tactical bomber, the terrorist bomber views the deaths of the civilians as essential to his purpose. E. M. Adams has clarified this distinction in these words:

Surely there is a moral difference between an intended bad effect and a known but unintended bad effect. One is guided by the intended effect, but not by the known but unintended effect. One may be faulted for not having been restrained by the known bad effect; but one is faulted for having been moved and guided by the intended bad effect. The acceptance of the known but unintended bad effect may be justified or excused far more easily than the pursuit of the immoral effect as a means to one's end. 14

In the last paragraph we entered into a labyrinthine area of ethical debate centered about issues traditionally incorporated in the "Doctrine of Double Effect". I am going to postpone further discussion in this area until Section II of Chapter 3, because I believe that I have already argued sufficiently for the relatively uncontroversial contentions that I wish to stress here: 1) that paradigm terrorist violence does harm to people (vice things) and is guided by that intent to harm people and 2) that one is morally responsible for the foreseeable consequences of one's act of violence. In the latter regard, some claims that "bad" consequences were "indirect" or "incidental" or "unintended" (in the sense discussed) ought to be viewed as spurious moral evasions. In other words, I am pointing out that we need to be on guard against the distressingly common (and hypocritical) practice of employing euphemisms to describe an act of violence in a manner intended to camouflage its actual (terroristic) nature. We need to be wary that such verbal subterfuges do not color our moral judgements.

A second necessary condition of terrorism (as I am defining it) is that it instantiates an ideological motivation, whether political or philosophical or religious. Undoubtedly, most acts of serious violence committed by people against people evoke a degree of terror in the victim(s) and witnesses, but I wish to exclude from my subject matter acts of violence in which the perpetrator is not seeking to achieve an ideological goal nor regards terror as necessary to his aims. This separates my "species" of terrorism from the acts committed by "common criminals" pursuing personal gain.

It is, of course, possible that some criminals effecting serious violence (as in the case of psychopathic "serial killers") do so precisely because they value the terror created per se. These individuals are properly denoted as terrorists, but I am simply, by fiat, excluding them from the species of terrorism which I feel has much greater societal impact and can only be addressed by national policy. Likewise, I am going to exclude from my subject matter those individuals acting alone and committing acts of violence as the self-appointed champion of some idiosyncratic ideology. Such instances of aberrant behavior are more properly the subject matter of psychiatrists and sociologists, not political philosophers. Indeed, acts of apparently pointless violence committed by individuals (e.g. the sniper in the Bell Tower) are taken as prima facie evidence of derangement; the terror ends with the death or capture of the individual and, while each incident may feed a general fear that other irrational individuals may commit similar acts in the future, it is not possible to formulate a response because the ideological basis (if any) of the possible future threats is not known.

The terrorists that I am concerned with operate in an organized and continuing manner and use violence against people (primarily) in the expectation of ultimately achieving ideological goals. The acts of violence are organized in the sense that, however much they seem to evidence a distorted morality or distorted expectations, the acts are perceived to be part of the coherent plan of some group. The threat is not expected to end with the death or capture of any individual terrorist. The violence is continual in that the expectation exists (in both the terrorists and potential

victims) that an indeterminately long campaign of violence is portended. Terrorists are mediately satisfied if each incident yields some gain -- e.g. black-mailed operating funds or the release of previously captured members of the group or publicity -- as a step towards achieving ultimate ideological goals. A characteristic mark of ideologically-motivated terrorism is that the terrorists' greatest concern is not to manipulate the attitude of their immediate victims, but to manipulate the vast "audience" witnessing each incident through the media. The terrorists' preeminent desire is (ideally) that more people recognize the validity of the terrorists' ideology or (pragmatically) that more people believe those in authority should accede to the terrorists' ideological demands.

Neither of the necessary conditions of terrorism I have proposed so far differentiates terrorism from other modes of armed conflict. After all, many groups -- uniformed soldiers, security forces, partisans, guerrillas, etc. -- commit serious violence against both people and things in the pursuit of ideological goals. However, I believe that a distinction emerges with the application of a third necessary condition; that is, that terrorism has as its deliberate and primary intention the violation of one or more of the three primary moral principles inherent in the humanitarian laws and conventions of armed conflict. In other words, it is the specific policy of the terrorist to commit acts which are intrinsically immoral in an attempt to coerce the political will of some group. It is important to note that this third condition focuses on the nature of the act per se. It says nothing about the moral worth or

justness of "the cause" or the ideological goals for which the act was committed, nor whether or not the act of terrorism is morally justifiable in some larger context (those issues are the subject matter of Chapter 3). It says nothing about an act intended to be an application of force (that is, violence within moral parameters) which goes awry so that it is terroristic in its actual effect (an issue I'll explore in Chapter 4). Returning to the point at hand, by tying the appellation "terrorist" to the nature of the act alone we negate a morally endemic tendency to focus attention on the nominal status of the doer (i.e. soldier, partisan, etc.) and to allow this nominal status to bias our judgement, rather than examining the morality or immorality of the act exclusively.

Perhaps the most explicit and ubiquitous moral principle in the laws of armed conflict is that of "discrimination". Participants in armed struggles are enjoined to respect the distinctions between combatant and non-combatant and between belligerent and non-belligerent to actualize a moral mandate to avoid harming "the innocent". Accordingly, in any armed conflict, a "protected" status is supposed to be extended over all members of countries not identified as belligerents, all civilians (especially children, the elderly, the ill, and the physically or mentally impaired) of belligerent parties, all ministers of religion, diplomatic, and medical personnel (whether in or out of uniform), and all prisoners of war and political detainees. Any act of serious violence committed by a belligerent against one or more individuals with a "protected" status is regarded as a violation of the laws of armed conflict (and the underlying moral principle of discrimination) and, if especially

severe, is termed an atrocity. Unfortunately, the principle of discrimination is not uniformly upheld in the letter of international law and several morally questionable anomalies remain, especially in the legal permissibility of area bombardment of civilian population centers. As Rambane Abane, a leader of the Front de Liberation Nationale (FLN) warring against French "colonialism" in Algeria, remarked (validly, in my estimation) in 1956:

I see hardly any difference between the girl who places a bomb in the Milk-Bar and the French aviator who bombards a mechta <suburb> or who drops napalm on a zone interdite <no fire zone>. 15

However (as I will discuss in Chapter 4), in recent decades a number of countries have voluntarily discontinued area bombing and have switched to policies of "surgical strikes" to more closely adhere to the principle of discrimination.

It is one of several sufficient conditions of terrorism that it intentionally and primarily aims at doing violence to people afforded a protected status by the humanitarian laws of armed conflict.

Terrorists recognize no rules or conventions of war and no distinction between combatants and non-combatants. They regard anyone and everyone as expendable in the interests of their cause. In the Manichean world of the terrorist no one has the right to be neutral. 16

Indeed, not only do terrorists disregard the moral distinction between combatants who may be harmed and non-combatants who ought not to be harmed, terrorists often specifically target only those individuals conventionally regarded as non-combatants. Terrorists often do violence solely to people conventionally afforded a status of immunity in an attempt to shock the sensibilities of the

target audience (thereby giving special stature in the "public consciousness" to the terrorists' deeds and demands) and to exert greater emotional leverage. As Raymond Aron has noted, "the lack of discrimination helps to spread fear, for if no one in particular is a target, then no one can be safe."¹⁷ Examples of deliberate violations of the principle of discrimination include the totally unanticipated bombing by Islamic Hizballah (Party of God) in September 1986 of the Neve Shalom synagogue in Istanbul, resulting in the death of all 22 civilian worshipers (including seven rabbis) and the threat by Islamic Resistance that same month that they would "take Israeli children all over the world as targets."¹⁸

Before leaving the discussion of the principle of discrimination, two additional points are worth remarking. First, those who advocate doctrines of "coercive warfare" and "total war" argue that the category of combatant should be widened to include some individuals who are not soldiers, but who occupy key "war jobs" in society and whose actions are significant, even essential, to a belligerent's "war effort". Some of the most frequently cited examples of "quasi-combatants" include political leaders, civilian workers in factories producing war materiel, police officers, civil defense personnel, etc. Extreme advocates of this camp would extend the scope of assailable combatants so far as to include, for example, the farmer who feeds the soldier and the civilian entertainer who raises morale. In an effort to resolve the status of "quasi-combatants" (into assailable combatant or protected non-combatant) Thomas Nagel has suggested a distinction based upon whether the quasi-combatant aids the soldier qua soldier or qua

human being.¹⁹ Hence, the politician who exhorts the soldier to fight is properly a combatant (and a morally legitimate target of violence as such), whereas the farmer who merely satisfies the soldier's human need for sustenance is not. Alternately, Jeffrie Murphy has proposed a restructuring of the category of combatant to include "all those of whom it is reasonable to believe that they are engaged in an attempt at your destruction."²⁰ Although each of these suggestions for widening the category of combatant is debatable, the debate isn't applicable to most terrorists, because most terrorists are extreme advocates of total war and simply do not recognize or respect in any degree the moral principle of discrimination manifested in the international humanitarian law of armed conflict.

As a second point, some militant groups do respect what is known as the "political code". By this code the category of combatants recognized by positive international law (i.e. exclusively military personnel, with exceptions, and partisans) is widened to embrace diplomats, politicians, and functionaries of the state.²¹ The moral rationale for including the latter groups as legitimate targets of violence is that these individuals: 1) have normally voluntarily chosen to represent the state and 2) have both the responsibility and the authority to craft the policies of the state; hence, are morally accountable for the content and implementation of those policies. Intuitively, in the case of a policy which is morally reprehensible or significantly injurious to some group, there is a degree of validity in the moral stance embodied in the political code. I am reluctant to grant that violations of the conven-

tional category of combatant which yet remain within the political code are, ipso facto, sufficient to constitute terrorism. Political assassins are not always terrorists. However, the designation "terrorist" may yet be veridically applied to groups which respect the political code if these groups intentionally aim at the violation of the other moral principles underlying international law -- proportionality and the avoidance of unnecessary suffering (sometimes called the principle of relevance).

The principle of proportionality, although not as explicit as that of discrimination in positive international law, is nonetheless as omnipresent.²² In essence, proportionality presupposes that violence and human suffering are sometimes necessary in the pursuit of ideological goals, but stresses that the "evil" done ought not to be viciously disproportionate to the "good" being sought. The obvious utilitarian thrust of this principle employs the notion that a calculus of the foreseeable "good" and "evil" entailed by an anticipated act of violence is possible and can be made with roughly commensurate results by all parties; however, the formidable challenges to consequentialist reasoning are well documented (e.g. subjectivity in appraisals, the need for a means of validly assessing cardinality, etc.).²³ Moreover (as will be discussed in Chapter 3), positive international law recognizes that the demands of "military necessity" may "excuse" some abuse of this humanitarian principle (a position I will contest). Nevertheless, even under present international law the extremely disproportionate nature of some acts of violence is so manifest that these acts are

clearly regarded as legally and morally wrong even if one grants substantial efficacy to all of the objections just raised. For example, for a military officer to command the destruction of fifty homes in order to improve the field of fire of one of his soldiers is a clear violation of the principle of proportionality -- the act commits a relatively large evil to achieve a slight military "good" which has a negligible impact on the realization of the ideological goals of the conflict. In a similar vein, some militant groups are judged to be terroristic precisely because they inflict harm and suffering which is perceived to be viciously disproportionate to the slender "good" (e.g. greater political autonomy) being sought. It is very important to note here a point which I am going to discuss at considerable length (in Section II of Chapter 3); namely, that it is always morally impermissible to do serious violence to people if the "justification" is the utilitarian one that doing this relatively "small evil" will prevent a "greater evil" or bring about a proportionately significant "good result". Again, I am only making assertions here (in the process of defining terrorism) which I will defend in Chapter 3.

Lastly, a third moral principle underlying the humanitarian laws of armed conflict is that principle which enjoins belligerents to avoid causing unnecessary harm or suffering. Acts or threats of violence may be unnecessary in at least two senses. One sense embraces the weathered notion of Hugo Grotius, often cited as "the father of international law", that an act of violence which isn't relevant to or doesn't further the aims of the conflict is *prima facie* morally unwarranted.²⁴ The violence is irrelevant in the

sense that it is seen as having no discernable impact on the achievement of the goal(s) of the conflict. For example, when terrorists blow up an airplane filled with citizens of countries W, X, and Y in an attempt to coerce country X to become more involved in the internal politics of country Z, the act excites moral outrage (in part) because the violence inflicted is not perceived to be a plausible or relevant means of bringing about the actualization of the terrorists' ideological goals.

The second sense in which an act of violence may be unnecessary is if it is futile. Although we often maintain a grudging admiration for those who opt to "go down swinging" or who make significant personal sacrifices rather than compromise their ideological stand (even when we think their goals are unrealistic), this admiration turns to opprobrium if these "voluntary martyrs" compel others to make apparently futile sacrifices. While it may be merely foolish to greatly hazard one's own life in an unrealistic pursuit of virtually or literally unattainable goals, it is immoral to compel or cause others to be harmed in that pursuit. Consider the following passage from the gospel of Luke in the New Testament:

Or if a king is about to march on another king to do battle with him, will he not sit down first and consider whether, with 10,000 men he can withstand an enemy coming against him with 20,000? If he cannot, he will send a delegation while the enemy is still at a distance, asking for terms of peace. 24

The parable is more than just an example of realpolitik or an entreaty to exercise caution in statecraft. The passage implicitly appeals to a moral injunction to avoid unnecessary violence and suffering -- unnecessary in the sense that there is scant chance of

success. The assessment is that it is futile to attempt to realize certain goals through violence. The unwillingness of terrorists to terminate campaigns of violence that are patently futile violates the second sense of this third moral principle. It is important to note that the vacillation in counter-terrorist policy evidenced by some of the "victimized" Powers is both imprudent and immoral in that such vacillations are largely responsible for generating the terrorists' perception that their efforts can succeed.

Even after excluding from my subject matter the species of "domestic" terrorism I have noted, the realm of all other terrorist activity is still too vast to allow comprehensive study in this thesis. Accordingly, I will concentrate on what Pluchinsky has classified as "state-directed terrorism"²⁶; that is, terrorism which is effected or sponsored by the members of the political structure exercising authority over a given people. Further, I shall not address in detail state terrorism directed internally (e.g. the terroristic repression of Argentine citizens by the Argentine government in the 1970s, the decade of "the disappeared"), nor debate one type of state terrorism directed externally; namely, the "balance of terror" generated by the nuclear Powers. While both of these types of state-directed terrorism are arguably as important, probably more important, than the remaining instances I will take as subject matter, those types of terrorism have already received considerable scholarly attention.

The category of state-directed terrorism with which I will be concerned encompasses the external use of terrorism (other than

nuclear) by a state to achieve ideological goals. There is abundant evidence that a number of states (especially the Soviet Union, Iran, Libya, and Syria)²⁷ are actively employing terrorist groups "to achieve strategic ends in circumstances where the use of conventional armed forces is deemed inappropriate, ineffective, or too <politically> risky or difficult."²⁸ U.S. Secretary of Defense Caspar Weinberger has declared that "terrorism is now a state-practiced activity, a method of waging war."²⁹ Indeed, the autonomous, somewhat amateurish terrorist groups of the 1960s and 1970s were severely debilitated or eradicated as established governments became increasingly more vigilant and forceful and it is difficult for an active, contemporary terrorist group to survive without the sponsorship of a state. I need to note here that I see little moral difference between a state which directs terrorist activities and a state which sponsors (knowingly makes possible) terrorist activities; therefore, I use those two terms somewhat indifferently. Further, it is almost always the case that the "price" or conditions of sponsorship by the state include substantial or total control over the sponsored group's activities. Most active terrorist groups could not continue to function without the resources -- weapons, intelligence apparatus, funding, documents, instructors, training camps, political sanctuary, media, communications, etc.-- of a directing state. Hence, a state's response to a contemporary terrorist group often entails considerations of whether or not or how to act against another state (the directing state). While forming an ethical response to an individual terrorist or terrorist group is relatively unproblematic, responding to state-directed terrorism is decidedly

more complex ethically and practically, and U.S. "policy" on the matter has been vociferous, but vague and inconsistent.

As a final point on the scope of my thesis, I have elected to concern myself with finding an ethical national (vice personal) response to state-directed terrorism because few individuals will ever be personally (physically) victimized by terrorists (and need to concern themselves with how they ought to respond), whereas many more individuals (both civilian and military) will need to respond to terrorism as representatives of a contemporary government facing a seemingly interminable problem. Summarizing my taxonomic efforts thus far, I have indicated that my subject matter will be non-nuclear, state-directed terrorism focused externally (i.e. against other states or peoples), whereas terrorism is defined as the threat, attempt, or commission of an act (or acts) of serious violence, especially against people, by an organized, ideologically-motivated group, an act (or acts) which is (are) intended to violate one or more of the moral principles (discrimination, proportionality, relevance) underlying the international humanitarian laws of armed conflict.

Before proceeding to debate a number of the specific secular and religious justifications offered by states for their use of terrorism, I will next discuss, as a means of laying a more plausible foundation for most of those justifications, the general question of "cultural relativity". This discussion will focus on how it is that some modern cultures have structures of values so diametrically opposed that a morally laudable act in one culture is condemned as immoral by another culture. Additionally (in that same chapter), I

will explore the role of culture in the inculcation of individual values and the notion of the moral agency of collectivities. All of these issues lead to important consequences that are incorporated in my comprehensive response to terrorism (see Chapter 4).

Notes - Chapter 1

¹ Martha Crenshaw quoted in "The Colby College Conference Report," Terrorism: An International Journal, 8 (1985), p.102.

² Paul Wilkinson, "The Laws of War and Terrorism," in The Morality of Terrorism: Religious and Secular Justifications, eds. Yonah Alexander and David C. Rapoport (New York: Pergamon Press, 1982), p.309.

³ George J. Church, "Targeting Gaddafi," Time, 21 April 1986, p.24.

⁴ R.G. Collingwood, "Human Nature and Human History," in The Philosophy of History, ed. Patrick Gardiner (Hong Kong: Oxford University Press, 1974; rpt. 1984), p.35.

⁵ Robin Wright, Sacred Rage: The Crusade of Modern Islam (New York: Simon & Schuster, 1985), p.18.

⁶ "Intelligent Actions," Soldiers, 41 (1986) p.54.

⁷ George J. Church, "Hitting the Source," Time, 28 April 1986, p.18.

⁸ David C. Rapoport, The Morality of Terrorism, p.xii.

⁹ Quoted in Paul Wilkinson, "The Laws of War and Terrorism," in The Morality of Terrorism, p.308.

¹⁰ Geoffrey Best, Humanity in Warfare, (New York: Columbia University Press, 1980), p.22.

¹¹ Jonathan Bennett, "Morality and Consequences," in The Ethics of War and Nuclear Deterrence, ed. James P. Sterba (Belmont, CA.: Wadsworth Publishing, 1985), pp.23-28.

¹² Bennett, p.27.

¹³ Bennett, p.27.

¹⁴ Quotation is from an informal written response 23 March 1987 by E. M. Adams after reading an earlier draft of this thesis.

¹⁵ Quoted in Alistair Horne, A Savage War of Peace (London: Macmillan, 1977), p.186.

¹⁶ Paul Wilkinson, "The Laws of War and Terrorism," p.311.

¹⁷ Raymond Aron, Peace and War (London: Wiedenfeld and Nicholson, 1966), p.233.

¹⁸ Edward W. Desmond, "Massacre in the Synagogue," Time, 15 Sep 1986, p.36.

¹⁹ Cited in Jeffrie G. Murphy, "The Killing of the Innocent," in The Ethics of War and Nuclear Deterrence, p.65.

²⁰ Jeffrie G. Murphy, p.67.

²¹ Michael Walzer, Just and Unjust Wars (New York: Basic Books, 1977), pp.197-200.

²² Editors of The Law of War and Dubious Weapons (Stockholm: Almqvist & Wiksell, 1976), pp.8,36.

²³ One recent reworking of this old and continuing discussion is in Onora O'Neill, Faces of Hunger (London: Allen & Unwin, 1986), Ch.5.

²⁴ The Law of War and Dubious Weapons, p.8.

²⁵ The Bible and Holy Scriptures Conteyned in the Olde and Newe Testament (Geneva:1560; rpt. Madison: University of Wisconsin Press, 1969), Luke 14:30-32.

²⁶ Cited in L.C. Green, "Terrorism and Its Responses," Terrorism: An International Journal, 8 (1985), p.44.

²⁷ See L.C. Green, "Terrorism and Its Responses," Terrorism ...Journal, 8 (1985), p.66; Martha Crenshaw in Terrorism...Journal, p.94; "Conference Report" of Conference on State-Sponsored Terrorism held in Washington, D.C. on 15 Jan 1985 and reported in Terrorism ...Journal, 8 (1985), pp.253-281.

²⁸ Bernard L. Stewart, Foreword to "Conference Report," Terrorism...Journal, 8 (1985), p.254.

²⁹ Quoted in George J. Church, "Hitting the Source," Time, 28 April 1986, p.23.

Chapter 2

Cultural Relativity

In order to expedite the discussion in this section I am going to assume that the state sponsoring terrorism is coextensive with a constituting culture which has a dominant structure of values which is widely accepted within that culture as valid. That is, I am now considering only those states (such as present day Iran) which have a high degree of internal moral legitimacy — the people of the state support the actions of the state because those actions are in consonance with the structure of values permeating their culture. My method of finding an ethical response to the above situation will be to: 1) define my use of the terms "state" and "culture", 2) show how it is that two cultures can have diametrically opposed structures of values, 3) examine the role of culture in the inculcation of morality in individuals, 4) examine the notions of individual and collective responsibility (to include the moral agency of collectivities), 5) propose (in Chapter 3) several universal normative standards for assessing the moral legitimacy of a given culture's structure of values, and 6) refine (also in Chapter 3) the arguments of 4) and 5) into a comprehensive policy (given in Chapter 4) for responses to state-sponsored terrorism.

