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Access details: Access Details: [subscription number 917959701]

Publisher Routledge

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Cambridge Review of International Affairs

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title~content=t713409751>

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First published on: 18 December 2009

To cite this Article Asad, Talal(2009) 'Thinking about terrorism and just war', Cambridge Review of International Affairs,, First published on: 18 December 2009 (iFirst)

To link to this Article: DOI: 10.1080/09557570902956580

URL: <http://dx.doi.org/10.1080/09557570902956580>

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Thinking about terrorism and just war

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Abstract Since 2001 a new urge to moralize the use of violence as an instrument of state policy has appeared in liberal democracies. The American idea of a War against Terror, and the European notion of confronting a global terrorist threat, have together merged with a discourse on humanitarian military action: the political/moral 'responsibility to protect' is no longer to be confined to one's own citizens. Renewed interest among academics in 'just war' theory, the tradition that seeks to humanize war through law, reflects this development. This article questions the assumption that there is an essential difference between war (civilized violence) and terrorism (barbaric violence). It argues that their similarity appears more clearly if we set intentions aside—such as the deliberate or accidental killing of 'innocents'—and focus instead on three main facts: (a) modern war strategies and technologies are uniquely destructive, (b) armed hostilities increasingly occupy a single space of violence in which war and peace are not clearly demarcated, and (c) the law of war does not provide a set of 'civilizing' rules but a language for legal/moral argument in which the use of punitive violence is itself a central semantic element.

When the World Trade Center in New York was attacked by terrorists, a torrent of words poured out of the Western media to explain what had motivated this act by interpreting its world historic meaning. The disaster was quickly associated with the many incidents of Palestinian suicide bombings, and experts identified tendencies in Islam, in particular its concept of 'martyrdom', in which dying and killing were combined and sanctified. There was an 'Islamic culture of death'—so we were told—that spawned this uniquely horrific violence. Much has been said in the media about Islam and its history: Holy war (*jihad*) is central to Islamic doctrine; Muslims reject the values of liberal democracy for religious reasons—and especially the separation of 'religion' from 'politics' and a commitment to peace. In brief, their civilization was premodern, irrational and violent. Most of these post 9/11 stories about Islamic doctrine and history were mixtures of half-truths—but then their purpose was not to enlighten but to characterize a hated enemy who had come too close for comfort, and to justify striking out at him in his home.

Shortly after the Anglo-American invasion of Iraq, the senior British Diplomat Robert Cooper observed:

The world we are accustomed to—where every state minds its own business and others have no right to interfere—began to disappear with air travel, the Internet, global television. With weapons of mass destruction it is gone forever. The more such weapons proliferate the greater the risk terrorists will acquire them. Our only defence against such a world is the spread of civilization. Thus we should all be in favor of regime change. The only question is how to achieve it. (Cooper 2003)

The pronoun 'we' in such statements refers of course to Euro-Americans. People in non-Western countries, and especially in the Middle East, have been accustomed for centuries to intervention by European states who have changed local regimes, broken up old political entities and constructed new ones, thus disrupting—whether for good or for ill—indigenous life-ways. The question Cooper might have asked is what happens to intervention when it is explicitly defined in terms of a 'Global War on Terror'. Is the rhetoric about terrorism really about the securing of world peace by spreading civilization (democracy)? Or is it about establishing America's global military dominance, or of controlling the major sources of oil? But then intentions are not, as I shall argue in this article, the best way of approaching the question of international violence—whether terrorism or war. Nevertheless, Cooper's discourse articulates an important vision of the world: its division into two spaces, one responsible and the other irresponsible, which requires some kind of initiative on the part of the former to preempt the dangers that issue from the latter.

The necessity for a special kind of war—a 'War on Terror'—seemed evident to many. But Europeans debated whether they should join with the United States (US) in this war. Mark Leonard, Director of the Foreign Policy Centre (whose patron is Tony Blair), referred explicitly to this European dilemma in his Introduction to an important collection that included contributions by major politicians and public intellectuals. 'Tony Blair', he wrote,

is accused by the left of simply supplying a multi-lateral fig-leaf for US actions, but the alternative may be no international legitimacy at all. For if the American administration remains uninterested in framing its actions in ways that appeal to wider audiences, it is vital that someone else takes on this role. (Leonard 2002, xiv–xv)

Thus the act itself is taken for granted; its *appearance* is what matters. A widely regarded *illegal* act could be *legitimized* simply by European states endorsing its intention. It helps to explain the revival of interest among public intellectuals in the discourse of 'just war', a war that is not only necessary but also motivated by good intentions and conducted honourably.

It is common knowledge that the concept of 'just war' has its roots in medieval Christian theory; today the term is used to persuade those who might be sceptical about the use of international violence that it is in fact both necessary and moral. In this ethical approach to war many critics of the Bush administration stressed 'the need to get inside the mind of the enemy', something they said the US had neglected in favour of direct military action. The question, therefore, has tended to be about tactics in the war against Muslim terrorists, not about reviewing the history of Western relations with countries where Muslims live—still less about considering the role of international violence in the constitution of 'the West'.

In 2007 I published a book in which I began to address some of these matters (Asad 2007). In this article I develop my analysis of the discourse that constructs the 'War on Terror' and I try to understand the strong desire in liberal democracies to moralize war in the form of 'just war'. I examine more closely than I did in my book the implications of fighting war in accordance with humanitarian rules, and the extent to which war is distinguishable from terrorism. How, I ask, do the laws of war (that deal with prohibited weapons and techniques) and humanitarian laws (that deal with the protection of war victims) actually work? It is in this context that I also discuss briefly the concept and practice of national security and

of coercive interrogation in the War on Terror, because they are both represented as legitimate violence in response to the threat of terrorist violence. Liberals argue fiercely among themselves about the ethics of these responses. The overall thesis I present in this article is that the tendency to moralize war and terrorism, to stake so much on *intention*, obscures the fact that there is a space of violence shared by 'war' and 'peace', by 'ruthless terrorism' and 'just war', and that that space is embraced by the liberal tradition.

I begin with the point that the law of war that provides the authorization of 'just war' does not consist of a clear set of rules but a language for interpreting and arguing about bloody conflict. David Kennedy (2004; 2006), who specializes in the law of war, has elaborated on this insightful idea. All states use favourable interpretations to justify their own behaviour in legal terms, but victorious states are in the enviable position of being able to hold their defeated enemies accountable for violating the *rules* of just war and to dismiss those allegedly committed by their own citizens. Liberal democracies do not do this brazenly because they are states for which 'respect for the law' is fundamental. They use the language of law to interpret the rules and their proper application. This means that they depend on 'appropriate' experts—lawyers and judges—who have the authority to use that language. International law is quite unlike domestic law in lacking a framework of authoritative interpretation. In international relations, what we call war is ultimately brute force and not authority that is decisive, even if that force is argued for in a legal language. As Wittgenstein pointed out long ago, there is no inherent logic binding a rule to its application; the meaning of a rule lies in its conventional usage.

So I want to make three points about David Kennedy's thesis of the law of war being a language of interpretation and argument. The first point is expressed with admirable precision by Nathaniel Berman:

Construction, contestation, instrumentalization—these are the key challenges for understanding