★

The concept of a "culture" is not as simply defined as one might initially imagine. Further, it is sometimes tacitly or

expressly used coextensively with the term "nation", not in the sense of delineating a geographical territory, but in the sense of indicating a people with a common culture (e.g. "the Cherokee Nation"). In "Self-Government Revisited" Brian Barry quotes both Renan's definition of nation as "a grand solidarity constituted by the sentiment of sacrifices which one has made and those one is disposed to make again" and Max Weber's "a common bond of sentiment whose adequate expression would be a state of its own."¹

Barry goes on to note that nationality and ethnicity are often used interchangeably in literature in political science and political philosophy.² In The Long Revolution Raymond Williams notes three definitions of culture: 1) Fromm's "social character -- a valued system of behavior and attitudes", 2) Benedict's "selection and configuration of interests and activities....producing a distinct organization, a 'way of life'", and 3) William's own definition of culture as "a structure of feeling" in a community.³ Walzer speaks simply of a culture as "a common life" shared by a people.⁴ I will follow E.M. Adam's definition of a culture as "that structure of meaning, the spiritual soil and climate, on which people and institutions depend for their nourishment, health, and vitality."⁵ The above "working" definition of culture may be given in more philosophical terms as

fundamentally, <the> ways and means of semantically relating to and appropriating the world and secondarily the world as semantically appropriated in the shared experiences and aspirations of the people and their accumulated knowledge and wisdom.⁶

Fortunately, the term "state" is much less ambiguous in the literature and is usually taken to be that political structure which

legally exercises authority within a specified (territorial) jurisdiction. Again, for the present discussion, I am assuming a high degree of "fit" between culture and state such that the state has internal moral legitimacy.

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"Cultural relativity" is a phrase used to acknowledge the fact that structures of values and basic philosophical assumptions are culturally idiosyncratic and vary between cultures.⁷ "Cultural relativity" describes the condition wherein individuals from different cultures have different (sometimes radically and incompatibly different) understandings of the hierarchy of "fundamental" human rights and obligations. The intrinsic worth, purpose of existence, and normative activities of the individual vary with respect to the degree his culture is libertarian or totalitarian, pluralistic or monolithic, democratic or elitist or classist or racist or sexist or plutocratic, operates on principles which respect the primacy of the individual or seeks cultural utility, separates Church and State or is theocratic, is atomistic or organic, emphasizes physical welfare and materialism or spiritual values, etc.

With regard to the last distinction (physical vice spiritual welfare), consider the radical difference in the rights and obligations of the individual in a Western democracy and in some Oriental and Middle Eastern cultures. Three hundred years ago Thomas Hobbes asserted in the Leviathan what is arguably the central tenet of Western society: namely, that the fundamental "Right of Nature" accorded each individual is that of the liberty to preserve his own life.⁸ Although Western philosophers from Hobbes to the present

have disagreed about the nature and applicability of the social contract and the nature and scope of individual rights, almost all of these Western conceptions are grounded in the primacy of the physical preservation of life as both the ultimate individual right and the most important task of government. It was for this reason that the Hobbesian man in the state of nature agreed to transfer all of his rights (save the right of self-preservation) to a Sovereign.

And lastly, the motive and end for which this renouncing, and transferring of Right is introduced, is nothing else but the security of a man's person, in his life, and in the means of so preserving life, as not to be weary of it. 9

In a contemporary work on political philosophy Henry Shue argues for an entire schema of (familiar) individual rights from the premiss (apparently virtually unassailable in the Western mind) "that if there are any rights (basic or not basic) at all, there are basic rights to physical security <my emphasis>." ¹⁰ In a recent lecture on "State-Sponsored Terrorism in South America" given to an audience of North American political scientists and philosophers, the lecturer, Joseph Moran, asserted (without provoking the least disagreement) that "our Founding Fathers understood in the phrase 'life, liberty, and the pursuit of happiness' an ethical order of priority <my emphasis>." ¹¹ Indeed, all of Western culture (not just Western political conceptions) is imbued with the notion that physical life is sacrosanct -- consider the sharp battles on abortion, capital punishment, and euthanasia. All major Western religions have strong moral injunctions against suicide; that is, against actively seeking one's own death (although an individual

may passively allow himself to be martyred for the faith'. Western soldiers are obligated to hazard their lives, but not to the point that death is probable or certain (i.e. "beyond the call of duty"). Instances wherein individuals greatly hazard their lives or deliberately kill themselves (for any reason) are taken as *prima facie* evidence either of mental derangement or of an overpowering emotional bond (e.g. mothers sacrificing themselves to save their children, soldiers impulsively jumping on grenades to save their comrades, etc.), not of any cultural ideology. The notion of a cultural norm which countenances deliberately dying to further a cause or to attain an ideal is almost incomprehensible to the Western mind.

Further, this belief in the primacy of the physical over the spiritual represents a basic category shift that began in the early modern period and is now ubiquitous, pervasive, and dominant throughout Western civilization. E. M. Adams, among others, has argued persuasively that the modern (Western) man's basic conception of "the good life" is now heavily skewed "in favor of <satisfying> his wants and desires rather than his higher emotions and spiritual needs." ¹² The adoption of this conception in Western culture's basic philosophical assumptions has engendered a complete reordering of the structure of values as indicated by widespread materialism, an ingrained belief that progress is attained solely, or at least chiefly, through science (especially with regard to the standard of the physical prolongation of human life), rampant subjectivism, and what detractors have labeled "the cult of individualism". This structure of values has motivated tremendous achieve-

ments in terms of material gain and physical progress, but has also fostered massive philosophical perplexities. Again quoting Adams, "the materialistic values of our culture prove to be fool's gold. Our higher moral and spiritual values have eroded." ¹³ We now embrace a "naturalistic view of experience, thought, and reality" that maintains that reality is to be grasped solely through "the empirical scientific method" without any recourse to theology or philosophy. ¹⁴

Although such a world-view has dispelled many of the superstitions and ideological absurdities that had previously belabored Western culture, it has also disallowed many of the cherished humanistic beliefs "that nourished our loves and hopes and sustained our higher emotions and life-morale." ¹⁵ Since the basic philosophical assumptions of the culture were now that physicalism and materialism ought to be the pinnacle values and that empirical science and naturalism furnished the only epistemically valid access to reality, not only were humanistic values relegated to an inferior status, but worse, since the intrinsic "correctness" of humanistic values was "unverifiable", the state no longer had the "moral right" to promote a certain structure of values. Thus, only the individual could properly (subjectively) interpret and select his or her humanistic values. Should the social order attempt to promote a single structure of values, it became a "power structure imposing its will on society and cloaking its naked power with 'legitimacy' and 'respectability'." ¹⁶ However, such deep and radical insistence on the absolute autonomy of individual value judgements (in an ontological void)

severed man's affective and conative life and the value dimension of culture from their ontological foundations, and set them loose in subjectivity without ontological support or a unifying theory. 17

Indeed, the basic philosophical assumptions of Western culture so neglect humanistic values in favor of physical values that the widespread "spiritual malaise" ¹⁸ of the individual is a dominant theme in Western academic and artistic works.

In contrast to the (Western) structure of values just discussed, there are cultures in the Orient and Middle East which appraise Western values as being seriously wrong. These cultures stress humanistic values and the attainment of spiritual welfare, even at the expense of physical welfare, to a degree which Westerners find unfathomable. I am going to maintain that many of the acts judged to be terroristic by the Western structure of values are viewed as morally permissible, even laudable, when viewed by a culture which prioritizes spiritual values.

As a relatively recent example of a culture committed to the primacy of spiritual values, consider the Japanese people during World War II. The war was justified to the Japanese people as an effort to actualize "Hakko Ichiu" -- the belief that the Japanese people were divinely destined to rule the world. ¹⁹ Almost all of the millions of Japanese who bore arms in the war were not professional soldiers, but conscriptees from all walks of Japanese society, yet these individuals routinely fought with a suicidal disregard for their physical welfare whenever required by their leaders. In hundreds of infamous "banzai charges" throughout the Pacific theatre of

war, hundreds of thousands of Japanese showed their complete willingness to inescapably sacrifice their lives to reaffirm the values of their culture, values which gave priority to spiritual needs. Typical of such actions was the battle for the island of Attu in the Aleutians in May 1943. In seventeen days of combat the Japanese garrison had suffered 1600 casualties out of an original force of 2600 men, was surrounded by a force of 11,000 Americans, and had no hope of either retreat or reinforcement. By Western standards the defense had been heroic and the survivors perfectly justified in surrendering. Instead, the Japanese colonel in command asked the thousand survivors "to die for the Empire". On 28 May 1943

the sick and wounded who were unable to take part in the last charge were all killed....either shot in the back of the head or given powerful injections of barbituates.... At dawn <after repeated attacks against the American positions during the night> the surviving Japanese, numbering about 500....began committing suicide....Except for a handful of severely wounded men who were captured alive, the entire Japanese garrison on Attu perished. 20

The Japanese Imperial Navy and Air Force embraced the same philosophy of sacrificing the physical to attain the spiritual. The first instances of suicidal aerial attacks were inspired by individual decisions in the heat of combat; however, by 1944, with the Japan homeland in danger, entire air units were volunteering en masse for kamikaze attack. Often, as in the case of Commander Tamai of the 201st Air Group (Leyte, June 1944), the unit commanders volunteered the men of their units without their prior consent — in Tamai's unit, as in almost all others, all assigned personnel honored the commitment. ²¹ Indeed, although the numbers of volunteers never faltered, by May 1945 the lack of even marginally-

trained pilots was so acute that "Army pilots were assigned to suicide units without having volunteered" and entire Army aviation units were redesignated as suicide squadrons. Yet even in these conscripted "Tokubetsu Units", individual refusal to perform as a kamikaze was extremely rare.²² What is important to note is that "the principle of combat without survival, of sublime effort....was a permanent norm <my emphasis> that went into effect whenever circumstances required it. For most Japanese combatants it was an automatic reaction."²³ Throughout the war one Japanese soldier was assumed to be as brave as the next in terms of making physical sacrifices and no living Japanese soldier was ever decorated or promoted for bravery.²⁴ Further, the affirmation of spiritual values, coupled with a deliberate disregard for physical welfare was evidenced not only by the millions of civilians-turned-soldiers, but within the Japanese culture as a whole.

Although contemporary Japanese culture has to a certain extent embraced Western cultural values, a number of Third World cultures still retain a structure of values which gives priority to the spiritual²⁵, and more and more "emerging nations" are specifically rejecting Western values as an undesirable legacy of colonialism. The most virulent rejections occur in such revisionist regimes as the present Iranian theocracy. The prioritization of the spiritual over the physical in modern Iranian culture is every bit as pervasive as that instantiated by the Japanese in World War II. For example, over 500,000 Iranians have died or been severely wounded in the six year old religious war against Sunni Iraq. The constant theme of the struggle is that superior Shi'a faith will

eventually overcome superior Iraqi firepower and Iranians are enjoined to remember Sura 3, verse 170 of the Quran: "Do not count those who are slain in the cause of Allah, as dead." ²⁶ The casualties include tens of thousands of Iranians known as "baseeji" — individuals, many of them teenagers, who have specifically volunteered (with the blessings of their families and culture) for martyrdom. These "baseeji" wear "red bandanas painted with Koranic scriptures tied around their foreheads" or white headbands "to signify the embracing of death" and lead attacks against the Iraqis shouting "Shaheed, shaheed" ("Martyr, martyr"). ²⁷ In 1984, Mohammed Taki Moudarrissi, leader of the Islamic Amal (a terrorist organization operating out of Iran and Lebanon), stated: "I can in one week assemble five hundred faithful ready to throw themselves into suicide operations." ²⁸ Robin Wright has described the conflict in structures of value in these terms:

They truly live in a different world, their thinking totally alien and incomprehensible to the Western mind. We keep thinking they will come to their senses and realize this foolishness will cost them their one and only life. What is hard for us to fathom is that this is what life is all about to them, a gateway to heaven that must be earned. ²⁹

Additionally, the rejection of the Western structure of values is itself an important cultural value to the Iranians. The Ayatollah Khomeini, the temporal and spiritual leader of both Iran and Shia Islam, has said: "I hope other Islamic countries which are bound by worldly values....will rid themselves of these bonds and join their Iranian brothers in this great crusade, so that they can become victorious in their fight against the superpowers." ³⁰ In the same vein the Ayatollah Khomeini has often stressed that the

Iranian theocracy "fears neither economic boycott nor military intervention. What we fear is cultural dependence and imperialist universities." 31

It is important to note that this belief in the struggle to assert the spiritual over the physical is not instantiated solely on the conventional battlefield and within the borders of Iran, but is a struggle unbounded by geography or means:

to these Shi'a fundamentalists, sacrifice in defense of the faith was not suicide, just as bombings and assassinations were never seen as terrorism....Terrorism became honorable in the war against Satan. 32

Crudely put, once an individual has decided that his physical welfare is immaterial and secondary to his spiritual welfare, your physical welfare becomes unimportant to him. Indeed, emphasis on physical welfare becomes contemptuous, even immoral, in his eyes. To a devout Shi'a the ultimate right is to seek spiritual salvation and the ultimate duty is to secure those spiritual values for yourself and the other members of Islam. There is ample historical and contemporary evidence of cultures deeply committed to a structure of values which prioritizes the spiritual welfare of individuals over their physical welfare.

Next, we turn to the discussion of the role of culture in the inculcation of values in the individual. E.M. Adams' observation that the fundamental responsibility of the office of personhood is "to define and to live a life of one's own that will pass muster under rational and moral criticism" 33 seems intuitively to be both valid and normatively applicable to all individuals in all cultures.

A more controversial issue is how it is that individuals develop the ability to fulfill this responsibility. The degree of (a) man's need for society with other men for his physical and mental well-being and development has been debated since the earliest days of philosophy in terms of the notion of self-sufficiency ("autarkeia" to the Greek philosophers). ³⁴ Presently, all but a handful of vehement atomists and libertarian anarchists acknowledge, in the words of Charles Taylor in his work entitled "Atomism",

that living in society is a necessary condition for the development of rationality, in some sense of this property, or of becoming a moral agent in the full sense of the term, or of becoming a fully responsible, autonomous being. ³⁵

In a similar vein E.M. Adams has noted that man is a spiritual being dependent upon culture for the full realization of his selfhood:

Without language and symbols to deepen and to structure his subjectivity, without beliefs, myths, and theories to organize his consciousness into a unity and to form an image of the self and the world, one would not be an "I", a person, capable of moral, religious, and artistic experiences and intellectual thought. ³⁶

Indeed, the Hobbesian man alone in the state of nature had no sense of morality, no "notions of Right and Wrong, Justice and Injustice" until he entered a civil order. ³⁷ This extreme contention has not disappeared under additional scrutiny. Michael Sandel has recently argued that

to imagine a person incapable of constitutive attachments such as these <cultural attachments> is not to conceive an ideally free and rational agent, but to imagine a person wholly <my emphasis> without character, without moral depth. ³⁸

Later in his article entitled "Atomism", while discussing the

issue of individual rights and obligations, Taylor admits that he knows of no "knockdown argument" which settles the issue of how it is that we can assert the primacy of individual rights over our obligations to society when it is only through our association with society that we develop the "distinctively human capabilities" which allow us to exercise (indeed, to become aware of) our rights as individuals.³⁹ Thus, in this logical entailment of rights and responsibilities, the culture as a whole bears some responsibility in developing the individual's sense of responsibility and of affording him the rights which allow him to fulfill his responsibilities, especially that of defining and living a worthy life.

This last assertion brings us to the topic of individual versus collective (cultural) responsibility for the inculcation of a structure of values in a person. Critical to formulating an ethical response to state-sponsored terrorism is an apportionment of responsibility for the terrorist act between the terrorist(s) actually committing the act, the state functionary(s) instigating or at least abetting the act, and the culture which to some degree imparted the terrorist's and the functionary's sense of morality and keeps the functionary in office. At one extreme is the strong conception that, ultimately, an individual is fully responsible for his structure of values and the voluntary personal conduct engendered by those values. At the other extreme is the notion that an individual is wholly or largely "the product of his environment"; therefore, the culture bears responsibility for the morality of individuals, especially those individuals who act in accordance with the moral norms of the culture.

To illustrate more clearly the parameters of the moral dilemma posed above, consider my adaptation of a situation posed by E.M. Adams in Philosophy and the Modern Mind:

A young Iranian Shi'ite is on trial in an American court for an act, clearly terroristic (to Westerners), which he admits committing. His lawyer argues that since childhood the defendant has been incessantly indoctrinated with the (distorted) ethics of the Shi'a theocracy. The defendant has been sociologically and psychologically conditioned by his culture to act as he did. He never had any opportunity to pursue a liberal education or to be exposed to another (less harsh) structure of values. For these reasons, he should not be held morally responsible for his act. Indeed, his culture is to blame and perhaps even those states which knowingly allowed his (distorted) culture to flourish. "Whereupon the defendant stands up in court and repudiates his attorney, saying: 'The court may find me guilty of the charge and execute me, but, if my attorney is correct, I am blotted out entirely; I never was.'" 40

Morality and law ideally go hand-in-hand and Hugo Grotius, often cited as "the father of international law", took as a normative principle in his codifications that the individual conscience was the supreme judge of all conduct; hence, the individual was properly accountable for (his) violations of international law, even when he was acting in the interests of or at the behest of the state. 41 This trend has continued in international law via two distinct rationales. The first is that individuals have moral obligations to humanity which are superior to any obligations to their culture. The 1946 Nuremburg Charter clearly professed "that individuals have international duties which transcend the national obligations of obedience imposed by the individual state." 42 Taken in abstract, the first rationale is morally unassailable; however, a second rationale is needed to judge culpability in individual cases. As stated in Principle IV of "The Principles of International Law

Recognized in the Charter of the Nuremburg Tribunal" (ratified by the United Nations General Assembly in June and July 1959) this rationale is:

the fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him <my emphasis>. 43

The "possibility of a moral choice" may be interpreted in two ways. The first interpretation is that the demands of "military necessity" were such that there was no real possibility of accomplishing the military mission while respecting (some, most, or all) moral considerations. I will discuss the implications of this interpretation at length in Section 1 of Chapter 3. The second interpretation is that the individual didn't make a moral choice, either because he was simply unaware of the facts of the situation (that is, if he had known the facts, he would have acted morally) or because he was incapable (because of his training, cultural upbringing, indoctrination, etc.) of respecting or even recognizing the moral principles underlying present (largely Western) conventions of armed conflict (i.e. discrimination, proportionality, relevance) inherent in the situation. The first possibility indicated in the second interpretation is philosophically irrelevant to the present discussion which is concerned with ethics, not epistemology. The second possibility leads us to consider the issue of cultural culpability. Consider the words of P.L. Lavrov, a late 19th century Russian social activist, anti-Czarist, and member of the Naraya Volya (the "People's Will" party), words he penned in an essay entitled "The Social Revolution and the Tasks of Morality":

Always and everywhere a man lacking consciousness is a man without morality, a man who does not develop within himself the distinguishing marks of humanity. Always and everywhere, a man who cannot critically examine his views, who has become rigidly dogmatic, has a distorted morality which degrades man's honor. 44

One reading of the passage seems to affirm the first extreme which requires that the individual be held fully accountable for his lack of (appropriate) morality, because he has not developed his capacity for reflective self-criticism of his structure of values and has instead "become rigidly dogmatic". Reading the passage in a different light, one might plausibly fault the entire culture which did not afford the individual the opportunity "to develop within himself the distinguishing marks of humanity" (ie. a culture which either neglected moral education or inculcated only one dogma). Indeed, even John Stuart Mill, champion of individualism though he was, affirmed that were society to allow

any considerable number of its members to grow up.... mere <intellectual> children, incapable of being acted on by rational consideration of distant motives, society <my emphasis> has itself to blame for the consequences. 45

(Again, in this discussion, I am assuming a tight "fit" between the culture and the state, with the notion of "society" contained between the two.) Worse than the case of cultural neglect; however, is the case of non-pluralistic cultures such as the Iranian theocracy which strongly promote adherence to a single rigid orthodoxy. Note that this case is unlike that of a totalitarian regime which attempts to mold individuals and the culture as a whole to fit the "new" social order ⁴⁶ and hence, can be said to lack "internal moral legitimacy" or "consent". In the case of totali-

tarian regimes, the functionaries of the state are surely culpable, but the culture as a whole may not be.

In the case relevant to my point, that is, the case of authoritarian or fundamentalist states, the culture is in moral symbiosis with the state. Consider what Charles Peirce described as "the method of authority for fixing belief", a method which has

from the earliest times, been one of the chief means of upholding 'correct' theological and political doctrines, and of preserving their universal or catholic character.... Let an institution be created which shall have for its object to keep correct doctrines before the attention of the people, to reiterate them perpetually, and to teach them to the young; having at the same time power to prevent contrary doctrines from being taught, advocated, or expressed. Let all possible causes of a change of mind be removed from men's apprehensions. Let them be kept ignorant, lest they should learn of some reason to think otherwise than they do. Let their passions be enlisted, so that they may regard private and unusual opinions with hatred and horror. Then, let all men who reject the established belief be terrified into silence. 47

It is altogether too much to contend that the individual alone ought to be held fully culpable for not recognizing the immorality of some or all of a culturally-ingrained structure of values, especially in the case of a strongly non-pluralistic, authoritarian culture. Indeed, I believe that collectivities (i.e. "the culture" and "the state" of that culture) ought to be held morally accountable (under conditions which I have not yet specified) for certain types of immoral actions committed by individuals.

In order to make my contention more plausible still, I need to furnish an argument for the moral agency of collectivities. At the outset I need to remark again that I am assuming the case wherein: 1) the morality and actions of the individual (whether terrorist or state functionary) are in consonance with the structure of

values of the culture and 2) the state and culture are in moral symbiosis. To the extent that either relationship -- individual to culture, culture to state -- is incompatible, my arguments for moral agency lose force. It should also be noted at the outset that some political philosophers have found the entire notion of the moral agency of collectivities to be vague. In the words of Charles Beitz:

....it is difficult to know what to make of the idea of the state as a moral being....after all, states qua states do not think or will or act in pursuit of ends....Unless some independent sense can be given to the idea of the state as a moral agent, this view cannot be very persuasive. 48

One argument for the moral agency of collectivities is suggested by Onora O'Neill's premiss that "the agency of institutions....<is explicable> in terms of the categories and principles that constitute their charter and mandate." 49 These constituting principles delineate the structure of values, the normative functions, and the moral imperatives which both mandate and set limits on the actions of the collectivity as a whole. Thus, certain corporate actions are proscribed because they "exceed the charter" and certain actions are prescribed "as required by the charter". These actions (or the avoidance of actions) as well as the charter itself are subject to the rational and moral appraisal of individuals, both within the collectivity and in other collectivities. Even if the charter is unwritten, as the members of the collectivity act in the public realm as representatives of the collectivity, the collectivity manifests a definite "moral character". Thus, we attribute a moral character and a normative moral agency to a collectivity based upon its constituting charter and the conduct over time of the indi-

viduals representing that collectivity. It makes sense to speak of the principles and actions of collectivities as moral or immoral. For example, one can say that "South Africa is an ethically corrupt state" (because its constitution compels apartheid) or that "the Soviet Union acted immorally when it invaded Afghanistan."

A second argument for the notion of the moral agency of collectivities is based upon the observation that states are an aggregation of many individual office holders, all of whom are legally and morally obligated to fulfill the responsibilities of the office. Individuals who fail to fulfill the responsibilities of their social office or who claim or retain unauthorized power as office holders are soon replaced (in a viable society) by individuals who do meet requirements.⁵⁰ If the society is viable, this is prima facie evidence that the aggregate responsibilities of the state are largely being fulfilled. This steady and continued effort by all of the office holders of the state (taken as a whole) constitutes a monolithic inertial force which may properly be regarded as "moral agency". Further, office holders in the state exercise a "moral authority" which allows them to commit others to action.⁵¹ For example, it is the function of congresses, parliaments, synods, etc. to collectively make decisions which direct courses of action for the society as a whole. Such decisions often entail moral assessments and when actioned, indicate the moral standpoint of the collectivity. If the state enjoys internal moral legitimacy, individuals normally defer to and implement the decisions of the state; hence, the collectivity exercises moral agency.

A third argument for the moral agency of collectivities is

predicated on Charles Taylor's observation that

since the free individual can only maintain his identity within a society/culture of a certain kind, he has to be concerned about the shape of this society/culture as a whole....It is important to him that certain activities and institutions flourish in society. It is important to him what the moral tone of the whole society is.... 52

Not only does an individual normatively feel a compelling responsibility to define and live a worthy life, but he is deeply committed to building and maintaining cultural institutions which protect and actualize his pursuit of the worthy life he has defined for himself (and normally recommends to others in his and future generations). If the state has "internal moral legitimacy" or, in some sense, the consent or approval of the governed, then it is indeed a "moral being" which manifests the ethical structure of the culture which designed and perpetuates it. Thus, we can speak intelligibly of the state as "the moral arm and voice of the people."⁵³ I believe the arguments just given are sufficient to furnish a plausible notion of the moral agency of collectivities. This notion is critical to my contentions (in Chapter 4) that a people ought (under certain conditions) to be held morally and practically accountable for their state's sponsorship of terrorism.

In summary, I have argued that two viable cultures can differ radically in the structure of values they embrace. I have indicated that the hierarchy of values in Western civilization is predicated upon the physical welfare and material enrichment of the individual as the summum bonum of culture, whereas certain Oriental and Middle Eastern cultures afford supremacy to spiritual

welfare in their structure of values. I have indicated that this conflict in values is the *raison d'être* of much of contemporary state-sponsored terrorism. I examined the role of culture in the inculcation of values in individuals and contended that, in the case of an authoritarian culture with a high degree of internal moral legitimacy, the culture ought properly to be held responsible (to some degree and under conditions I have not yet fully specified) for the terrorist actions of individuals. This last contention was buttressed by my account of the moral agency of collectivities. Having argued (plausibly I hope) that some cultures in non-Western countries maintain hierarchies of values that allow certain acts, nominally terroristic by Western standards, to be viewed as morally acceptable, I now turn to the debate of a number of specific secular and religious justifications offered for the use of terrorism by states.

Notes - Chapter 2

¹ Brian Barry, "Self-Government Revisited," in The Nature of Political Theory, eds. David Miller and Larry Siedentop (New York: Clarendon Press, 1983), p.136.

² Barry, p.138.

³ Quoted in Raymond Williams, The Long Revolution (New York: Harper Torchbooks, 1966), pp.47-48.

⁴ Michael Walzer, Just and Unjust Wars (New York: Basic Books, 1977), pp.55-58.

⁵ E. Maynard Adams, Philosophy and the Modern Mind (Chapel Hill, N.C.: 1975; rpt. Lanham, M.D.: University Press of America, 1985), p.3.

⁶ Adams, p.7.

⁷ See Onora O'Neill, Faces of Hunger (London: Allen & Unwin, 1986), pp.38-47.

⁸ Thomas Hobbes, The Leviathan (Paris: 1651; rpt. New York: Dutton, 1973), Ch.XIV.

⁹ Hobbes, Ch.XIV.

¹⁰ Henry Shue, Basic Rights (Princeton: Princeton University Press, 1980), p.22.

¹¹ Lecture by Joseph Moran, "State-Sponsored Terrorism in South America," given at North Carolina State University, Raleigh, North Carolina, 9 October 1986.

¹² Adams, p.53.

¹³ Adams, p.28.

¹⁴ Adams, pp.32-33.

¹⁵ Adams, p.52.

¹⁶ Adams, p.37.

¹⁷ Adams, p.34.

¹⁸ Adams, p.20.

¹⁹ Bernard Millot, Divine Thunder: The Life and Death of the Kamikazes (New York: Pinnacle Books, 1972), p.13.

²⁰ Millot, p.22.

²¹ Millot, p.49.

22 Millot, p.216.

23 Millot, p.78.

24 Millot, p.16.

25 Moshe Amon, "The Unraveling of the Myth of Progress," in The Morality of Terrorism: Religious and Secular Justifications (New York: Pergamon Press, 1982), p.72., citing the paper read by Richard Arens at the Convention on Psychology and Political Violence, Terrorism, and Assassination, November 1979, at the University of Chicago, remarks: "Just recently, Indians in Paraguay who were not allowed to observe their customs and rituals refused to eat and preferred to die, as they no longer considered themselves to be men."

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27 Robin Wright, Sacred Rage: The Crusade of Modern Islam (New York: Simon & Schuster, 1985), pp.35-37.

28 Quoted in Wright, p.35.

29 Wright, p.37.

30 Quoted in Wright, p.146.

31 Quoted in Wright, p.254.

32 Wright, p.36.

33 E. Maynard Adams, "Human Rights and the Social Order," (Chapel Hill, N.C.: undated), p.7.

34 Charles Taylor, "Atomism," in Powers, Possessions and Freedom: Essays in Honour of C.B. Macpherson, ed. Alkis Kontos (Toronto: Toronto University Press, 1979), p.41.

35 Taylor, p.42.

36 Adams, Philosophy and the Modern Mind, p.8.

37 Hobbes, Ch.XIII.

38 Michael J. Sandel, Liberalism and the Limits of Justice (Cambridge: Cambridge University Press, 1982), p.172.

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40 Adams, Philosophy and the Modern Mind, pp.46-47.

41 Sydney D. Bailey, Prohibitions and Restraints in War (London, G.B.: Oxford University Press, 1972), p.34.

⁴² Editors of The Law of War and Dubious Weapons (Stockholm: Almqvist & Wiksell, 1976), p.38.

⁴³ Yehuda Melzer, Concepts of Just War (Leyden: A.W. Sijthoff, 1975), p.61.

⁴⁴ Quoted by David Rapoport, The Morality of Terrorism: Religious and Secular Justifications, p.231.

⁴⁵ John Stuart Mill, On Liberty, ed. Elizabeth Rapoport (London: 1859; rpt. Indianapolis: Hackett Publishing Company, 1978), p.80.

⁴⁶ See Adams, Philosophy and the Modern Mind, p.3.

⁴⁷ Charles S. Peirce, Philosophical Writings of Peirce, ed. Justus Buchler (New York: Dover Publications, 1955), p.13.

⁴⁸ Charles R. Beitz, Political Theory and International Relations (Princeton: Princeton University Press, 1979), p.76.

⁴⁹ O'Neill, p.35.

⁵⁰ This notion suggested by Adams, "Human Rights and the Social Order," Ch.2.

⁵¹ Adams, Philosophy and the Modern Mind, p.38.

⁵² Taylor, p.58.

⁵³ From a lecture by E. Maynard Adams for Philosophy 42: "The Ethics of Peace, War, and Defense," given at the University of North Carolina at Chapel Hill, N.C., 8 October 1985.

Chapter 3

Secular and Religious Justifications

Section I

Supreme Necessity

*

The most plausible secular justification for the "moral" use of state-sponsored terrorism is probably the claim that when it is the case that a state and its people are veridically threatened with physical destruction en masse by another state or states, the threatened state has a moral right to employ any means (including terrorism) in its fight for survival. This is the "argument of supreme necessity". The moral thrust of the argument is that, analogous to "the right of self-preservation" of the Hobbesian individual, a people have a collective right, when threatened with massive harm or even possible annihilation, to (paraphrasing Hobbes)

use <their> own power, as <they> will, for the preservation of <their> own Nature; that is to say, of <their Lives>; and consequently, of doing any thing, which in <their> own Judgement, and Reason, <they> shall conceive as the aptest means thereunto. 1

Further, according to Hobbes, when individuals enter into a Commonwealth they willingly give up a great deal of "Liberty" (personal rights or freedoms) in exchange for the physical security of the Commonwealth, but he averred that the fundamental right of self-preservation could never be renounced or transferred to another (even to a Sovereign).² An individual's forbearance in the

Commonwealth in exercising his right to do whatever was necessary to ensure his self-preservation was contingent upon the Sovereign's ability to protect. If the Sovereign failed to act to preserve the individual from serious harm or was itself attempting serious harm against the individual, the individual's right to self-preservation, normally "passive" in the Commonwealth, became "active" once again.³ Applying this point in the "individuals to states" analogy, the argument is: since there is no effective world Sovereign to protect collectivities from massive harm or even annihilation by other collectivities, each collectivity in extremis may do whatever is necessary to preserve itself from destruction.⁴ <I will expand upon this Hobbesian analogy in Section II of this chapter>.

As a recent historical example of a collectivity experiencing supreme necessity, consider the situation of the newly "created" State of Israel ("created" by United Nations Proclamation on 29 November 1947). The new state was surrounded on all land boundaries by vehemently hostile Arab states, the Israelis were outnumbered fifty million to one-half million in population, and had little or no modern or large calibre weapons (i.e. tanks, artillery, aircraft, etc.), as well as being desperately short of ammunition for the few weapons they did have, while the Arab armies and air forces were well-stocked in contemporary combat equipment and munitions. Arab political, military, and religious leaders were virtually unanimously promoting and preparing for "jihad" (Holy War) and were publically exhorting Moslems throughout the Middle East to "annihilate the Jews", to "drive them all into the sea", to "finish the work of the Germans", etc. Most Israelis, some of them

survivors of the recent Holocaust, believed that the Arab states, if victorious, would indeed massacre the Jews in Israel.⁵ After formally recognizing Israel as a de jure political entity the United Nations counselled all antagonists to maintain peace, but took no compelling action to physically protect Israel or its people. No nation sent or offered military forces to defend the new state.

Faced with this situation of "supreme necessity" the Israelis chose to employ terrorism as one of the few weapons available in their arsenal. Although Israeli terrorist groups such as the Maccabees, the Stern Gang, and the Irgun were never numerically significant compared to conventional Israeli forces (the Palmach and the Haganah), the activities of these terrorist groups had a profound psychological impact in terms of confusing, inhibiting, and even paralyzing the Arab leadership. It should be noted that the Jewish leadership had employed terrorism against both the Arab populace and the British Army in the Palestinian mandate prior to the UN proclamation creating Israel and have continued to employ terrorist tactics (largely covertly) since the 1948 "War of Liberation". One can feasibly contend that the Israelis' use of terrorism in the early years of their statehood prevented massacres of Jews at the hands of Arabs and possibly kept Israel from being destroyed as a collectivity.

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Supreme necessity constitutes the most extreme case of the general argument that jus in bello ought to be anchored in jus ad bellum. In other words, it is often claimed by states sponsoring terrorism that they are fighting for "just cause" ("cause" being

either the reason for beginning hostilities, e.g. defense of territorial integrity, or the goal of hostilities, e.g. political autonomy). It is further claimed that the justness of the cause bestows a superior legal and moral position on the "just state" such that it is justified in employing harsh means and measures against the "unjust" or even "criminal" state. As a domestic analogy to this line of argument, consider the situation wherein a thief has broken into a home and is encountered by the owner. The thief, by breaking into and entering the home, has committed an initial act which is clearly illegal and (presumably) immoral. Should the thief threaten, assault, or kill the owner, all of these acts are criminal and immoral as well. But the owner may justifiably employ violence to protect himself and his property. Further, because the owner is defending himself and his property against the criminal aggression of the thief, because the owner is "in the right" and the thief is "in the wrong", because the owner's life is potentially at risk through no fault of his own, the owner may treat the thief very harshly indeed, or even kill him, and yet remain "within his rights".

Applied at the international level, the state perceiving itself to have *jus ad bellum* cites this condition as mitigating or exonerating grounds for any violations (by them) of the *jus in bello*. Conversely, the "just" state also claims that the aggressor state's further acts of violence, especially acts which violate the laws of war, only add to its initial criminality. By this argument not only do the people of the (initially) offended state have a superior moral claim for engaging in violence (even terrorism, if necessary),

but the implication is that the people of the state committing the "criminal aggression" have forfeited their rights to full (or even any) protection against "defensive" measures or "justified" retaliation of any type. Although international law recognizes only one acceptable reason for engaging in armed conflict; namely, in response to aggression (conceived ambiguously as the "violation of the territorial integrity or political sovereignty of an independent state" ⁶), collectivities sponsoring terrorism claim both that: 1) they are actually states despite a lack of universal, formal recognition by the international community of states and 2) they have suffered or are continuing to suffer from the "aggression" of another state or states (where the notion of aggression is understood as encompassing a broader range of activities than just the two violations formally recognized under international law). In a similar vein, it is often the case that a collectivity fighting "a war of national liberation" will cite the "aggression" of the repressing state (and of the states aiding the repressing state) as the source of "just cause"; hence, a moral warrant for the use of terrorism.

Turning to the rebuttal of this argument, I believe, as Yehuda Melzer has contended in Concepts of Just War,⁷ that there are compelling reasons to deny the moral legitimacy of the claim that jus in bello ought to be anchored in jus ad bellum. Note first that it is almost always the case that both sides in an armed conflict claim "just cause". Further, it is almost always the case that both sides actually have some measure of just cause. For example, in their pursuit of national power within Germany, the

Nazis justified their use of terrorism as necessary to end "the Jewish conspiracy against Germany" (nonsense believed by many Germans), to ensure "Lebensraum" for the Aryan people (more nonsense), and to end the unfair and immoral repression of the Versailles treaty, repression intended to permanently debilitate the Germans as a people (unfortunately for world peace, a valid "just cause"). Determining which state has the "superior" just cause in a conflict is often a vague undertaking. Even if such monolithic ethical judgements could be veridically made (and accepted as valid by the belligerents), such judgements would be in terms of degrees of just cause, rather than absolutes. Hence, with each belligerent entitled to claim some measure of just cause, if this mutual jus ad bellum exonerates violations of the jus in bello, there are no moral or legal limits on "acceptable" means and methods of violence by either side in the conflict.

A second objection to the (spurious) contention that terrorism is rendered morally acceptable if the sponsoring state has jus ad bellum is more clearly seen if we return momentarily to my domestic analogy and imagine that, after having been initially surprised, the owner (mistakenly believing his life to be endangered or in a fit of pique or panic) grabbed a heavy poker from the fireplace and is now repeatedly bludgeoning the (unarmed and previously pacific) thief with it and screaming his intent to kill him -- the thief believes (veridically) that he is in mortal danger. At this point the thief is morally entitled to commit the violence necessary to protect himself -- to respond to violence with violence to effect

his self-preservation. Should the owner kill the thief, the owner's only justification for his unnecessary and disproportionate violence would be to claim that he acted "in the heat of passion" or, as an amateur, was simply mistaken in his estimation of the thief's ability and intent to kill him.

Neither of these "justifications" for the owner's overly harsh violence can be credibly applied at the international level. States (and again I am including collectivities which are de facto, but not de jure, states) have intelligence services which exist to furnish accurate appraisals of threat, as well as professional political and military or para-military organizations to administer the violence deemed necessary, and the time to consider an appropriate response to situations which are not unexpected encounters, but years or decades in the making. As K.K.V. Casey remarked, "wars frequently begin ten years before the first shot is fired."⁸ In short, I am suggesting that in conflicts between states, even violent conflicts, states (unlike individuals) ought reasonably to be expected to make dispassionate, veridical appraisals of actual harms done and actual threats posed by other collectivities. Collectivities have no excuse not to be discriminatory, proportionate, and relevant in their use of violence. Laying aside for the moment the question of whether or not supreme necessity truly furnishes sufficient justification for the use of state-sponsored terrorism, my implication here is that collectivities too often claim a situation of supreme necessity (and employ terrorism) when that situation is known by them not to actually be the case. The deliberate misrepresentation or too facile appraisal of a situation by a

collectivity as one of supreme necessity and that collectivity's subsequent use of terrorism under that justification is certainly a moral evasion — the collectivity "owes" another justification for its conduct (or, in its absence, tacitly admits the immorality of its conduct).

Unfortunately, contemporary collectivities charged with being perniciously liberal or deliberately wrong in representing a situation as one of supreme necessity (as the grounds for their use of terrorism) can point to the relatively recent historical actions of a number of established Powers and justifiably claim "tu quoque". For example, during the "life and death" struggle of World War II the Allies conducted a strategic bombing campaign against Nazi Germany. Originally restricted to the pin-point bombing of purely military targets, after the German raid on Coventry in November 1940 Allied bomber groups were instructed to begin a campaign of area bombing of German population centers.⁹ The use of the morally repulsive tactics of "total war" was "justified" by appeal to supreme necessity — a number of Allied nations had been conquered and were suffering massively under Nazi rule and the last European "bastion" (England) was greatly imperiled. However, in the early months of the last year of the war, after the Allies had forcibly regained all lost territory and had confined the remnants of the Nazi armies within Germany, the Allied leadership decided to conduct a number of "thousand plane raids", the purpose of which was to make the war "painful beyond endurance" to the German people and force them to a speedy and unconditional surrender.¹⁰ The first thousand plane raid was made against Dresden 14-16 February

1945 and was soon followed by similar raids against Hamburg and Leipzig.¹¹

Dresden was selected as the first target of this coercive effort because: 1) owing to its negligible military assets the Germans had emplaced only weak air defenses around the city (facts known to Allied planners and airmen), 2) it was "a city of exceptional historic and cultural value"¹² dear to the German national psyche, and 3) since it had hitherto been almost untouched by any violence during the war, it was known to be crowded with German refugees who had made the assumption that Dresden would continue to be spared from bombardment. The Allied bombers carried a high proportion of incendiary devices and followed standing orders to aim at the center of the city.¹³ The expected "firestorm" raged for three days and killed approximately 100,000 Germans, many of them after hideous suffering, and civilians almost without exception.¹⁴

After the war questions were raised about the supposed morality of these massive aerial attacks on cities, attacks undertaken with the primary intention of thereby creating (unbearable) terror in the German populace. In retrospect, the "justification" of supreme necessity, too facilely assumed at the time of the bombings, was seen not to have obtained — the Allies were not threatened with destruction, but were on the brink of victory (although some Allied planners had spoken vaguely of the threat that the Nazis might possibly deploy "ultimate weapons" which could wreak mass havoc and reverse the course of the war at a late hour). Attempts were also made to justify the bombings along the utilitarian rationale that the bombings were expected to shorten the war,

thereby producing a "net savings" in loss of life. <I argue extensively against the supposed validity of utilitarian arguments for the morality of terrorism in Section II of this chapter>. Paul Wilkinson has claimed that much of the "terror" occurring in large-scale wars is importantly morally different from "terrorism", because the former results from "the high intensity of conflict and the relatively large number of armed participants and sophisticated destructive weaponry....<and is therefore> essentially epiphenomenal and uncontrolled," while the latter is deliberately pursued as a policy.¹⁵ Those who produce "terror" are thus guiltless, while those who pursue "terrorism" are culpable. In other words, Wilkinson contends that we ought to expect things "to get out of hand" during large-scale modern conflicts and ought to regard acts of terror committed therein as a species of natural catastrophe. I do not believe I need to debate the deep flaws in Wilkinson's argument for his supposed distinction.

Returning to my domestic example, the thief's quandry exposes another point I wish to make contra the supposed morality of anchoring jus in bello in jus ad bellum. Initially, only the owner had just cause for the use of force. However, the owner's disproportionate and unnecessary response (i.e. attempting to kill the thief) gave the thief just cause for violence (i.e. self-preservation). Analogously, a "threatened" collectivity's mistaken or deliberate over-estimation of the actual situation as one of supreme necessity and that collectivity's terroristic response creates the situation wherein the (initially) "threatening" collectivity may now

veridically claim supreme necessity! This situation furnishes two branches of perplexity. First, if supreme necessity is taken as the strongest claim to just cause, then the most threatened collectivity has the firmest grounds (by this argument) for the "moral" use of terrorism. Unfortunately, since the status of "most threatened" collectivity could well alternate repeatedly (and interminably) between belligerents in a protracted struggle, each collectivity would alternately be entitled to violate the jus in bello until a situation of supreme necessity for the other collectivity had been created. Second, if supreme necessity is taken as the strongest claim to just cause, a collectivity (even one which had unjustly initiated a conflict) always has (by this argument) a superior moral claim (and the right to use terrorism) at the point where the (initially) "threatened" collectivity, after a successful defense, is seeking to destroy the aggressor. Noting that "military necessity" elides into "supreme necessity" under sufficient pressure, O'Brien has described this perplexity of mutual just cause in the following terms

It does seem strange that an aggressor's right to claim military necessity as an excuse increases, in effect, in proportion to the seriousness of the predicament in which he has placed himself as a result of his criminal aggression! 16

The only ethical solution to this spiral of just cause leading to alternating claims of supreme necessity is to dissipate it entirely by denying the premiss that jus in bello ought to be anchored in jus ad bellum. Instead, we ought to embrace the notion that violence which violates the moral principles (discussed in Chapter 1) of the jus in bello cannot be exonerated by appeal to just cause; indeed, such (terroristic) violence can render an enterprise initial-

ly undertaken for (valid) "just cause" immoral in its entirety. ¹⁷

It is important to note that this conclusion is ubiquitous and impartial in its application. The morality (or immorality) of an armed conflict is judged by the violence per se, not by the identities or the respective "justness" of the causes of the belligerents.

The intuitive validity of this conclusion is explicit in the following resolution made on 30 June 1970 by the General Assembly of the Organization of American States:

The political and ideological pretexts utilized as justification for these crimes <acts of terrorism> in no way mitigate their cruelty or irrationality or the ignoble nature of the means employed, and in no way remove their character as acts in violation of essential human rights. ¹⁸

I do not believe it implausible to suggest that the major reason the United States withdrew from Vietnam was because the American people as a whole came to believe that the violence of the conflict had become so disproportionate, indiscriminate, and irrelevant to the purported just cause (i.e. "freedom" for the South Vietnamese) that the morality of the whole enterprise ceased to be credible.

There is one more confusion which often leads astray those who examine the relationship of jus in bello to jus ad bellum. Just as Benthamite utilitarians believed that under the principle of utility any desire, ceteris parebus, constitutes a valid claim for satisfaction, it is sometimes maintained that a state has the moral right to act in pursuit of any "national interest" ¹⁹ -- i.e. the "reasons of State" doctrine. Just as an individual's desire may be perverse or self-destructive, so may a state's, but both individual and state, as autonomous entities, have the right of self-determination

(so the argument goes). Should two collectivities come into violent conflict, the justness of their respective causes (judged on objective merit) is often conflated with this notion that each collectivity has the right to pursue its "interests" to the best of its ability. This notion that it is just for a collectivity to be allowed (speaking familiarly, but I trust not trivially) "to give it their best shot" in the pursuit of their "interests" is the notion enlivening the principle of "military necessity", a principle which insinuates itself perniciously throughout all of the international laws of armed conflict. In other words, just as a lawyer has a moral obligation to do all that he can to win his client's case, regardless of the objective merit of that case, those entrusted with leadership of a collectivity are obligated to act in the "best interests" of that collectivity whether or not they have (objective) just cause.²⁰

Further, the principle of military necessity strongly indorses the presumption that a collectivity's leadership is obligated to prefer the lives of its people over the lives of all others.

There are several strong rebuttals to the supposed moral validity and justness of the "reasons of State" argument and the entailed principle of military necessity. I am only going to assert, rather than argue, these rebuttals here, trusting that most readers will find these assertions intuitively sound. First, as I noted in Chapter 2, even in wartime individuals have obligations to humanity as a whole which transcend their obligations to promote the interests of their collectivity if it is the case that those interests are to be pursued by means which violate the humanitarian principles incorporated in the law of war (see Chapter 1). Second, many

people find the notions that any perceived "national interest" qua "national interest" is intrinsically worthy of satisfaction and any "reason of State" qua "reason of State" is morally self-justifying to be spurious. Finally, the principle of military necessity (which is sometimes elided all too readily into supreme necessity) exists in adversarial tension with the moral principles underlying the humanitarian laws of armed conflict. Concessions to military necessity are necessarily made at the expense of humanitarian concerns and ought, for that reason alone, to be resisted and curtailed.

In conclusion, the careful reader will have noted that although I have argued against the moral validity of the general argument that jus in bello ought to be anchored in jus ad bellum, I have only impugned, but not refuted, the extreme case wherein a collectivity is using terrorism as the only (or one of the few) means available of forcibly preventing the physical destruction of the collectivity or the literal annihilation of its people. It is important to note that the violent defeat of a collectivity's political system or the mere repression of its people (short of serious and continuing harm or genocide) by another collectivity do not constitute supreme necessity. While I have been unable to produce a decisive moral argument against using terrorism in the historically rare case wherein a collectivity is veridically threatened with literal annihilation, I can only suggest that a normative culture choosing to employ terrorism in such a situation may find that it has survived the crisis physically intact, but with its ethical values diminished, in disarray, or destroyed.

Section II

Extra-legal Force

*

It is frequently claimed by some groups employing terrorism that their acts are properly viewed as the extra-legal use of force to obtain justice which would otherwise be denied. Here the claim is not the strong case of self-preservation (i.e. the claim previously discussed that the collectivity is in imminent danger of physical annihilation), but the lesser claim that an entire people has been politically disenfranchised and thus has a need to effectively redress their collective grievances. It is almost always claimed that justice for the collectivity can only be secured if the autonomy of the collectivity is recognized and respected by the international community of states. Underlying this demand for political recognition is the assertion that the people of the collectivity actually constitute a de facto state which should be affirmed de jure and allowed to function fully as a state in the international arena. For this reason, I believe this species of terrorism does fall under the aegis of state-sponsored terrorism.

Advocates of terrorism to achieve "national liberation" argue that the justness of their cause and certain aspects of international relations provide a moral warrant for the use of terrorism. Examples of such de facto "states" espousing this rationale are the Palestinian Liberation Organization (PLO), the South West Africa Peoples Organization (SWAPO), and the Irish Republican Army (IRA). I will present this justification for terrorism as fully and forcefully as possible by drawing on some familiar sources, then offer

counter-arguments refuting the moral validity of the purported justification.

First, arguing for the contention that terrorism is justified as the extra-legal use of force to obtain justice which would otherwise be denied, note that domestic law is intended to regulate the conflict between individual liberty and the authority of the state in a given society. But the international situation is importantly different from that of a viable society in two ways relevant to this discussion. First, in a well-formed society, most of the members obey the law not strictly for prudential reasons, but because they respect and agree with the morality implicit in the law. Indeed, one constituent of a viable society is a legal code that conforms to the ethical structure of that society. Individuals do not commit non-trivial violations of the law, not chiefly because they calculate that they probably wouldn't "get away with it", but because they are unwilling to violate the ethical values they recognize in themselves, their society, and the laws of that society. Further, most lawbreakers (those who are not literally anti-social) admit (at least to themselves if not to the sentencing judge) the immorality of their actions.

Terrorists and those who sponsor terrorism do not recognize the morality implicit in international law as commensurate with or superior to the morality of their society; hence, the supposed "common morality" underlying international law is not self-regulating to a terrorist. Terrorists and those who sponsor terrorism simply do not accept the cardinal moral principles (i.e. discrimination, proportionality, relevance, etc.) elemental to the

humanitarian law of armed conflict as valid, or at least do not accept them as dominant principles.

Second, in a given society the authority of the state constitutes a presumably effective, common power employed against all those who significantly harm others. Unfortunately, the notion of an effective, common authority empowered to regulate the "bad" conduct of all individuals in its realm has no counterpart when we move to the global scale. Indeed, Hobbes decried this lamentable situation three hundred years ago in the Leviathan wherein he likened the relations between states in the international arena to the condition of individuals in the state of nature. Despite the extensive debate on the appropriateness of Hobbes' analogy, I am going to support several specific points of his comparison.

Hobbes asserts that law (embodying "notions of Right and Wrong, Justice and Injustice") comes into being only upon the formation of a civil order binding all men to a common Sovereign.²¹ Hobbes presumed that: 1) since mankind would always be divided into many independent civil orders (states) and 2) since there was "no common Power" for all sovereigns to fear, it was implausible to suppose that international relations could be governed by law. As Hobbes succinctly described the situation: "Where there is no common Power to feare, there is no Law."²² It is important to note that Hobbes realized that this common power could be drawn from either "the Power of Spirits Invisible" or "the Power of those men they shall therein offend."²³ I take the phrase "the Power of Spirits Invisible" (and I believe the full passage supports this reading) to refer to the respect an individual accords to some

structure of ethical values.

Here, Hobbes has presented a characterization of the efficacy of law which I believe is entirely analogous to the present international arena. He contended that a structure of ethical values can function to regulate conduct in a society only if those values are shared by the members of that society. Indeed, individually held values which are not those of society are, in this sense, "mere Superstition" ²⁴ and if such values are significantly offensive to the societal morality and the individual instantiates those values in action, he runs afoul of the law. My claim is that different cultures, analogous to individuals in Hobbes' state of nature, have different structures of values. The efficacy of international law depends heavily upon voluntary adherence to a moral structure which is shared by many, but not all, cultures. Those cultures which inherently recognize the validity of the morality underlying international law respect the law for that reason alone; whereas those cultures having a structure of values which is importantly at odds with that of international law have only a prudential respect for it. Indeed, for such cultures, international law is seen as an instrument of unfair repression precisely because it is perceived as lacking the "correct" moral basis. In return, cultures whose structure of values places them in moral conflict with international law are often regarded as massively deranged, even barbaric. The key point here is that the moral structure underlying international law has no "proof" of its validity in the estimation of some cultures other than the empirical fact that that moral structure is accepted as valid by most of the cultures on the planet.

Third, even if a disenfranchised people accepts as valid the moral principles underlying international law, it is often claimed that the ineffectiveness of international law in the face of the transcendent need to secure justice for an entire people justifies the use of unorthodox tactics. In other words, such tactics would be immoral were it not the case that no other effective remedy was available. In truth, despite a professed advocacy of principles of justice and protection of humanitarian rights, international diplomatic and legal organizations are actually more deeply committed to the maintenance of global order and to habitual respect for the autonomy of existing de jure states. Although "liberation movements" and "freedom fighters" sometimes gain significant moral legitimacy in "the court of world opinion" to the extent that the offending state is "officially" censured or condemned by majority vote in an international body, I know of no instance wherein a state was legislated out of existence by an international body and only one instance (the creation of the State of Israel by United Nations proclamation on 29 November 1947) wherein the grievances of a disenfranchised people were rectified by international agreement. Note also in the case of Israel that the UN only "created" the State as an "official" political entity, but took no compelling action to physically protect the State's existence.

What is most significant here is that present international diplomatic and legal bodies are power structures regulated more by the dictates of prudence than by claims for real justice. Further, a disenfranchised people is so precisely because it lacks the status of statehood which would allow it to press its claims by orthodox

means in the international arena with some hope of success. Conversely, a state lacking internal moral legitimacy is still acknowledged internationally as the only representative of its people and territory until such time as it is physically deposed by internal pressures (albeit sometimes aided, usually covertly, by other states). For example, in 1979, despite the fact that the Pol Pot regime had conducted genocidal repression in Cambodia, the United Nations

voted to seat a delegation from the <externally> deposed Pol Pot government rather than the Vietnam-supported Heng Samrin regime, on the grounds that no matter how unappetizing the behavior of the former, it would be wrong to condone aggression by recognizing the latter. 25

In other words, the UN gave greater force to the principle of non-aggression (and implicitly to the principle of international "stability") than to concerns for securing justice (in the larger sense) for the (surviving) Cambodians.

Faced with the inability to secure justice through orthodox international channels, disenfranchised peoples and those with collective grievances turn to the use of violence. Since it is almost always the case that the aggrieved people is at a significant disadvantage in terms of conventional military weaponry and combat power, and often in terms of population size and economic power as well, liberation movements cite these factors as justification for the use of unorthodox (and often terroristic) tactics as the only available means of obtaining their (just) goals. In the words of Firmage, "arguments of this kind have given rise to the claim that liberation movements are above the laws of war" ²⁶ In Weberian terms this is known as an "instrument-rational attitude". ²⁷

A number of the points I have asserted in support of the contention that terrorism is morally justified as the extra-legal use of force to secure justice are incorporated in the position statement of the Indonesian representative to the United Nations in 1972. Although Mr. Joewono's remarks specifically addressed the use of terrorism by national liberation movements, his remarks would certainly be indorsed by disenfranchised peoples advocating terrorism:

A distinction should be drawn between terrorism perpetrated for personal gain and other acts of violence committed for political purposes....it must be borne in mind that certain kinds of violence were bred by oppression, injustice, and the denial of basic human rights, and the fact that whole nations were deprived of their homeland and their property. It would be unjust to expect such peoples to adhere to the same code of ethics as those who possessed more sophisticated means of advancing their interests.... Such acts are not to be classified as terrorism; on the contrary, they are to a certain extent to be regarded as anti-terrorist acts aimed at combatting a much more repulsive kind of terrorism, namely colonialism and other forms of domination. 28

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In rebuttal, I would first note that, as a whole, the arguments given above do substantiate the morality of the extralegal use of force to secure justice. Indeed, I am going to argue (in Chapter 4) that, for roughly the same reasons given above, force is sometimes an ethical response to an immoral situation — state-sponsored terrorism. It is crucial to note; however, that I am differentiating the use of force from the use of terrorism. Although both terms indicate the use of violence, I contend that usage of one or the other term to correctly indicate the morality or immorality of an act of violence has nothing to do with the identity of the doer (i.e. established state or disenfranchised people) or the justness or

unjustness of the cause or whether the motivation is for political or personal gain (Mr. Joewono's distinction), but depends purely upon the nature of the violence per se. As a starting point, consider the following Lockean observations.

Locke implicitly denies the feasibility of moral opprobrium alone as a "common power" sufficiently strong and uniform enough to effectively restrain individuals in the state of nature, because he gives almost exclusive consideration to what Hobbes called "the Power of those men they shall therein offend." In Locke's estimation, a "common power" exists even in the state of nature (i.e. in the absence of law and a single authority to enforce that law) in the fact that "every man hath a right to punish the offender, and be executioner of the law of nature."²⁹ But in order to execute the law of nature in response to a perceived offense against him, every man is obliged to be his own judge. First, he must veridically judge that he was victimized by another's knowing transgression. Second, the offended individual "so far as calm reason and conscience dictate" must judge (and exact) "what is proportionate <my emphasis> to the transgression, which is so much as may serve for reparation <for the injury suffered> and restraint <punishment as deterrent>."³⁰ The obvious objection (which Locke anticipates and addresses) is that it is unreasonable to assume that individuals can be fair and impartial judges in their own cases. Locke's answer to this objection is that even in the state of nature "if he that judges, judges amiss <and I would add, "or executes amiss"> in his own, or any other case, he is answerable for it to the rest of mankind."³¹

If we make a Hobbesian analogy and liken Locke's individuals in a state of nature to present states or collectivities, Locke's moral imperative (veridical judgement, proportionate response) do not seem to lose any potency, although our intuitions of their soundness are tempered by concerns that they are prone to the loss of moral purity under actual application at the international level. However, prudential concerns aside for the moment, the important point is that I strongly embrace the moral imperatives which Locke posits to govern the use of violence as part of my full program for an ethical response to terrorism. <I give that full program in Chapter 4 as a comprehensive response to all of the justifications for terrorism given in Chapter 3>. Here, so as not to be redundant later, I am only going to sketch that part of the full ethical response which specifically addresses the (ill-founded) contention that terrorism is moral when used to secure justice which would otherwise be unobtainable.

First, applied at the international level, "veridical judgement" of the transgression means that the harm (disenfranchisement or terrorist acts) is actual and significant, was intended by a collectivity, and the collectivity responsible has been correctly identified. Obviously, a collectivity's judgement that the several criteria which indicate a "transgression" have been sufficiently fulfilled by another collectivity so that reparation and/or punishment is warranted is a judgement fraught with complexities. I will only note several points briefly here. Just as Locke's individual who judges "is answerable for it <for its correctness> to the rest of mankind," the degree of veracity of a collectivity's judgement is

appraised by other collectivities. If a state sponsors or commits an act or acts of violence in response to a perceived transgression by another collectivity and this judgement is widely held to be in error (ie. an actual, significant, intended harm was not done to the "responding" state), then the response is terroristic, because (as I contended in Chapter 1) it violates the principle of relevance — unnecessary harm was inflicted. If an injured collectivity (i.e. the victim of a real transgression) erroneously identifies and punishes the wrong "responsible" collectivity, this is a gross violation of the principle of discrimination. Second, any use of violence which is intended to violate the principle of proportionality (which Locke seemingly indorses in the passage just quoted) is properly termed terrorism. The use of violence and the causing of harm or suffering ought not be disproportionate to the grievance being redressed or to the harm or suffering it is intended to allay. For example, it would be disproportionate (hence terroristic) for one state to respond to the shoot-down of one of its military aircraft by bombing every airfield in the offending state. The thrust of the argument here (given more fully in Chapter 4) is that a violent response motivated by a false or mistaken judgement of one or more of the several criteria of a "real transgression" violates one or more of the three moral principles given in Chapter 1; hence, such an unwarranted "response" is an act of terrorism.

A second argument contra justifying terrorism as the extra-legal use of force to secure justice is predicated on the observation that it is ludicrous to assert that one may violate individual

rights in a significant way (i.e. death, maiming, confinement, etc) to secure individual rights. Alfred Louch poses the contradiction in the following words: "by what twisted reasoning can it be supposed that the exploitation of persons will succeed in stating a message about exploitation?"³² At best, collectivities sponsoring terrorism could assert some utilitarian theme (as apparently underlies Mr. Joewono's comments) to the effect that it is better to do a "small evil" (let's say the killing of twenty people to dramatize the collectivity's cause) to hopefully end a "great evil" (i.e. "the <widespread> denial of basic human rights" or "...a much more repulsive kind of terrorism, namely colonialism and other forms of domination"). This utilitarian argument may be challenged on a number of grounds (in addition to the familiar rebuttals I cited in Section I against the validity of consequentialist reasoning, ie. the problem of subjectivity in appraisals and the need for a means of assessing cardinality).

First, a long-standing response to the Dilemma of Double Effect (exemplified above) is that it is always morally wrong to intentionally do evil even when it is foreseeable that this act will prevent or terminate a greater evil. Analogously to the legal doctrine of "fruit from the poison tree", this response denies the moral viability of attaining "good" consequences as the result of a deliberate act of evil. Thomas Nagel has precisely clarified the salient moral features of the Dilemma of Double Effect in an article entitled "Agent-Relative Morality."³³ As a working example (mine, not Nagel's), consider the situation wherein there is strong reason to believe that murdering several of the five small children of a popu-

lar dictator would cause him to end his state-sponsored terrorist campaign which has killed (and presumably would otherwise continue to kill) hundreds of people — many of them children.

If one considers the situation in a detached, impersonal manner as an objective choice between two possible world-states: W_1 , the dictator's children murdered, but many other children now assured of life or W_2 , the dictator's five children safe, but many other children assured of death via his terrorist campaign, then one would choose W_1 on utilitarian or consequentialist grounds. This is the terrorists' rationale. On the other hand, if one considers the situation in a personal, immediate manner — you must be the one to kill the dictator's children if you choose W_1 — then one is normatively gripped by deontological constraints. It does not seem to matter to you that, from an objective viewpoint, you will be bringing about a balance of good over evil. What does matter in a decisive way is that you cannot bring yourself to believe that it is morally acceptable for you to intentionally kill the dictator's children. As Nagel avers: "This <agent-relative morality> presents itself as the apprehension of a truth, not just as a psychological inhibition."³⁴ This over-riding deontological constraint extends so far as to preclude you from believing it is morally acceptable for you to order others to kill the dictator's children or for you to abet such efforts or for you to allow the killings to happen (if you are in a position such that you could potentially intervene). In short, if you are in any degree responsible for bringing about W_1 (versus merely approving its existence), then the commission of the relatively "small evil" (the murder of the dictator's children) seems

decisively prohibitive. Therefore, it surely seems at least morally suspect to contend that you can regard W_1 as a morally acceptable choice (when viewed objectively or "externally"), but that, had you the personal responsibility for selecting or executing that choice, you would refuse such actions as immoral.

Nagel makes another salient observation contra the supposed moral efficacy of doing a "small evil" to bring about a "large good" (where the "good" may sometimes be the prevention of a "large evil") when he discusses the feature of "aiming" as it applies to the dilemma. The difference between aiming at a goal and producing a result knowingly

is that action intentionally aimed at a goal is guided by that goal. Whether the goal is an end in itself or only a means, action aimed at it must follow it and be prepared to adjust its pursuit if deflected by altered circumstances. Whereas an act that merely produces an effect does not follow it, is not guided by it, even if the effect is foreseen. 35

In other words, to aim at doing evil, even if this evil is undertaken solely as a means to a "greater good" consequence, is to have one's action guided by evil. For example, returning to my hypothetical situation, if our aim is to do sufficient evil to deter the dictator, then we are prepared to do whatever is necessary (e.g. kill all of his children or perhaps his wife) to create "enough" evil to achieve our overall good purpose. However, morally sound beings ought to be repelled by the prospect of "creating" evil or being guided by evil in their actions. It is surely paradoxical to claim that one can be simultaneously guided in one's actions by the desire to do evil and the desire to do good.

I would like to append a final point to Nagel's argument

contra a utilitarian solution to the Dilemma of Double Effect. My point is that the principle of proportionality appropriate to deontology seems to have everything to do with the intrinsic nature of the act and little to do with number. The normative deontological constraints do not fluctuate in force as the ratio of "evil to good" is altered. Thus, the moral prohibition against deliberately killing five children, even to save one hundred, is not destroyed or even weakened if the situation is altered so that you need kill only one child to save one hundred.

A third raft of arguments against doing a "small evil" to prevent a "great evil" (or to attain a "great good") is centered around Kant's "supreme practical principle" or "categorical imperative...to treat humanity, whether in thine own person or in that of any other, in every case as an end withal, never as means only."³⁶ I will not repeat those well-known arguments in toto, but only note the thrust of Kant's dialectic on this issue; that is, that

the ends which a rational being proposes to himself at pleasure as effects of his actions (material ends) are all only relative, for it is only their relation to the particular desires of the subject that gives them their worth. 37

"All objects of the inclinations have only a conditional worth"³⁸ -- if the inclination did not exist (or was mistaken), then their object would be without value. Accordingly, this relativity "cannot furnish principles universal and necessary for all rational beings."³⁹ However, the existence of each rational being "has in itself an absolute worth....and being an end in itself" is the source of a "categorical imperative, ie. a practical law." Therefore, rational

beings, "as objective ends, that is things whose existence is an end in itself....possessing absolute worth" ought never to be used as means (given conditional worth).⁴⁰ Terrorism is both a first and second order violation of the Kantian imperative in that terrorists use people (their immediate victims) as a means to use people (the target society) to bring about the realization of the terrorists' ultimate goals.

Section III

Cultural Necessity

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Another tangled mass of justifications for the use of terrorism is centered around the notion of "cultural necessity". Here the general contention is (recalling my discussion and definitions in Chapter 2) that the structure of values of a collectivity is being eroded, dissipated, subordinated or perverted by the foreign values of another collectivity. It is the perception of the collectivity suffering the diminution of values that real harm is being done to their people in terms of the loss or debilitation of their traditional "correct" way of life and world-view. There are many variations of the conditions of the general contention. It may be the case that the foreign values are bitterly opposed by some segments of the collectivity, yet tolerated or even welcomed by other segments. It may be that the intrusion of foreign values is regarded simply as an unwanted, but manageable influence which is leading some people within the collectivity to think or live "wrongly" or it may be seen as a significant threat to the collectivity's "cultural identity" such that the culture could suffer "death by assimilation". The influx of unwanted foreign values may be viewed as the incidental by-product of economic or other pacific exchange, not motivated by any hostility to or disregard of the collectivity's existing structure of values or it may be seen as deliberate and coercive "cultural imperialism" intended to dominate the collectivity's existing values or even to entirely eradicate and replace those values. All of these variations embrace the notion of "cultural necessity" in

the sense that the collectivity must defend itself against an unwanted inundation of foreign values if it is to retain its native structure of values.

There is a second sense of the notion which recognizes "cultural necessity" in the sense of a cultural imperative to actually institute a certain structure of values. This imperative may be limited to a collectivity's compulsion to reorganize and "purify" its own society until it conforms to the "correct" structure of values or it may be seen by a collectivity that it has an imperative in the Hegelian metaphysical sense to institute its structure of values dominantly in other collectivities. Often the two versions of the imperative are instantiated simultaneously and usually violently. In other words, it seems to be the case that a collectivity following a cultural imperative to "amend" other collectivities must first "cleanse" itself — both processes almost always "requiring" significant violence, especially if an historically rapid transformation is attempted. The most notorious recent historical example of a collectivity embracing this second sense of cultural necessity is certainly the attempt by the German people to install one "Aryan kultur" throughout a dominant "Thousand Year Reich" intended to subsume and "purify" many other collectivities. Less blatantly hostile "cultural imperatives" have still caused great harms. In the 19th century the perception of the people of the United States that it was their "manifest destiny" to expand the nation westward to the Pacific Ocean wrought massive destruction on the American Indian collectivities and their way of life, neither native peoples nor their values being accorded anything but a minimal prudential respect by

an expanding people utterly convinced of the superiority of their own structure of values.

It is important to remark clearly here that I want to make a distinction between situations wherein primarily or only the structure of values of a collectivity is being diminished or altered and situations wherein the collectivity and its people are threatened with or undergoing serious physical harm (the latter being the cases discussed in Section I of this chapter). I realize that this distinction between cultural and supreme necessity may appear somewhat academic, because the two situations often occur simultaneously and virtually inseparably. For example, certain South American and African collectivities under the worst forms of colonialism were in situations instantiating both supreme necessity and cultural necessity (in the first sense). The same condition of "twin necessity" is also exemplified historically by collectivities which actualized an imperative to violently export their structure of values (cultural necessity in the second sense) and thereby also created a situation of supreme necessity for other collectivities or for themselves. My motive in examining supreme necessity and cultural necessity as exclusive and independent situations (when in fact they often are not) is to more clearly delineate a number of separate justifications that are often lumped together. Additionally, in my taxonomy, just as supreme necessity marks the most extreme case in the spectrum of potential physical harms to a collectivity, cultural necessity (in the first sense I gave) identifies the case wherein the structure of values of a collectivity is not merely under unwanted pressure from without, but is in danger of

collapse.

An example of a contemporary collectivity which can plausibly lay claim to a situation of actual cultural necessity is the collectivity composed of exiled Palestinian Arabs. Since their exodus from Palestine after the creation of the State of Israel in 1947 this people has been forced into a nomadic and fragmented existence, dwelling in a seemingly endless series of temporary refugee camps dispersed across a number of states. There is good reason to believe that unless this diaspora is ended within the next few generations, the Palestinian Arabs will cease to exist as a distinct collectivity with their own structure of values. Ironically, it may be that the excitement and purposiveness of violent struggle against "oppression" has itself become the most crucial value in the Palestinian culture as the most effective means of combatting the enervation and loss of self-esteem which comes with a drab, pointless refugee existence. As Frantz Fanon has noted: "Violence is a purifying force. It frees the native from the inferiority complex and from despair and inaction. It makes him fearless and restores his self-respect."⁴¹

In order to debate the morality of the sponsorship of terrorism by collectivities in situations of cultural necessity, I am going to first present those justifications at length, beginning with collectivities facing some degree of cultural necessity (in the first sense) and culminating with the contentions of the Iranian theocracy (exemplifying cultural necessity in the second sense). Afterwards, I shall argue against those justifications. As an additional note on my method, when one speaks of collectivities sponsoring terrorism

to promote or maintain a structure of values, the internal terrorism of totalitarian societies comes readily to mind. As I indicated in Chapter 1, I have placed this internal terrorism outside the scope of my thesis (and will refrain from including it in the discussion here).

Most collectivities sponsoring terrorism in defense of their cultural values are not facing a situation of cultural necessity, but only that of the unwanted inundation of values from other collectivities. Some segment of the collectivity is sponsoring terrorism (sometimes with the approval of a considerable portion or all of the populace) in an effort to force people (both within the collectivity and without) to recognize and reverse the "negative" flow of values. Examples of collectivities using terrorism in an effort to halt the erosion of their structure of values include the the Darul Islam Holy War Command of Indonesia, the Eritrean Liberation Front, and the Kurds of Turkey, Iraq, and Iran.⁴² These collectivities are not usually motivated by a radical political ideology and are sometimes (at least nominally) politically autonomous, but are seeking enhanced cultural autonomy through terrorism. The largest raft of justifications for using terrorism in such a situation is bound up with some notion of the absolute primacy of the collectivity's principles and normative goals over the rights and needs of individuals (especially individuals outside of the collectivity) — an extreme espousal of the organic view of the state. Whereas most Western collectivities are deeply imbued with the concept that the state exists only or largely to protect and sustain individuals in their autonomous development, other collectivities retain the notion

that it is morally acceptable to sacrifice individuals and individual rights for the good of the collectivity. This last notion is as old as the first victim dragged to the sacrificial altar so that the gods might be appeased and the community enjoy a good harvest. Coupled with this denial of the importance of individuals' rights and needs vis-a-vis those of the collectivity is the notion that the only individuals deserving of good treatment are those who recognize this "collectivity comes first" principle -- those who demonstrate a "social consciousness" and a knowledge of and respect for the "correct" structure of values. Further, even in the not infrequent case that it is only a segment of the collectivity that is using terrorism under the above conception on behalf of the entire collectivity, it should be noted that it is only the tacit approval of the collectivity as a whole that allows the terrorists to continue to function.

In other words, if defending the collectivity's "way of life" is regarded as the ultimate and transcending end, then all morality is "transvalued" in terms of achieving this end (in Weberian terms a "value-rational appraisal").⁴³ Those who actually plan, direct or commit the acts of terrorism for the collectivity are motivated by "the notion that the People's servants carry a responsibility so awesome and sacred that they need not be bound by rules."⁴⁴ The loftiness of their end (preservation of the culture's way of life) places their actions "above the common morality". The most appropriate objects of the collectivity's terrorism are seen to be those individuals most responsible for the active promotion or even the mere presence of "foreign" values within the collectivity,

followed by all those who are apathetic or neutral to the collectivity's struggle to maintain the "correct" structure of values -- the lack of social consciousness condemns the latter. However, drawing on the organic conception of the state and the "sanctifying" transcendental nature of the end, such collectivities view all members of the collectivity influencing their values as morally legitimate targets, even those persons conventionally regarded as "the innocent" and normally afforded immunity from violence. "Depending on the context, the <terrorists'> victims become symbols, tools, animals or corrupt beings."⁴⁵

A second bundle of justifications for a collectivity's sponsorship of terrorism to defend its structure of values might best be explained by appeal to the notion of cardinality. Cardinality indicates a means of assigning strength or intensity to a want or desire. Some collectivities under "cultural seige" deliberately commit acts which violate humanitarian principles in an effort to "shock sensibilities" so that the collectivity's strength of resolve and seriousness of purpose is realized. This justification relies on the well-known paradox that, although terrorism evokes moral outrage, it often elicits moral sympathy as well and confers a sort of moral legitimacy on the collectivity's goals.⁴⁶ This paradox incorporates several "hidden" presumptions of course. One assumption is that a collectivity's goal is intrinsically worthy of realization. Another is that the collectivity unsuccessfully attempted morally acceptable means (including even the use of force) to protect its values before it resorted to terrorism. The paradoxical thought process (a strange admixture of psychology, emotion, and

cognitive reasoning) runs along the lines of "if they have found it necessary to (reluctantly, but deliberately) do that (heinous act) to indicate how intensely committed they are, then it may well be that that collectivity has indeed been greatly wronged by us or that we ought not to be interfering internally with their way of life."

This paradox is further reinforced by the classic mechanism of "guilt transfer"⁴⁷ — "if our people had not first greatly wronged their people, then they wouldn't have had to respond as they did; hence, we are culpable for 'forcing' them to commit acts of terrorism." This phenomenon of "guilt transfer" is most evident in Western collectivities which are steeped in Judeo-Christian ethics, have a strong tradition of human rights, give massive media attention to terrorist incidents, and advocate self-government (ie. the people feeling themselves to be ultimately responsible for their government's actions).⁴⁸

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This phenomenon of guilt transfer is just one symptom of several deep differences in world-view between many Western and Third World collectivities which greatly color each "camp's" appraisal of the morality of using terrorism. For example, what is often puzzling to members of Western liberal democracies imbued with the concept that the open and continuing exchange and debate of ideas is the supreme and intrinsically worthy value of a free society is the authoritarian fervor with which the peoples of some Third World collectivities uphold their "native" structure of values and the vehemence of their rejection of "foreign" values. We cannot fathom this unwillingness to compromise or sometimes even to debate

the validity of the values generating the conflict. It is important to understand the sources of this "Third World animosity", because it is sometimes manifested in acts of terrorism against Western peoples. First, I believe that in the pluralistic and individualistic West people tend to view history in the short term, with political mistakes causing harms to other collectivities being "wiped off the slate" with each change in administration, or at least with each "new" generation in power. Many Third World peoples have a more collective and long-term sense of historical responsibility and tend to hold present generations of other collectivities accountable for the acts of past generations.⁴⁹ For example, in the year 640 AD the Ethiopians gave aid to Persian refugees. In 1985 the Iranians voted aid to Ethiopia, citing Ethiopia's assistance in 640 AD as the reason!⁵⁰ Many Third World nations which gained independence in the modern era after bitter struggles against Western Powers have not forgotten or forgiven the massive injustices suffered under colonialism and the cultural humiliations of imperialism.

Second, these emergent Third World nations tend to resent a bipolar world in which they lack political, military, and economic power commensurate with nations in the "rich North". In such circumstances, some collectivities use terrorism in an attempt to force other collectivities to give at least a prudential respect to the independence and dignity of their (the terrorists') cultural values and as one of the few means available to them of off-setting the greater influence exerted by powerful collectivities.⁵¹ In a similar vein Brian Barry has noted that a number of Third World countries have

regarded it as essential....to have a national identity distinct from all others, and have insisted that the educational system stress national peculiarities, even if they are quite devoid of intrinsic value. 52

Third, again in the words of Barry:

Many people care a lot about the preservation and transmission of their culture as an end in itself <my emphasis>. They see themselves as standing in a position of trust between past and future generations. 53

Although I do not deny that this notion has some force in Western culture, it competes against concepts of pluralism and individualism which insist that each generation has the right and ought to want "to make its own way". In some Third World cultures, those which are more authoritarian and less atomistic, the preservation of unaltered cultural values is regarded not merely as a right, but as a duty owed by the present generation to past and future generations. In such fundamentalist, often revisionist, cultures it is believed that "the state should be used to preserve the culture of the nation as it has come down and transmit it to the next generation."⁵⁴

Many of the contentions I have made about terrorism being justified by some collectivities in terms of the rectitude of the organic view of society and certain other world-views are well manifested in the Iranian theocracy which is and has been sponsoring terrorism throughout the world as a "cultural necessity" (in the second sense). <Note: Since I do not introduce in this extended example any new justifications for the use of terrorism, some readers may want to skip over the next four pages to the beginning of my rebuttal>. Six months after his triumphant return to Iran to

assume the leadership of both Iran and Shi'a Islam (in 1979, after 15 years of exile), the Ayatollah Khomeini declared:

Islam will be victorious in all the countries of the world, and Islam and the teachings of the Koran will prevail all over the world. We have in reality then, no choice <my emphasis> but to destroy the systems of government that are corrupt in themselves and also entail the corruption of others, and to overthrow all treacherous, corrupt, oppressive and criminal regimes. 55

According to documenter Robin Wright, final coordination of the "offensive to cleanse the Islamic world of the 'Satanic' Western and Eastern influences" was effected at a huge meeting in Tehran in March 1982 and the Taleghani in Tehran became the headquarters of the umbrella "Council for the Islamic Revolution" exercising operational control over Shi'a terrorist groups in Bahrain, the Philippines, Kuwait, Saudi Arabia, and Lebanon. 56 Iran's continuing sponsorship of Shi'a terrorist groups throughout the world since the beginning of the modern Islamic Revolution (in 1979) is well-documented. Since the inception of their Islamic Revolution almost all of the resources (especially human resources) of the Iranian theocracy have been consumed in Iran's continuing war to forcibly annex Iraq into the fundamentalist fold, a war that has already cost Iran 500,000 in dead or severely wounded, but which has never evidenced any apparent diminution of Shi'a resolve. It is feared that once the Iranian theocracy no longer has to contend with the "distraction" of the war with Iraq (especially if Iran does, in fact, annex Iraq), Iran's sponsorship of terrorism in the pursuit of their cultural imperative will greatly increase. 57 Many in the West continue to underestimate the force of the modern Islamic Revolution and to question the sincerity of those who deny

the immorality of their use of terrorism to promote and maintain Shi'a cultural values. Consider the following facts about Shi'a culture.

All but a very small percentage of the world's 830 million to one billion Muslims are divided into two sects, Sunni (90 percent of all Muslims) and Shi'a or Shi'ite (10 percent).⁵⁸ Most of the world's Shi'a are concentrated in Iran (wherein they account for 90 percent of the population), but there are substantial Shi'a enclaves throughout the Middle East, especially in Iraq and in the Bekka region of Lebanon.⁵⁹ The deep rift between Sunni and Shi'a began in the year 680 AD after the first Imam, Hussein, and a small band of his Shi'a followers were massacred by the Caliph of the (Sunni) Umayyad dynasty near the Iraqi town of Karbala.⁶⁰ Since Karbala, significant differences between Sunni and Shi'a have become more and more pronounced and there are several aspects of Shi'a Islam which contribute greatly to their acceptance of terrorism as a morally permissible means of struggle.

First, the essence of Islam is total submission to the will of Allah -- Islam is derived from the Arabic word "aslama", meaning "surrender".⁶¹ However, whereas the orthodox Sunni separate Church and State and give only limited and provisional authority to clerics to interpret how sacred writings should be followed in particular secular matters, the Shi'a faith expressly requires the unification of Church and State in a theocracy and demands strict compliance in secular affairs with the tenets of Islam as interpreted by the mullahs and ayatollahs.⁶² Since all of the authorities of the Shi'a state are either clerics or directly empowered by the

clergy, since only the religious authorities have the moral responsibility to decide what constitutes proper conduct, and since one's duty is to submit to the will of Allah (as revealed by the authorities of the Shi'a state), then disobedience of the edicts of the authorities imperils one's soul. If the authorities within the theocracy decree that the commission of certain acts of terrorism is necessary and morally acceptable, then devout Shi'a believe themselves to be morally obligated to perform those acts without dissent and (ideally) without qualm. Indeed, Shi'a clerics can issue a "fatwa" or religious edict requiring the performance of particular acts as a religious duty.⁶³

Second, it is a tenet of the Shi'a faith that, following the example of Hussein at Karbala, they must violently oppose oppression and injustice against Islam wherever found. "Oppression" and "injustice" are seen to be any acts or values which threaten or harm the practice of the Shi'a structure of values. Political boundaries are to be ignored in the struggle to forcibly establish "true" (Shi'a) society everywhere, because under the concept of 'Dar al Islam' (the Haven of Islam) "there are no borders for true believers."⁶⁴ The modern Islamic Revolution is an expression of Shi'a rage for having suffered centuries of oppression at the hands of both Sunni and Westerners and the resulting religious obligation to prepare the world for the return of the "Imam".⁶⁵ Terrorism is justified as part of this process as a purifying process, designed to "eradicate the remnants of the physical, intellectual, and cultural influence of non-Islamic culture."⁶⁶

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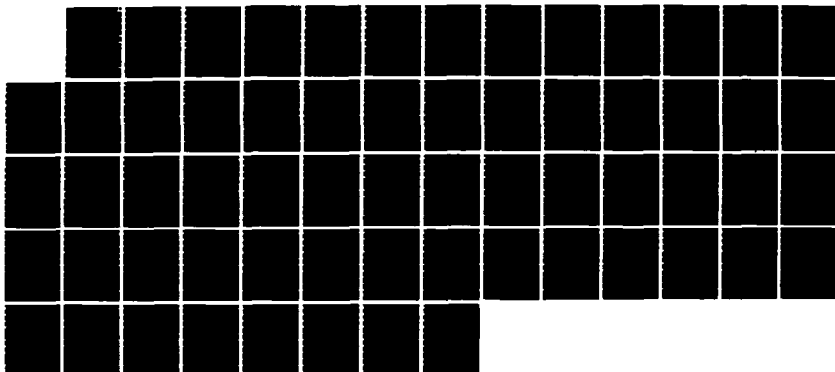
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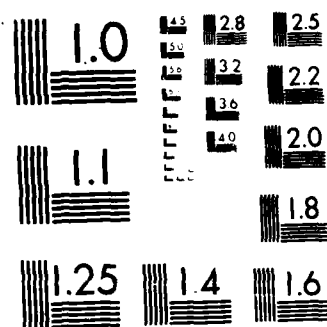
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MICROCOPY RESOLUTION TEST CHART
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Third, a belief in the nobility of redemptive suffering (with martyrdom being the greatest and most honorable expression of faith) deeply permeates Shi'a culture. This belief is rooted, again, in the example set by Hussein. Husseinieh, combined mourning houses and religious study centers which are an integral part of every Shi'a community, always have the same interior decor — graphic depiction in paintings and prose of the atrocities committed against Shi'a men, women and children at Karbala. The ten days of Ashura, the most important Shi'a religious celebration of the year, are largely spent at the Husseiniehs and culminate in thousands of local reenactments of Hussein's death wherein hundreds of thousands of Shi'a faithful publically slice themselves repeatedly with razors and knives to show empathy with Hussein's suffering and their readiness to suffer for their faith.^{67,68} Tens of thousands of the casualties of the Iran/Iraq war are "baseeji" — individuals, many of them in their early teens, who specifically volunteer (with the blessings of their families and Shi'a culture) for martyrdom and lead attacks against Iraqi positions yelling "Shaheed, shaheed" ("Martyr, martyr").⁶⁹ In 1984, Mohammed Taki Moudarrissi, leader of Islamic Amal, declared: "I can in one week assemble five hundred faithful ready to throw themselves into suicide operations."⁷⁰ In these ways and others adherents of the Shi'a faith emphasize spiritual over physical welfare to a degree which most Westerners find incomprehensible. To a devout Shi'a acts of violence (even terrorism) causing physical harms are secondary in importance to violations of the ultimate rights to seek spiritual salvation and to secure the spiritual values of the Shi'a

community. As Wright has noted,

to these Shi'a fundamentalists, sacrifice in defense of the faith was not suicide, just as bombings and assassinations were never seen as terrorism....Terrorism became honorable in the war against Satan. 71

In rebuttal, I believe there are good reasons for rejecting the general contention that the use of terrorism is morally acceptable if it is undertaken by a relatively weak collectivity to combat a massive influx of "undesirable" foreign values, especially in the extreme case of cultural necessity — the culture is threatened with "death by assimilation". My first objection is that it is morally wrong to use violence, especially terroristic violence, in what would otherwise be purely a "war of words" between collectivities. Archibald MacLeish's morally sound and classically simple response (given below) to the query "How shall freedom be defended?" applies equally well to the issue of this section; namely, "How shall a structure of values be defended"?

By arms when it is attacked by arms;

By truth when it is attacked by lies...72

The first line of the response describes a situation falling within the realm of the "arguments from supreme necessity" which I discussed in the section with that title. In that section I conceded the moral viability of a collectivity's use of violence to resist attempts by another collectivity to coercively (that is to say, violently) impose "alien" values; however, as I argued earlier, to be morally acceptable this response must be of the nature of force, not terrorism. Again, the "arguments from cultural necessity"

presented in this section concern the situations wherein a collectivity's values are being debilitated, even eradicated, by the non-coercive influence of another culture. I am going to argue that none of the justifications offered for the use of terrorism in situations of cultural necessity are persuasive.

In a situation wherein the change in a "way of life" has not been effected forcibly, but merely by contact with another culture, the alteration of the collectivity's original structure of values was the result of voluntary concessions by many individuals, most of whom we can reasonably assume to have been at least minimally mature in their judgements. Although one may claim (as terrorists often do) that the concessions or alterations in values occurred because people were not fully informed or were ignorant of the growing impact of the changes on the culture as a whole, there is no reason to believe that this claim is true or that, even if true, this widespread ignorance or self-deception furnishes sufficient justification for the use of violence, especially terrorism, to force people to refrain from promoting the "alien" values or to force them to act in accordance with the "old" values. If many people in a collectivity voluntarily change their world-view as a result of the non-coercive influence of "alien" values, then this is *prima facie* evidence that the alien values (for better or for worse) ought to be allowed to obtain.

The use of terrorism to demonstrate the intensity and resolve of some to retain the "correct" values for all, or to cause people to give special attention to certain values, or to off-set the greater influence of a more powerful collectivity (i.e. notions of

cardinality) is morally unwarranted, because it is wrong to compel people to embrace values (even "for their own good") that they would not have chosen voluntarily. The intuition behind our rejection of the use of terrorism to preserve a structure of values from the non-coercive influence of contrary or alternate values is that it is arrogance of the highest order to assume the infallibility of a particular structure of values and to use coercion to "artificially" preserve those values. As John Stuart Mill pointed out in a rightfully celebrated argument for the cultural wisdom of permitting free debate, a collectivity's assumption of infallibility in its structure of values (and its subsequent denial of the expression of dissenting opinions) does multiple injuries to the collectivity. Without the influence of dissenting values, some of which could be true or partially true, the collectivity might continue to operate by values which could be false or partially false. Even if the "foreign" values are in fact, false, the refutation by debate of these false values and the defense of the (true) "received" values cannot help but to enlighten the populace and to clarify and invigorate those values.⁷³ This observation ushers in my second objection to collectivities sponsoring terrorism as a cultural necessity (in the first sense); namely, such collectivities are viciously non-pluralistic, therefore (by the following argument) malformed.

I believe that the intrinsic value of individual autonomy in choosing, expressing, and actioning values (subject to some restrictions ⁷⁴) is a premiss so deeply and intuitively sound that it cannot plausibly be denied. Indeed, it is only by exercising our

capacity to choose and act that we become fully individual beings.

In the words of E.M. Adams:

Personhood is a natural, inalienable office, the constitutive <my emphasis> responsibility of which is to define and live a life of own's own that will pass muster under rational and moral criticism. 75

The normative function of a well-formed society is to create and maintain institutions within the collectivity which will promote and protect this autonomous individual development. Although a culture retains its identity precisely because its members maintain rough agreement on the "proper" hierarchy of values, a healthy culture should allow each individual the liberty to affirm, modify, or reject the existing structure of values and to pursue his or her self-chosen life-plan (as long as this pursuit doesn't do violence to the life-plans of others). It is only in this way that the fundamental responsibility of the office of personhood can be fulfilled and non-violent social changes effected which embody the evolving desires of the culture as a whole. E.M. Adams has argued persuasively for this thesis in The Idea of America.⁷⁶ Cultures which dictate values and which do not tolerate "deviant" life-plans or Millian "experiments in living" are authoritarian structures which attempt (unfortunately, often with objective success) to violently mold people into an all-encompassing and unchanging social order.

Third, all of the arguments from cultural necessity presuppose an organic view of the state or other notions of the primacy of the collectivity's ends over the rights and needs of individuals and those arguments are vulnerable to moral criticism on that basis. I argued extensively (and hopefully successfully) in the previous

section against the general utilitarian argument that it is morally acceptable to commit a relatively small evil (in terms of the present discussion, harming or killing individuals in acts of terrorism) in order to prevent a relatively large evil (here, debilitation or loss of many individual's "way of life"). Although certainly applicable here, I do not think it would be especially illuminating to recast those arguments in the present context. Of more value is the fresh objection that declaring the collectivity's structure of values or way of life to be a transcending end, then transvaluing all morality in terms of that end (with the result that terrorism to attain the end is found to be morally acceptable), is a deeply incoherent contention. While a well-formed society has a structure of values embodying a respect for the autonomy of the individual (as I argued above), any society, even a malformed one, must have as a core value, if it is to be minimally viable, the normative preservation of human life.⁷⁷ A collectivity sponsoring terrorism to coercively influence the outcome of a conflict in values (that is, what would otherwise be purely a "war of words") is violating what must be a core value (preservation of human life) in any particular structure of values it is seeking to assert. It makes no sense to say that the collectivity is "sacrificing" some values to "save" others, because the values being sacrificed would seem necessarily to be the most important. While even a well-formed society sometimes deliberately kills people (e.g. executes murderers) in times of peace, these acts of violence are directed only against the guilty and are a response of violence to violence. Remembering that it is the constitutive nature of terrorism to be indiscriminate in the

choice of victims or to be perversely discriminate (i.e. to target only "the innocent") and that the collectivity is responding to influence, not violence, from another collectivity, the collectivity sponsoring terrorism cannot coherently claim that it is killing people to affirm the worth of its structure of values. Collectivities sponsoring terrorism sometimes seek to escape the contradiction I have remarked by making a "we-them" distinction which avers that "our" individuals are good people deserving of life, whereas "their" individuals are "symbols, tools, animals, or corrupt beings."⁷⁸ That supposed distinction isn't worth serious debate.

Claims that the ultimate and transcending nature of certain ends (e.g. the preservation of a specific structure of values) place the means of their protection or achievement "above the common morality" are also ultimately incoherent. A single culture cannot have two species of morality — one "common", the other "sublime". This would require two separate and distinct metaphysical categories of value. What language is one to employ in each distinct universe of discourse? Further, we are given no reason to believe that these transcendental ends are intrinsically worthy of actualization other than the fact that those ends are taken to be or actually do represent the aggregated preferences and desires of the collectivity prior to the significant changes wrought by "outside" influence.

Concluding, I believe my arguments contra the various justifications for the use of terrorisms to preserve a collectivity's structure of values in the face of non-coercive "foreign" influence

(cultural necessity in the first sense) can be applied with little change and even greater effect contra the rationales for using terrorism as a cultural necessity in the second sense. Rather than summarizing all of the various religious and secular justifications for terrorism which I have presented in Chapter 3 and my response to each (a process that would probably distress the conscientious reader), I will instead highlight certain concepts derived from the discussions in Chapter 3 as "normative principles" for an ethical response to terrorism and give those principles in Section I of Chapter 4.

Notes - Chapter 3

¹ Thomas Hobbes, The Leviathan (Paris: 1651; rpt. New York: Dutton, 1973), Ch. XIV.

² Quoting the full passage from The Leviathan, Ch.XIV: "...there be some Rights, which no man can be understood by any words, or other signes, to have abandoned or transferred. As first a man cannot lay down the right of resisting them, that assault him by force, to take away his life..."

³ Hobbes, Ch.XIV.

⁴ It should be noted (as Professor B. Boxill pointed out to me) that Hobbes, of course, did not recommend a world sovereign, nor did he regard international anarchy as being as bad as domestic anarchy.

⁵ Leon Uris, Exodus (New York: Bantam, 1958), Book 4, Ch.2. As Mr. Uris notes in the preface, although many of the characters in his book are fictional, the events depicted are largely a matter of history and public record; specifically, his description (which I cite) of the physical situation and political and ethnic climate in Palestine in November 1947 is factually correct.

⁶ Michael Walzer, Just and Unjust Wars (New York: Basic Books, 1977), p.52.

⁷ Yehuda Melzer, Concepts of Just War (Leyden: A.W. Sijthoff, 1975), pp.87-93.

⁸ Quoted in The Great Quotations, ed. George Seldes (New York: Pocket Books, 1967), p.955.

⁹ See Walzer, p.255.

¹⁰ Editors of The Law of War and Dubious Weapons (Stockholm: Almqvist & Wiksell, 1976), p.22.

¹¹ Geoffrey Best, Humanity in Warfare (New York: Columbia University Press, 1980), p.281.

¹² Best, p.281.

¹³ Walzer, p.255.

¹⁴ Walzer, p.261.

¹⁵ Paul Wilkinson, "The Laws of War and Terrorism," in The Morality of Terrorism: Religious and Secular Justifications, eds. David C. Rapoport and Yonah Alexander (New York: Pergamon Press, 1982), p.312.

¹⁶ Quoted in Melzer, p.90.

17 This notion suggested by Melzer, pp.92-93.

18 Quoted by John Dugard, citing the UN Resolution of 30 June 1970: 9 Int'l Legal Materials 1084 (1970), "International Terrorism and Just War," in The Morality of Terrorism, p.88.

19 While some philosophers seem to regard discourse about "national interests" as anthropomorphic or hopelessly vague, I will avoid this debate and merely assume the common understanding of "national interests".

20 This analogy suggested by Richard Wasserstrom's illustration of a related point in "On the Morality of War," in War, Morality, and the Military Profession, ed. Malham M. Wakin (Boulder, CO.: Westview Press, 1979), p.305.

21 Hobbes, Ch.XIII.

22 Hobbes, Ch.XIII.

23 Hobbes, Ch.XIV.

24 Hobbes, Ch.XIV.

25 Charles R. Beitz, Political Theory and International Relations (Princeton: Princeton University Press, 1979), p.207.

26 Quoted by Dugard, p.83.

27 Cited by Wilkinson, p.310.

28 Quoted by Dugard, citing United Nations Doc. A/C.6/SR, 1368), p.84

29 John Locke, Second Treatise of Government, ed. C.B. Macpherson (London: 1690; rpt. Indianapolis: Hackett Publishing Company, 1980), Sec.8.

30 Locke, Sec.8.

31 Locke, Sec.13.

32 Alfred Louch, "Terrorism: The Immorality of Belief," in The Morality of Terrorism, p.272.

33 Thomas Nagel, "Agent-Relative Morality," in The Ethics of War and Nuclear Deterrence, ed. James P. Sterba (Belmont, CA.: Wadsworth Publishing, 1985), pp.23-29.

34 Nagel, p.18.

35 Nagel, p.20.

36 Immanuel Kant, Fundamental Principles of the Metaphysics of Ethics, trans. Thomas K. Abbott, 10th ed. (London: Longmans,

1959), pp.56.

37 Kant, p.54.

38 Kant, p.55.

39 Kant, p.54.

40 Kant, pp.54-56.

41 Frantz Fanon, The Wretched of the Earth (Harmondsworth: Penguin, 1967), p.74.

42 Rudolf Levi and Alberto F. Rodriguez, Intelligence in Terrorism Counteraction (Fort Huachuca, AZ.: U.S. Army Intelligence School, 1984), App. A.

43 Wilkinson, pp.310-314.

44 Rapoport, The Morality of Terrorism, p.129.

45 Rapoport, p.xii.

46 Rapoport, p.xvi.

47 Maurice A.J. Tugwell, "Guilt Transfer," in The Morality of Terrorism, pp.284-287.

48 Tugwell, p.285.

49 Adda Bozeman, Hydra of Carnage: International Linkages of Terrorism, ed. Uri Ra'anan et al. (Lexington, MA.: Lexington Books, 1986) cited by Robin Wright, The Christian Science Monitor, 1 August 1986, p.B8.

50 Lecture by Dr. Lorraine Carter, "Shi'ism and the Iranian Revolution," given at Duke University, Durham, North Carolina, 13 October 1986. Dr. Carter was introduced as "the foremost U.S. expert on Shi'ites".

51 Wright, The Christian Science Monitor, p.B8.

52 Brian Barry, "Self-Government Revisited," in The Nature of Political Theory, eds. David Miller and Larry Siedentop (New York: Clarendon Press, 1983), p.146.

53 Barry, p.150.

54 Barry, p.145.

55 Wright, p.21.

56 Wright, pp.28-33.

57 Wright, pp.42-44.

- 58 Wright, p.21.
- 59 Carter lecture.
- 60 Carter lecture.
- 61 Ninian Smart and Richard D. Hecht, eds., Sacred Texts of the World (New York: Crossroad Publishing, 1982), p.126.
- 62 Carter lecture.
- 63 Wright, p.93.
- 64 Wright, p.55.
- 65 Carter lecture.
- 66 Wright, p.43.
- 67 Wright, pp.37-38.
- 68 Carter lecture.
- 69 Wright, p.37.
- 70 Wright, p.35.
- 71 Wright, p.36.
- 72 Quoted in The Great Quotations, p.378.
- 73 John Stuart Mill, On Liberty, ed. Elizabeth Rapoport (London: 1859; rpt. Indianapolis: Hackett Publishing Company, 1978), p.50.
- 74 Mill's familiar restrictions on absolute individual autonomy include caveats against causing harm to others, against posing "a clear and present danger", against allowing the mentally immature or impaired free rein, etc.
- 75 E. Maynard Adams, "Human Rights and the Social Order," (Chapel Hill, N.C.: undated), p.7.
- 76 E. Maynard Adams, ed. "The Cultural and Social Viability of the Idea of America in the Next Century," in The Idea of America (Cambridge: Ballinger Publishing Company, 1977), pp.195-223.
- 77 This notion probably has its most celebrated advocate in the person of Thomas Hobbes. See Ch.XIV.
- 78 Rapoport, p.xii.

Chapter 4

A Comprehensive Ethical Response to Terrorism

Section I

Normative Principles

*

After having argued for a philosophically relevant definition of terrorism in Section I and argued against the most prominent religious and secular justifications offered for the use of terrorism in Chapter 3, it is now time to distill the conclusions of all of that dialectic into normative principles which ought to govern an ethical response to terrorism. I am simply going to assert those principles here with little further discussion, because if these principles do not seem valid to the reader at this stage in my thesis, a final round of "buttressing" commentary will probably be ineffectual.

First, I argued in Chapter 1 that the only methodologically valid way of identifying an act which ought to be considered terrorism is in terms of the morally reprehensible nature of the act itself. In this way I divorced the assessment of an act as terrorism from obfuscating issues such as the nominal status of the doer (e.g. "soldier" versus "freedom fighter" versus "guerrilla"), from the alleged motivation (e.g. "tactical bombing" versus "terror bombing"), from euphemistic redescriptions of the act in terms of "direct" versus "indirect" and "intended" versus "foreseen" effects, and so on; in short, from considerations which ought not to be

allowed to cloud our purely ethical judgement of the act itself. Further, I have concerned myself only with terrorism that is state-sponsored and directed against other collectivities, thereby excluding certain species of terrorism (nuclear, domestic, state-sponsored internal, etc.) from the scope of my thesis. In this way I defined terrorism as the threat, attempt, or commission of an act (or acts) of serious violence, especially against people, by an organized, ideologically-motivated group, an act (or acts) which is (are) intended to violate one or more of the moral principles (discrimination, proportionality, relevance) underlying the international humanitarian laws of armed conflict. In Chapter 3 I argued that terrorism so defined was never morally justified in any context. Therefore, my first normative principle governing an ethical response to terrorism is that terrorism ought not to be used as a response to terrorism.

Second, in Chapter 2 I argued for the viability of the notion of the moral agency of collectivities and advanced the concept that in the case of state-sponsored terrorism those who directed and committed the acts and those who can be considered to have crafted, or at least to have "consented" ¹ to the policies of the state — politicians, diplomats, functionaries of the state, and soldiers — ought to be held morally and practically accountable (as well as the terrorists who performed the acts, of course) for those acts of terrorism. This is my second normative principle.

Third, in Chapter 3 I expanded upon the Hobbesian notion of the international arena as a state of nature lacking an effective Sovereign and argued that, analogous to Locke's contention that

"every man hath a right to punish the offender, and be executioner of the law of nature"², collectivities have the right, indeed the moral obligation, to respond (violently, if necessary) to state-sponsored terrorism. I argued that the judgement of the transgression must be veridical (i.e. a correct identification of the transgressing collectivity and a correct appraisal that the transgression was actual, significant, and intended) and that the execution of the response must be of the nature of force, not terrorism. The former contention is my third normative principle and the latter contention buttresses my first principle.

It is especially important to note that a violent response which cannot plausibly be expected to significantly debilitate or end the terrorist activities of a collectivity acquires the aura of terrorism, because that violence violates the principle of relevance — it causes unnecessary harm and suffering. Hence, my fourth normative principle for an ethical response to terrorism is that the response must be effective. This is a principle of "strict liability" which maintains that those members of a collectivity electing to use force to respond to terrorism (that is, those individuals falling within the "political code") are morally responsible not only to act with morally good intentions, but to actually be competent and just in their appraisals and in their application of violence. Those in positions of authority who direct or cause harm and suffering have a responsibility both to the people of the collectivity they are protecting and to the people of the collectivity being violently sanctioned to actually achieve the good end (debilitation of terrorism). Failures arising from substantial incompetence in appraisal or

execution are morally condemnable on that basis alone and are not excused by appeals to good intent. On the other hand, failures arising from "honest error" -- that is, it cannot reasonably be said of the individuals crafting or executing the response which "went wrong" that they were incompetent or immoral or morally cavalier in their appraisals and actions -- ought not to bring legal or moral censure upon those who erred. However, even in such instances of "honest error", since it is normally the presumption of those harmed that the harmer intended the harms actually inflicted (terrorist or otherwise) and since the actual violence (intended as force, actualized as terrorism) was a moral wrong per se, then the harmer is under a moral burden (minimally) to make it clear that his intent was not realized or (ideally) to restitute the harm done insofar as that is possible (see Section IV).

Although the normative principles given would seem to emphasize violence as a response to terrorism, those principles are meant to chiefly govern the most extreme actions in a spectrum of possible responses. Proactive and passive measures are also possible responses and I discuss those responses in the next sections. Indeed, I will argue in the next section for the validity of my fifth and last normative principle; namely, that states have a moral responsibility to be proactive in their response to terrorism, to address and remedy the just grievances of disenfranchised and politically repressed peoples, grievances which tend to promote the use of terrorism if allowed to persist.

Section II
Proactive Measures

*

I want to approach the issue of what proactive measures ought to obtain between collectivities by recalling some familiar conceptions of the morally proper balance between the liberty of the individual and the authority of the state, then apply these conceptions analogously in the international arena. In earlier discussions I have drawn upon those arguments of E.M. Adams which advocate the thesis that the autonomy of individuals must be respected because it is only by autonomously defining and living a life of one's own that one fulfills the constitutive responsibility of the office of personhood, thereby becoming a person in the fullest sense of that word.³ Many others in the history of philosophy have argued for the same end on different grounds, perhaps most notably Mill's argument that "self-development", "experiments in living", and maximum individual liberty in thought and expression have intrinsic moral worth.⁴ However, autonomy affirmed, the complementary moral issue is to ascertain the extent of one's obligations to the nurturing collectivity, or more exactly, to all other members of the collectivity. In this both the philosophers I have cited are in rough agreement as to the minimal (or restrictive) obligations. For Adams one is morally obliged, as a minimum, to respect the life-plans of others. For Mill one is morally constrained from knowingly causing harm to others. However, the maximal obligations, that is, the degree to which one ought to be morally bound to work for, even to sacrifice for, the benefit of other members of

the collectivity is a question which has been debated often and at great length and "resolved" with widely disparate conclusions.⁵

Applying these concepts to the international arena, the concept of the sanctity of individual autonomy instantiates itself without significant disanalogies in the principle of "the right of self-determination" (of collectivites). Likewise, the minimal obligations one collectivity owes another would seem to be formulated in a straight-forward manner in "the principle of non-aggression" wherein collectivites are forbidden to violate "the territorial integrity or political sovereignty" of another, unless this is a response to that collectivity's aggression (as just defined) against them.⁶ Only these two types of violations are considered bona fide "acts of war" warranting armed retaliation under international law; however, it is clear that there is a wide spectrum of significant harms one collectivity may inflict on another (e.g. terrorism) which is not covered by the principle of non-aggression as it is currently codified in international law. Hence, it is clear that simple non-aggression (as currently codified) is insufficient to delineate minimal obligations, because it doesn't embrace the entire spectrum of "harms" (that is, harms by action). There are other problems weighing against facilely applying notions of minimal obligations between individuals analogously in the international arena.

What motivates and makes possible the coherent debate of individual obligations within one collectivity is the fairly uniform agreement on what constitutes a "harm to others" and a reliance on the collectivity's ability to effectively protect individual autonomy and to deter, or at least punish, harmful conduct. However, as I

argued in Chapter 2, there are profound and sometimes antagonistic differences in the structures of values which obtain in different collectivities. For example, in pluralistic Western cultures which operate under an individualistic and atomistic conception of the state and emphasize the physical welfare of individuals, "harm to others" is judged differently than in some authoritarian cultures which have an organic conception of the state and prioritize the spiritual vice the physical welfare of individuals (e.g. the Iranian theocracy). Since strict isolationism is no longer possible (even if it were desired by a collectivity), the structure of values of a collectivity is manifested in its necessary activities in the world outside of its territorial boundaries and theoretical conflicts in structures of values sometimes become actual disputes over the nature and severity of a "harm" done to one collectivity by another. For example, North American and European political and commercial activities in the Middle East are seen by the Iranian theocracy as causing significant harm to their "correct" way of life (see Chapter 2), although North Americans and Europeans, by and large, don't view their global activities as harmful. Similarly, most North Americans view attempts by the Soviet Union to realize their structure of values in the Western hemisphere (particularly in Latin America) as causing a significant threat to the American (that is to say, the "correct" liberal democratic) way of life. The Soviets, of course, view their activities as salutary efforts to free peoples from a perverse way of life. Mill admitted (in my estimation) the barrier posed by cultural relativity (a barrier which would presumably prevent the universal application of his (or anyone's) princi-

ples for a well-ordered society) when he wrote:

To suppose that the same international customs, and the same rules of international morality, can obtain between one civilized nation and another, and between civilized nations and barbarians, is a grave error....⁷

Summarizing to this point, the inadequacy of current international statutes on non-aggression is further complicated by disputes between collectivities concerning which activities constitute commission of a significant harm. Moreover, as I have remarked ruefully and often, unlike a single collectivity, at the international level there is no effective single coercive power to practically buttress arguments for the minimal obligations one collectivity owes another (even if what activities constitute harms could be universally agreed upon).

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However, even when there is agreement on all sides that significant harm is being inflicted on a collectivity, minimal obligations to respect autonomy and to refrain from aggression (in the widest sense) are often unfulfilled in the international arena. First, although "the right of self-determination" and the principle of autonomy of collectivities are nominally accepted by all de jure states, not all collectivities which are de facto states are universally accepted as states at the international level. Denied this recognition of full autonomy as states and the right to participate fully in the economic, financial, cultural and political community of states, these collectivities are trapped in a "quasi-state" status. They are not afforded a status sufficient to gain access to inter-

national institutions of arbitration or, if admitted, their "vote" has only limited, temporary or provisional power. Second, even when the just grievances of disenfranchised peoples have been voiced in international institutions such as the (now defunct) League of Nations, World Court, UNESCO, and the United Nations in attempts at peaceful resolutions, the record of timely and effective cooperation between *de jure* states to actually remedy those grievances is dismal. I believe this continuing failure, in large part, is because *de jure* states are very reluctant to "voluntarily" concede scarce resources (especially habitable land and natural resources) or a portion of their own sovereignty to the collectivities pressing those claims.

Indeed, it seems as if *de jure* states in their actions in the international community almost always adhere to a morality akin to David Heyd's "Minimalist Model of Morality" which posits that morality ought not to require "the maximization of the general good or happiness", but should instead seek the more attainable goal of "securing some minimal conditions of cooperation and justice."⁸ In other words, individuals must be minimally decent to others; above that, they are morally free to pursue their own ends. *De jure* states in the international community seem to follow this minimalist model in that there is little concern for attaining "the good" for all collectivities and "minimal conditions of cooperation and justice" seem to boil down to a prohibition against aggression (and only in the strong sense of not violating the territorial integrity or political sovereignty) of *de jure* states. Present international diplomatic, legal, and economic bodies seem to be far more regulated by

dictates of prudence and by concerns for maintaining international "stability" than by concerns for achieving real justice for all collectivities.

The continuing and morally reprehensible failure of de jure states to provide the means whereby the just grievances of de facto states can be peacefully resolved has driven those collectivities to pursue their aims through violence, some of which is terroristic. Although I have argued that the use of terrorism is never justified, de jure states ought to expect manifestations of anger from disenfranchised peoples whose grievances are allowed to linger and fester and are culpable to a degree for the terrorism because of this intransigence. The poet William Butler Yeats was lamenting the violence seemingly inescapably bred by such sociopolitical situations when he described the sectarian violence in Ireland before the turn of the century in the following words:

Great hatred, little room
maimed us from the start.
I carry from my mother's womb
a fanatic heart. 9

It is relevant to the point to note that "the Irish problem" Yeats described ninety years ago continues unrelieved to this day. I do not believe it is outlandish to suggest that a portion of the funds de jure states contribute to international institutions such as the United Nations could be used in a common pool to provide an "all comers accepted" forum for disenfranchised peoples (freely giving them the international media attention they are attempting to gain through terrorism) or to underwrite the costs incurred by a state electing to concede resources to an aggrieved collectivity. Further,

a relatively recent notion, one which is to be encouraged, is that the international community has a collective responsibility to use serious diplomatic and economic levers against a state which is creating massive injustice in a collectivity. The sanctions against apartheid South Africa are a good example of this type of proactive measure. Indeed, I suggest that the attention and support of the international community to the just cause of black South Africans is a major reason black South Africans have not resorted to violence outside of that state (because they have certainly used terrorism as a tactic within South Africa).

I have clearly been advocating the notion that states are morally obligated to exert maximum influence to bring about the peaceful resolution of the just grievances of collectivities as a proactive measure to forestall terrorism, but I want to briefly address the contention that it is a minimal moral obligation of states, or that it is at least morally permissible for states, to coercively (forcibly) intervene in another state's internal affairs to do so. I need to resolve the above issue into two separate questions. The first question is whether or not a de jure state has a moral obligation to the people of the aggrieved collectivity to use force, if influence has failed, to rectify their unjust situation. Note that this question has nothing to do with whether or not the aggrieved collectivity is likely to resort to international terrorism. The second question is whether or not a de jure state has a moral obligation to its own people to use force against another state or states to rectify an unjust situation which is likely to fester into

terrorist activity against the de jure state (for failing to intervene on the aggrieved collectivity's behalf). <The latter is not an absurd notion. In the rationales of some terrorists no one and no state has the right to be neutral. Failure to help their collectivity is to be against it and to become a "legitimate" target for retaliation.> The last question has the most straight-forward and shortest answer. Not only would such a pre-emptive strike to forestall the possibility of the collectivity's terroristic retaliation for the "third party" state's failure to intervene be an escalation and widening of the scope of violence, but such "self-serving" intent surely weights greatly against any supposed moral nobility in the enterprise.

Returning to that first question, I admit a deep perplexity (so deep that it could well be the source of another thesis). In the pro-interventionist camp are universalists and cosmopolitans such as Charles Beitz and David Luban who believe considerations of justice and humanitarian concerns to be global in scope and advocate, to varying degrees, intervention to alleviate harms being suffered by collectivities.¹⁰ In the non-interventionist camp are pluralists such as John Stuart Mill and Michael Walzer who counsel great respect for the independent "self-development" of collectivities and their right to choose a good (or bad) structure of values and to succeed (or not succeed); however, Walzer does admit the moral permissibility of intervention to end "a massive violation of human rights".^{11,12} On the one hand it does seem that "spectator" or "third party" states have a minimal obligation to forcibly intervene to remedy the gross injustices being suffered by a collectivity. On the other hand, this intervention (at some cost to the "third party"

state, perhaps great cost) would seem to fall within the realm of supererogatory acts and to be an invitation to international anarchy. Again, I do not have the warrant from my present thesis to treat the issue fully here, nor do I need to present a resolution of that issue to make my point in this section; namely, that states have the minimal moral obligation to be proactive (in the ways I have described, those involving influence, not force) to ameliorate those conditions which tend to "breed terrorism".

Given the case that a state is being "minimally decent" by being proactive according to the criteria discussed and has become the target of state-sponsored terrorism, while an ethical response requires that proactive measures (now a misnomer) continue to be pursued, the state undergoing terrorist attack must respond in other ways. The debate now turns to what passive and active measures are ethically desirable or permissible, where passive and active measures are understood in the military sense of "defensive" and "offensive" actions.

Section III

Passive Measures

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In this section I want to explore the morality and feasibility (the two are related) of the employment of strictly passive measures at the state level as an ethical response to terrorism. Note that I am not debating the morally proper stance an individual being directly victimized by terrorism should assume (nor have I been concerned with this issue all along), but am now examining the

worth of a national policy which is limited to essentially defensive measures. Note also that I am now assuming the case wherein a collectivity (with just grievances or not) is actively sponsoring terrorism; that is to say, the grounds for the response have changed from a state's moral responsibility to proactively remedy the just grievances of a disenfranchised people who have not resorted to terrorism to the case wherein a state is now faced with defending itself against a collectivity's terrorism. Although passive measures might entail some use of violence, this violence would be limited to localized reactions to terrorist activity and would not "carry the fight" to the terrorists' home collectivity in the form of armed intervention or "hit team" tactics. For example, passive measures would include the "hardening" of certain American "presences", especially abroad -- embassies, military garrisons, sensitive commercial and communications facilities, airports, etc. -- and violence would be limited to the direct and immediate response of police, military or security personnel at the scene of a terrorist attack or in the apprehension of terrorists staging locally for an attack. Other passive measures include the expulsion or limiting in size of diplomatic staffs of states sponsoring terrorism, the denial of diplomatic immunity from prosecution or from examination of correspondence and materiel in "diplomatic pouch" shipments, improved extradition procedures, inter-state sharing of intelligence data on terrorist states, enhanced physical security measures (especially in detection devices and procedures), massive use of electronic surveillance (especially of modes of communication), use of "spies" within the terrorist state, public awareness campaigns, embargo of arms

shipments, and restrictions on media, etc. Many of these passive measures have been or are being pursued by some states, sometimes with significant success.

For example, following the US air attack on Libya in April 1986, a number of European states declared Libyan, Iranian, and Syrian embassies and consulates to be "essential links in the terrorist support system" and withdrew many of the diplomatic immunities traditionally accorded since the Vienna Convention of 1815 from those countries.¹³ Since October 1984 the states contributing to the Interpol intelligence system have agreed to provide all data on organizations committing attacks against "the innocent", even if these organizations are politically motivated (previously a factor which permitted contributing states to withhold intelligence at their discretion).¹⁴ Israeli airport security measures (three hour check in period, hand searches of passengers, armed guards, screening all baggage by dogs, X-ray machines, low-level neutron radiation scanners, and in pressure chambers) are so effective that an El Al aircraft has not been bombed or hijacked in the last ten years.^{15,16} US National Security Agency assets monitored instructions from Colonel Gaddafi in Tripoli in April 1986 to Libyan terrorist groups in Europe to attack Americans in West Berlin (this was the "smoking fuse" for the American air raid on Libya later that month). Although American intelligence personnel were unable to discover the specific location in West Berlin (La Belle Discotheque) in time to prevent the terrorist attack which killed or wounded 230 people -- "We were about 15 minutes too late" according to NATO Commander General Rogers -- it is believed that intelligence activi-

ties world-wide in 1985 aborted 126 planned terrorist attacks^{17,18} (approximately 800 attacks did occur).¹⁹ Public awareness campaigns directed at "suspicious activities" and "suspicious packages" have led to a steep decline in Red Brigades activity in Italy since 1978 and to the prior detection of eighty percent of the bombs planted by terrorists in Israel.²⁰ The moral commendability of these passive measures would seem to lie in the premiss that non-violent or minimally violent actions to forestall terrorism and in response to terrorism have lowered the total amount of harm and suffering actually inflicted.

However, completely vanquishing or even significantly debilitating state-sponsored terrorism through the use of only passive measures has not proven feasible, nor is there any reason to believe that these measures have reduced the total harms which have been or will be inflicted by terrorists as a whole, rather than merely causing terrorists to redirect or postpone their attacks. This significantly affects the moral acceptability of strictly passive measures as the sole response to terrorism, because, in accordance with the fourth normative principle I advanced earlier, those in positions of political authority have a moral responsibility to be effective in the elimination (insofar as this is possible) of hazards to the governed populace. Although passive measures make the employment of state-sponsored terrorism more difficult and somewhat riskier to the terrorist state in terms of loss of international "status" once its culpability is made known, strictly passive measures are presently ineffectual to a large degree. Simply put, states sponsoring terrorism have learned how to out-maneuver the

defenses of the "target" state, most easily by shifting to less well protected or unprotected "presences". Even though many factors in the present state of international relations militate against achieving total cooperation between states against terrorist states, it is doubtful that, even were total cooperation achieved, strictly passive measures would eliminate state-sponsored terrorism entirely. Moreover, besides the immorality stemming from ineffectiveness, there are more direct moral arguments against reliance on strictly passive measures.

First, significant debilitation of terrorist activities through only passive measures would require the massive use of security measures, especially in the monitoring of individual activities and communications and in restrictions on movement and media, which are grossly incompatible with the philosophy of an "open society". In order to "cast the net" widely and tightly enough and to act quickly and decisively to thwart terrorist actions, military, police, security and intelligence authorities would have to have very broad powers to routinely intervene in realms (such as that of "individual rights") rightfully accorded great respect as the foundation of an open society. Although open societies have allowed the state to abrogate "normal" safe-guards for individual freedoms in times of great national peril (ie. "war powers" and "martial law") and have returned to a fully open society after the "national emergency", apparently without great or lasting harm, the unique nature of terrorist operations (especially in terms of their high mobility and ability to assimilate into civilian populations) would require that the state have very broad, long-term and dominant powers indeed if

it is to be effective in its defensive counter-terrorist activities. Additionally, an effective surveillance strategy would require massive overt and covert monitoring of activities in other "third party" sovereign states (terrorist staging grounds) as well to a degree that might be viewed as interventionary. I believe it is immoral to pay such a cost in self-inflicted violence to the structure of values of an open society unless the situation is truly one of "supreme necessity" -- the physical survival of the collectivity is at stake.

Second, it may plausibly be asserted that well-formed states have a moral responsibility not only to avoid transgressing against the individual rights of the governed, but to maintain the conditions whereby individuals may freely exercise their freedoms (as long as this doesn't cause "harm to others"). As Henry Shue has noted:

The enjoyment of security and subsistence is an essential part of the enjoyment of all other rights. Part of what it means to enjoy any other right is to be able to exercise that right without, as a consequence, suffering the actual or threatened loss of one's physical security or one's subsistence. 21

Clearly, the fear of becoming a victim of terrorism, especially if one desires to live or travel abroad, is "suffering thethreatened loss of one's physical security..." and the actual loss of "liberty rights" if one feels constrained by the terrorist threat to alter one's life-style and life-plans in ways one would not otherwise choose to do. This "siege mentality" can debase the spirit of an open society for those not desiring to travel from "home soil" as well if public awareness campaigns are vigorously pursued. For

example, in the wake of a bombing campaign suspected to be the work of the Syrian-sponsored Committee for Solidarity with Arab Political Prisoners, bombings which caused over 200 civilian casualties in and around Paris in a two week period in 1986, the Interior Minister of France, Charles Pasqua, called upon the entire French population to "transform themselves into a vast host of vigilant people." "For the second time in my life," said an 84-year-old woman, "Paris is a city under enemy occupation."^{22,23} Not only is the suspicion, harassment, and loss of privacy at the hands of one's fellow "vigilant" citizens an evil per se, as is the "siege mentality", but it surely seems that one can plausibly claim that if a state's passive measures are insufficient to protect its people from a known threat, then the state ought to remove or debilitate that threat at the source through active measures (insofar as that is possible and done in accordance with the ethical parameters I have given). Indeed, the failure of the state to employ measures which effectively protect the governed from a known threat when morally permissible and practically feasible measures are available which do so, is for the state to expend, hazard, or vitiate the lives of the governed unnecessarily.

Third, I believe it is morally unjustifiable to withhold significant amounts of finite national resources from more positive programs in order to pay for the cost of passive measures as the sole response to terrorism. For example, in 1986 the US State Department requested Congressional approval for \$4.4 billion to "harden" 175 existing embassies and build 75 new "secure" embassies world-wide.²⁴ Clearly, "hardening" even a portion of all of the

attackable American presences abroad, let alone within the United States, would require a massive expenditure in funds and effort. The dollar amounts per se are not important to my point; what is significant is that these expenditures, necessarily allocated from a more or less finitely deep "well", are utterly negative in character and are almost always made at the expense of positive social endeavors (e.g. education, welfare, conservation, housing, endowments for the arts and research, etc.). In other words, in a well-formed society it is to be expected that only the minimum necessary resources are allocated to those endeavors seen as essential, but negative or neutral with respect to the improvement of society (e.g. military forces, the penal system, the bureaucracy, etc.) and the maximum available resources allocated to programs which do directly improve the quality of life or the "quality of citizens". Although negative endeavors are resourced precisely because they create the security and the administrative and logistical "framework" of society which allow positive social endeavors to be successfully pursued, this balance ought not to be allowed to tilt too strongly towards negative institutions. To provide sufficient monetary and human resources to effectively secure more than a small portion of American presences in the world from terrorist attack would be a morally unacceptable social cost in terms of lost opportunities to foster a "better" society.

Lastly, although I have affirmed the moral viability of a collectivity's violent (not terroristic) response to the collectivity committing a "transgression" against it (see Section II of Chapter 3), I have deprecated the notion of "harm by inaction" as a moral

warrant for a violent response. Specifically, "third party" states, especially those which are fulfilling the minimal obligations to be proactive vis-a-vis rectifying international injustices, ought not to be targets of violence. The continued use of terrorism against a state which has manifested only proactive and passive responses exacerbates the basic immorality of committing transgressions. I have argued that an ethical response to terrorism includes a responsibility to be proactive and to pursue passive measures which do not do violence to the spirit of an open society, are socially cost-effective, and do, in fact, make the terroristic attack of a state's most critical or sensitive presences significantly more difficult. However, as the "soft answer" continues to be ignored or abused by a state sponsoring terrorism, the morality of the "targeted" state's claim that active measures must be used in self-defense gains force and I now turn to the discussion of that option.

Section IV

Active Measures

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In this final section of my thesis I wish to consider several possibilities in the spectrum of active measures which can be employed as responses to state-sponsored terrorism; specifically, armed intervention, forced influence, and selective assassination. I wish to emphasize that all of the above options are instantiations of the extra-legal use of force in that they are not countenanced by international law. Again, I am assuming the case wherein proactivity has failed, passive measures have proven ineffective or

morally unacceptable, and a collectivity is continuing to sponsor terrorism against a "targeted" state. As I remarked in Sections I and III, since the middle years of the last century to the present, there has been a great deal of philosophical debate on the issue of the moral permissibility of one state's intervention in another state's "internal" activities, especially with regard to the strong case of intervention which compels obedience from the target state. Whether argued from a position of individual rights, humanitarian concerns, or principles of justice, such debate has focused and continues to focus almost exclusively on the welfare of the individuals in the state actually or hypothetically targeted for intervention. Indeed, intervention to further the national interests of the intervening state has almost always been regarded as *prima facie* evidence of the moral bankruptcy of such an act.²⁵

For a much longer time the philosophical underpinnings of the laws and conventions which govern *jus ad bellum* and *jus in bello* have undergone extensive evolution. Despite many gaps and ambiguities in the law of war concerning which acts ought to be considered acts of aggression, violations of the territorial integrity or political sovereignty of a state are clearly codified as acts of aggression and are considered to be the most significant violations possible of the laws of war.^{26,27} This proscription is clearly compatible with the prohibition noted above against any self-serving violations of another state's autonomy. Conversely, the law of war affirms the absolute right of states to self-defense against aggression, with the caveat that a state may not employ unlimited means against an aggressor, even in (justified) self-defense.²⁸

Additionally, since the Second World War the Geneva and Hague Conventions have been revised and United Nations canons have come into being to govern what has become the pervasive and ubiquitous form of warfare on the planet; namely, the "wars of national liberation" engendered by the wide-spread recognition of "the right to self-determination." Collectively, this body of literature is known as the humanitarian law of armed conflict. While its statutes reflect a continued adherence to the moral principles of discrimination (between combatants and non-combatants), proportionality, and relevance (that is, the avoidance of "unnecessary suffering"), the actual application of the moral principles cited has become increasingly more problematic, because such conflicts are "unconventional" by nature, the tactics employed are intended to offset the inequalities in resources conventionally used to wage war, and belligerents sometimes refuse to respect territorial limits to the theatre of struggle. Perhaps no one issue brings under scrutiny so many of the moral principles underlying our current codes of international relations as the issue of the morality of intervention as a response to terrorism.

Before going further in this discussion I need to specify what I take to be the philosophically significant definition of "intervention". The term "intervention" may be taken to encompass a wide spectrum of activities which one state may undertake vis-a-vis another state, to include diplomatic, economic, and military measures. As Wicclair (among others) has noted, if we define intervention as any action by one state which may be construed as an attempt to influence the actions or policies of another state, this

definition is too broad because it encompasses all of those activities essential to normal international intercourse.²⁹ At the other end of the spectrum is the assertion that intervention should be defined very narrowly as the use or threat of use of military force to coerce obedience to the intervening state's desires.³⁰ However, defining intervention so narrowly would seem to exclude from consideration many possible international actions which are intuitively at least as morally controversial as the use of direct military force. Additionally, this definition of intervention is suspect because, in the words of R. J. Vincent,

in any case of interference by a great power in the affairs of a small power, the small power can plausibly claim that the activity was coercive due to the implicit threat of force which a powerful state holds over a weak state.³¹

I will follow Wicclair in embracing a definition of intervention as any act undertaken by one state which is intended to compel certain actions by another state.

The moral relevance of defining intervention in this manner lies in the recognition that some actions which do not employ force or the threat of force may still do significant violence to the physical welfare of the people of the target state or severely hamper them in the free exercise of their desired life-styles. For example, a threat to end grain shipments to an agriculturally impoverished state which has developed a significant "hand to mouth" dependency on that grain and which has no other source of grain which is reasonably obtainable and certain may rightfully be viewed as a compelling intervention. Similarly, threats to seize financial assets, institute economic embargoes, or terminate diploma-

tic, educational, and scientific intercourse may be viewed as compelling in some situations. Compelling intervention "is carried out by the production of, or threat to produce, undesirable states of affairs in the event of noncompliance." ³²

The key notion here is that the political leadership of a state or collectivity undergoing intervention, that is, those individuals comprising the political body which represents a people, are acting under duress. The political leadership is no longer free to choose and to pursue only those options which they believe are in the "best interests" of their state, because a foreign power has unilaterally indicated that it will heavily penalize or sanction the pursuit of certain options. In other words, the "best interests" of the state are no longer determined only by autonomous, self-regarding considerations, but have been redefined by another state to include a compelling consideration to act in the best interests of that state. Theoretically, the first state is still free to choose any option; however, the second state is indicating that it will not allow, or will at least disrupt or render unprofitable, the pursuit of the interdicted option(s). Any measure employed by one state in an attempt to affect the actions or policies of another state, but which is non-compelling in nature, that is, is a consideration but not an ultimatum, may rightfully be termed "influence". Obviously, the demarcation between "influence" and "intervention" (as I have defined those terms) is both morally salient and sometimes difficult to ascertain in practical instances.

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In Chapter 3 I affirmed (conditionally) the validity of the

contention that disenfranchised or politically disadvantaged collectivities sometimes have a legitimate moral basis for the use of extra-legal force to secure justice. However (following Melzer), I denied that the moral legitimacy of a cause justifies unlimited means and methods in the furtherance of that cause. In particular, I concluded that even when extra-legal force is used to secure justice this force must still be in consonance with the humanitarian principles of discrimination, proportionality, and relevance, or the avoidance of unnecessary suffering. Now I wish to view the concept of the extra-legal use of force to secure justice not as the instrument of disenfranchised peoples against allegedly oppressive de jure states, but as a means whereby an established power may deal with state-sponsored terrorism.

The operative term here is "reprisal" and philosophers have often been mistaken in their understanding of the term. Some philosophers have taken "reprisal" to be synonymous with the "talion" of the ancient war convention of the *lex talionis* ("the law of retribution").³³ The talion was "a return of evil for evil"³⁴ ("an eye for an eye....and burning for burning")³⁵ whose chief purpose was not reparation or restraint, but simply retaliation. The key attribute of the talion was exact reciprocity and a state was only judged to be immoral if it willfully exacted a greater or a different evil than that which it had suffered. But clearly, the slaughter of a hundred innocents in retaliation for the slaughter of a hundred innocents exhibits a very hollow notion of moral conduct between states. A reprisal on the other hand is undertaken as a preventive measure to compel future adherence to established law or

to a certain set of ethical principles. It is not punishment or retaliation, but a sanction to dramatize the moral significance of the violation and (hopefully) to dissuade the future occurrence of such violations. Clearly, a reprisal in this sense cannot violate the ethical principles it is intended to call attention to and remain self-consistent.

Further, while reprisals are technically only legal between belligerents in wartime, the extra-legal use of force (in the form of reprisal) during times of (technical) peace is morally justifiable under certain conditions (which I will enumerate). Indeed, Evelyn Colbert has argued persuasively for the use of reprisal as the morally justifiable extra-legal use of force to secure justice on a global scale. In 1948 she asked:

whether a reprisal, ostensibly undertaken for no other purpose than to secure justice which would otherwise be denied, is a use of force 'inconsistent with the purposes of the United Nations', or 'not in the common interest'. It might indeed be argued in certain cases that the reprisal in question not only served to rectify the wrong done to the retaliating power, but also served to advance the purposes of the United Nations. 36

In a similar vein, as I noted earlier in this section, the humanitarian law of armed conflict defines "aggression" solely in terms of the military violation of political sovereignty or territorial integrity; however, Luban (among others) believes that this definition does not reflect contemporary political reality and urges redefining aggression in terms of the violation of what Shue refers to as socially basic human rights. 37 By such a redefinition state-sponsored terrorism would clearly be grounds for reprisal activity. However, it must be stressed that a reprisal is not "a return of

evil for evil", but is a preventive and limiting measure.

In order for a reprisal (in the form of compelling intervention) to be considered an ethical response to state-sponsored terrorism, its execution must respect precisely those moral principles which terrorism violates -- discrimination, proportionality, and the avoidance of unnecessary suffering. This is the notion embraced by my first normative principle (see Section I). Indeed, since terrorists claim that their acts are "reprisals" for the harms wrongfully inflicted on their nation or ideology, an intervening state must demonstrate that its act is substantively, not just nominally, a reprisal in that it instantiates the moral principles given above. The prohibition against using terrorism in response to terrorism is not just a moral one, but is also a prudential one. It is sometimes the primary intermediate goal of terrorism to antagonize the targeted state into responses which are so violent and so harsh that the presumed superior moral position of the de jure state is compromised and the perceived moral ascendancy (and the support of participants and "spectators") transfers to the terrorists' cause. For example, the "counter-terrorist" terror of the French military in Algeria in 1956-57, nominally against only the Front de Liberation Nationale (FLN), so affected and offended the bulk of the Algerian population, a population previously dominantly neutral towards Algerian independence or even sympathetic to French rule, that the population as a whole "switched allegiances" and shortly secured total independence from France.³⁸

Adherence to the principle of discrimination means first, that respect must be given to the category of individuals identified in

the conventions as "non-combatants" (i.e. medical and diplomatic personnel, all ministers of religion, all civilians, and all others normally identified as "the innocent"). Although the "philosophy" of coercive warfare pursued by the Allies in World War Two (chiefly in the form of strategic aerial bombardment of German population centers) according to the morally problematic doctrine of "military necessity" grossly violated the principle of discrimination to such an extent that the bombing policy was terroristic, since that massive lapse in morality most states have reaffirmed the practice of discrimination in bombardment by switching from center-of-mass "area bombing" to "surgical strikes". For example, the "Rolling Thunder" bombing campaign by the U.S. Air Force against North Vietnam in the latter stages of that conflict had such narrowly restricted rules of engagement (e.g. American fliers were prohibited from attacking surface-to-air missile batteries while still under construction on the humanitarian grounds that civilian workers would be harmed) that the bombing was militarily ineffective.³⁹ However, recalling my earlier arguments concerning the "political code" and "quasi-combatants" (see Chapter 1), it is important to note that I have denied that certain individuals (i.e. politicians, diplomats, and functionaries of the state) ought always to be afforded a "protected" status. For one reason, although I have admitted the murkiness of the notion of "consent", such discussions usually orient on the grounds of political obligation of citizens not in positions of political or military authority.⁴⁰ It may reasonably be expected that the individuals I have identified as being within the "political code" and soldiers have expressly consented, normally in

a formal oath of office or allegiance, to craft or support or defend or implement the policies of the state. Further, whereas a soldier may be conscripted and consent under duress, almost all others who hold offices in the government voluntarily choose to serve the state.

⁴¹ Further still, "consenting" or not, such individuals are responsible for crafting and implementing state policies. Hence, I have insisted that individuals holding the aforementioned office are the most morally legitimate targets (aside from the terrorists themselves, of course) of reprisal activity.

Second, the intervening state is under a moral obligation to be veridical in its judgement that the "target" state is directly responsible for the sponsorship of terrorist activity against the intervening state (see my argument on this in Section II of Chapter 3). The appraisal of collective culpability will often be a matter of degree. A state which recruits, arms, trains, and directs terrorists and offers them "safe haven" after their attacks on a continuous basis is more culpable than a state which provides terrorists with intelligence data from time to time. Although both states are acting immorally, the former's activities furnish a more credible basis for the use of active measures. Also, it must be the case that the state's sponsorship of terrorism will probably continue if intervention does not occur. A "one time" terrorist incident is almost certainly an indicator of the criminality of one or a few office holders in a state and not of the pernicious nature of the state as a whole. Despite the fact that revelation of intelligence sources sometimes weakens or even compromises future surveillance capabilities, ⁴² I believe that the intervening state is under a

moral imperative to furnish indisputable proof (not just allegations) to the international community of the target state's complicity. This condition is analogous to Locke's contention (discussed earlier) concerning individual judgements in the state of nature: "...he that judges....is answerable for <the correctness of> it to the rest of mankind." ⁴³ Indeed, such a process of review does occur and is becoming increasingly more formalized. As Nicholas Onuf observes,

though frequently criticized for its bias and notably lacking in enforcement capability, the <UN> Security Council has been active in evaluating reprisals activity in the Middle East for some time and has acquired a certain degree of credibility in performing this task. ⁴⁴

Third, the reprisal must not violate the principle of proportionality. Terrorist organizations are sometimes sardonically described as "small groups with large grievances". The source of the derisive characterization is the perception that the terrorist inflicts harm disproportionate to the alleged or actual harm on which he is basing his ideological anger. As I discussed in Section II of Chapter 3, utilitarian calculations which attempt to quantify "harm" to entire peoples are very problematic, ⁴⁵ but it seems intuitively disproportionate to justify the murder of some by pointing to the political dissatisfaction of many. Again, I enjoin the reader to recall here the three arguments I presented in Section II of Chapter 3 against the supposed morality of justifying the use of violence against people by utilitarian rationales. If the intervention is to be a reprisal and not an act of terrorism, it must be a reasoned and measured response commensurate to the harm suffered by the intervening state. As Walzer avers, "the backward-

looking character of reprisals is confirmed by the rule of proportionality that restrains them." ⁴⁶ Additionally, the purpose of a reprisal is to effect a change in policy or conduct of a foreign state; therefore, action designed not to end a state's sponsorship of terrorism, but to overthrow that state per se, is not reprisal, but disproportionate (hence immoral) intervention. Quoting Walzer again, "the purpose of reprisal is not to win the war or prevent the defeat of the cause, but simply to enforce the rules." ⁴⁷

Fourth, the intervening state has a moral obligation to intervene in a manner designed to avoid "unnecessary suffering". Several tenets are encompassed under this principle. First, the intervening state has a responsibility to attempt influence first; to inform the "target" state that its activities have been detected, to identify which specific activities are considered to be sponsorship of terrorism, and to give the offending state sufficient opportunity to voluntarily terminate its aggression. This influence may be applied "privately" (i.e. state leadership to state leadership) first, but, if "private" channels fail, must be reiterated publicly (i.e. to the international community) before intervention occurs. Interestingly enough, the Koran provides a striking passage advocating the notion of "fair warning":

We <the prophets of Allah> never punish a people until after We have sent a messenger. Before we decide to destroy a township, We command the affluent section of its people to adopt the ways of righteousness....⁴⁸

This is the diplomatic equivalent of a "warning shot" intended to marshal internal or external moral opprobrium sufficiently strong to influence the target state to end its sponsorship of terrorism before

additional suffering occurs.

The matter of allowing for the possibility of fostering internal moral opprobrium sufficient to cause a collectivity's leadership to end their sponsorship of terrorism brings me to the issue of "forced" influence. By "forced" I mean the application of influence within the territorial boundaries of a collectivity which that collectivity's leadership would not voluntarily allow to occur. It may be the case that the people of a collectivity are unaware of the extent of their own government's terrorist activities and that, sufficiently aroused, the internal dynamics of that collectivity would work to end those activities without outside armed intervention. I do not believe it implausible to suggest that, for this purpose, the "harmed" state could use military aircraft to "bomb" populations centers within the terrorist state with photographs of the aftermaths of their government's terrorist attacks. On the back of each photograph, in the local language, would be given: 1) details of the terrorism shown (stressing the harm to "the innocent"), 2) details of their government's sponsorship of those attacks, 3) a threat of armed reprisal if their government continues its sponsorship of terrorism (stressing that reprisals will be directed only at those in positions of authority and in the military and at terrorist, government, and military installations and materiel), and 4) a denial of the morality of terrorism which draws upon the local structure of values. Without the third item of course, this forced influence could properly be considered a terroristic threat. The fourth item acknowledges the validity of Onora O'Neill's observation that there is no single "universal" mode of ethical discourse which is accessed

by all cultures. In order to "apply ethics" it is necessary to present the issues in terms of culturally-relative values and world-views.⁴⁹ Great care should be exercised in this regard to ensure that the ethical arguments are only "translated" into the local context and not distorted. Alternately or jointly, electronic means could be used to broadcast the same message into the terrorist state. Moral considerations aside, I believe it would be a serious political mistake to disseminate "disinformation" through channels of forced influence, because the success of such active, but non-violent actions (technically acts of aggression) depends upon the targeted populace perceiving a clear distinction between the lies, immoralities, or injustices of its own government and the veracity of the state using forced influence.

Lastly, if influence and forced influence have failed and the intervening state is considering armed intervention, the tactics planned must be reasonably certain to have the desired effect of compelling the state to forego its sponsorship of terrorism. Although this condition is superficially a prudential one, the underlying moral imperative is to avoid unnecessary suffering. Interventionary measures which are applied although they have little chance of achieving the purported goal (of ending terrorism) smack of punishment, not prevention.

With all of these conditions and principles in mind, let me now describe the practical parameters of a hypothetical reprisal which takes the form of armed intervention. As much as possible the military action would be directed against things vice people

and only against those people falling within the political code and the military. The intervention would be a raid, not an occupation. Targets selected for destruction would include terrorist training camps, military equipment and facilities, arsenals, communications nodes capable of extra-territorial transmissions, etc. In some cases the attack of government buildings or state-owned commercial assets might be acceptable. For example, the Libyans have undertaken a massive project (estimated to eventually cost \$25 billion) to construct pipelines from deep aquifers at Sarir and Tazerbo in the Sahara desert to bring water to the densely populated coastal regions of that country.⁵⁰ This project is seen by the Libyans as critical to their future economic success (just as the Aswan dam resuscitated the Egyptian economy). The threat to destroy the pipeline installations already in place or to interdict future construction (thus denying the Libyans their "bright" economic future) if their sponsorship of terrorism continues does not seem morally misplaced. Once the Libyan population has come to depend on the water of a completed pipeline; however, its destruction would be an act of terrorism.

I need to clarify here a point which E. M. Adams correctly noted was addressed vaguely and misleadingly in an earlier draft of this thesis. Consider the case wherein one or more of the three moral principles with which I have been concerned were substantially violated during an armed intervention so that what was intended to be a reprisal was actually terroristic in its effects. I believe such a situation brings several obligations to the fore. First, the intervening state is under a moral and a legal obligation

to investigate those individuals planning and executing the "reprisal" to determine whether or not they acted incompetently or recklessly or without sufficient attention to moral concerns. In cases wherein it is found that individuals were grossly incompetent or exhibited a flagrant disregard for moral principles, those individuals should be subjected to legal penalties for having committed an atrocity or "war crime" and these legal actions and punishments should be made public. Second, even in the case of reprisal-gone-wrong attributable to "honest error", as I noted in Section I, the state responsible for bringing about the (unintended) terroristic effects is under a moral obligation to those who were inadvertently harmed. I suggest that the only way for the intervening state to regain the "moral high ground" in such an instance of reprisal-turned-terrorism is for a state-to-state apology or expression of regret or the offer or actual payment of an indemnity. While advocates of "realpolitik" might find such a suggestion ludicrous, I submit that preserving a superior moral stance in active responses to terrorism will yield the best long-term results.

The last active measure I will debate is that of selective assassination as an ethical response to state-sponsored terrorism. Beginning with the least ethically problematic category of individuals within the political code, I believe that actual terrorists, that is, those individuals who have been tried in absentia and convicted of personally committing or directly organizing acts of terrorism are morally proper targets of violence. When apprehended in countries having extradition treaties with the harmed state, they

should be extradited to and incarcerated in that state. If no extradition treaty exists, the terrorist should be forcibly abducted (and more and more states which do not have formal extradition arrangements because of various political "complications" are showing themselves willing to "look the other way" during abductions).⁵¹ If a terrorist cannot be extradited or abducted, he should be executed wherever found by the apprehending agents. <I believe that I have offered sufficient justification for the morality of the last contention, although opponents of capital punishment will want a separate argument (which I do not feel compelled to furnish here)>.

Military personnel of a terrorist state ought properly to be considered assailable combatants only during armed intervention by conventional means. Selective assassination of military personnel, even those of a terrorist state, is not morally justified because there is no reason to believe that they have violated the international conventions of armed conflict in the conduct of their military duties. Although they have given general support to a terrorist state, if they have not personally committed acts of terrorism nor been responsible for crafting terrorist policies (normally the purview of only political leaders), then they should retain the protections afforded by the Geneva Conventions and Hague Protocols.

Lastly, we must consider the category within the political code which embraces diplomats, politicians, and functionaries of the state. Current US practice does not accord at all well with avowed policy. On the one hand, in the face of adverse public reaction to revelations of CIA assassinations in Chile, Guatemala, and Iran,

President Ford issued Executive Order No. 12333 forbidding any US agency from authorizing the assassination of political leaders. That ban was reaffirmed by Presidents Carter and Reagan ⁵² and so remains in force. Much of the motivation behind the ban seems to be prudential rather than moral. De jure states have a vested interest in preserving "international stability", in keeping open channels of discussion during times of inter-state tension or hostility, and in not exposing their own leaders and representatives to quid pro quo responses. Further, the immunity afforded diplomats, politicians (especially Heads of State), and functionaries has a long tradition in international law. On the other hand, many political philosophers such as Neil Livingstone have proposed that it is far more humane to conduct selective assassinations than large-scale military reprisals which will certainly cause greater numbers of casualties, possibly including "the innocent".⁵³ In point of fact, US aircraft raiding Libya on 15 April 1986 targeted and bombed Gaddafi's personal residence at 2 A.M. on a Tuesday with the apparent intent that Gaddafi would be killed.⁵⁴ Afterwards, US leaders described the strike on Gaddafi's residence euphemistically as something other than an assassination attempt. Secretary of State Shultz explained: "We did not have a strategy saying we wanted to go after Gaddafi personally. We have a general stance that opposes direct efforts of that kind."⁵⁵ The implication was that "indirect" or "unofficial" assassinations were "acceptable", because they would not be politically troublesome to the intervening state. Other officials explained that Executive Order No. 12333 was a voluntary political restraint which could be superceded, rather

than a legal restraint which could not.⁵⁶ One senior White House official explained that although Gaddafi was not personally targeted, his "serendipitous" death would have been welcomed by the US administration. Little was said officially concerning the morality of the attempt nor does such bald hypocrisy in explication seem morally justifiable to me.

Although I have contended that it is morally justifiable to act violently against politicians, diplomats, and functionaries who have knowingly directed the commission of acts of terrorism, I suggest that such acts be eschewed against senior officials on the moral grounds that such acts are likely to evoke massive upsurges of patriotism or chauvinism which might fan the fires of terrorism and because such acts are prone to being misinterpreted as acts of terrorism by "spectator" populations, obviously to the detriment of the moral posture of the intervening state. In the case of diplomats abroad who are known to have knowingly and significantly abetted terrorist acts, I contend that since their actual status is that of "terrorist" they should not be allowed to retain their nominal status of "diplomat". Such individuals should be forcibly abducted, tried and incarcerated with the details of the trial proving their complicity given world-wide dissemination through the media. For those diplomats and state functionaries abroad whose complicity in terrorism is of lesser degree, sufficient and ethical responses range from expulsion of only the guilty individuals to the closing of the embassy or consulate entirely. Diplomats, politicians, and functionaries on the "home soil" of their terrorist state and occupying government or military facilities (not public facilities or private

residences) during an armed intervention by conventional means ought to be considered combatants at that time.

Summarizing this entire section, I have argued for an ethical response to state-sponsored terrorism which requires a progression from proactive to passive to active measures (some of which occur simultaneously) until the terrorist activities are greatly debilitated or ended entirely. I have advanced five normative principles which ought to govern responses of any type. In this last section I have specifically debated the ethical parameters of active measures which include armed intervention, forced influence, and selective assassination. Rather than attempting to summarize this lengthy thesis here, I will refer the reader to the abstract at the beginning of the text.

Notes - Chapter 4

¹ "Consent" is a rather murky notion. See my explication of consent vis-a-vis the "political code" and EN 40 below.

² John Locke, Second Treatise on Government, ed. C.B. Macpherson (London:1690; rpt. Indianapolis: Hackett Publishing Company, 1980), Sec.8.

³ E. Maynard Adams, "Human Rights and the Social Order," (Chapel Hill, N.C.: undated), p.7.

⁴ John Stuart Mill, On Liberty, ed. Elizabeth Rapoport (London: 1859; rpt. Indianapolis: Hackett Publishing Company, 1978), Ch 2-3.

⁵ Indeed, Peter Singer has concluded that "we ought to give <or presumably, to act for the benefit of others> until we reach the level of marginal utility — that is, the level at which, by giving more, I would cause as much suffering to myself or my dependents as I would relieve by my gift <that is, acts of beneficence>." in "Famine, Affluence, and Morality," International Ethics, ed. Charles Beitz et al. (Princeton: Princeton University Press, 1985), p.259.

⁶ Michael Walzer, "The Rights of Political Communities," in International Ethics, pp.165-67.

⁷ John Stuart Mill, "A Few Words on Non-Intervention," in The Collected Works of John Stuart Mill, ed. John M. Robson (Toronto: University of Toronto Press, 1984), XXI, p.118.

⁸ David Heyd, Supererogation: It's Status in Ethical Theory (Cambridge: Cambridge University Press, 1982), p.174.

⁹ William Butler Yeats passage cited in television adaptation of Taylor Caldwell, The Captain and the Kings (Greenwich, CN.: Fawcett Publications, 1972) aired on Public Broadcasting System, North Carolina, 6 October 1986.

¹⁰ Charles Beitz, Political Theory and International Relations (Princeton: Princeton University Press, 1979), pp.179-83 and David Luban, "Just War and Human Rights," in International Ethics, pp.201-204.

¹¹ John Stuart Mill, "A Few Words on Non-Intervention," p.109-24.

¹² Michael Walzer, "The Rights of Political Communities," pp.192-93.

¹³ Rushworth M. Kidder, "Countering the Threat of Terrorism," The Christian Science Monitor, 21 May 1986, p.15.

¹⁴ Charles J. Hanley, "Stepping Over the Line," Durham Morning Herald, 11 April 1986, p.6A.

15 Kidder, p.16.

16 Comments by Benjamin Netanyahu, Permanent Representative of Israel to the United Nations, during seminar, "In the Face of Terrorism," mod. Arthur R. Miller at Washington, D.C., The Senate Caucus Room, 27 Sep. 1986; taped and televised on Public Broadcasting System, Jan 1987.

17 Kidder, p.17.

18 George J. Church, "Targeting Gaddafi," Time, 21 April 1986, pp.22,27.

19 "Intelligent Actions," Soldiers, 41 (1986), p.54.

20 Kidder, p.17.

21 Henry Shue, Basic Rights (Princeton: Princeton University Press, 1980), p.27.

22 Thomas A. Sancton, "A Brutal Game of Blackmail," Time, 22 Sep. 1986, p.46.

23 Jill Smolowe, "The Bombs of September," Time, 29 Sep. 1986, pp.40-42.

24 Kidder, p.16.

25 The few dissenters from this viewpoint normally offer the argument of "supreme necessity"; that is, (to cite Luban's example) State A can forcibly intervene to compel State B to redistribute national assets if and only if: 1) those assets are needed by the citizens of State A to satisfy their basic physical needs (ie. food, clothing, shelter, etc) and 2) this redistribution is of "extra" assets not required for the satisfaction of the basic needs of the citizens of State B. David Luban, "Just War and Human Rights," in International Ethics, pp.212-13.

26 Adam Roberts and Richard Guelff, eds., Documents on the Laws of War (Oxford: Clarendon Press, 1982).

27 However, since the writings of Hugo Grotius, international law has recognized the validity of what has come to be known as the "pre-emptive strike". In such a case the threatened state physically strikes first in the face of clear and overwhelming evidence that it is in danger of an imminent attack which could be "mortal".

Obviously, in order not to be judged as the aggressor, the pre-empting state is under a moral and political obligation to furnish substantive proof of the imminently intended aggression by the other state. Sydney D. Bailey, Prohibitions and Restraints in Warfare (London: Oxford University Press, 1972), p.33.

28 Editors of The Law of War and Dubious Weapons (Stockholm: Almqvist & Wiksell, 1976), p.2.

²⁹ Mark Wicclair, "Rawls and the Principle of Nonintervention," in John Rawl's Theory of Social Justice, eds. H. Gene Blocker and Elizabeth H. Smith (Athens, OH.: Ohio University Press, 1984), p.292.

³⁰ Wicclair, pp.290-91.

³¹ R. J. Vincent, Nonintervention and International Order (Princeton: Princeton University Press, 1974), p.8.

³² Wicclair quoting Ann Van Wynen and A. J. Thomas, Non-Intervention: The Law and Its Import in the Americas (Dallas: Southern Methodist University Press, 1956), pp.68-69,72.

³³ Michael Walzer, Just and Unjust Wars (New York: Basic Books Inc., 1977), p.210.

³⁴ Walzer, Just and Unjust Wars, p.210.

³⁵ The Bible and Holy Scriptures Conteyned in the Olde and Newe Testament (Geneva: 1560; rpt. Madison: University of Wisconsin Press, 1969), Exodus 21:24-25.

³⁶ Quoted in Nicholas G. Onuf, Reprisals: Rituals, Rules, Rationales (Princeton: Princeton University Press, 1974), p.53.

³⁷ David Luban, "Just War and Human Rights," pp.208-11.

³⁸ Maurice A.J. Tugwell, "Guilt Transfer," in The Morality of Terrorism: Religious and Secular Justifications, eds. David C. Rapoport and Yonah Alexander (New York: Pergamon Press, 1982), pp. 275-87.

³⁹ Edgar C. Doleman, "Human Values in War," Army, Nov. 1986, p.31.

⁴⁰ See for example, Charles R. Beitz, Political Theory, pp.78-80; Peter Singer, Democracy and Disobedience (Oxford: Oxford University Press, 1973), pp.47-52; John Plamenatz, Consent, Freedom and Political Obligation (Oxford: Oxford University Press, 1968), pp.167-71.

⁴¹ Walzer, Just and Unjust Wars, p.210.

⁴² Church, p.22.

⁴³ Locke, Sec.13.

⁴⁴ Onuf, p.34.

⁴⁵ Walzer, Just and Unjust Wars, p.210.

⁴⁶ See for example, Thomas Nagel, "Agent-Relative Morality," in The Ethics of War and Nuclear Deterrence, ed. James P. Sterba (Belmont, CA.: Wadsworth Publishing, 1985).

47 Walzer, Just and Unjust Wars, p.212.

48 The Quran, trans. Muhammad Zafrulla Khan (Mecca: 622; rpt. Chichester, G.B.: R.J. Acford Ltd., 1981), Sura 17, Verse 17.

49 Onora O'Neill, Faces of Hunger (London: Allen & Unwin, 1986), pp.32-38.

50 John Borell, "A Plan to Make the Desert Gush," Time, 29 Sep. 1986, p.63.

51 Comments by Sir Kenneth Newman, New Scotland Yard; Abraham D. Sofaer, Legal Advisor, US Department of State; William H. Webster, Director, US Federal Bureau of Investigation during seminar, "In the Face of Terrorism".

52 Church, p.20.

53 Church, p.20.

54 William R. Doerner, "In the Dead of the Night," Time, 28 April 1986, pp.28-31.

55 Church, p.20.

56 Church, p.20.

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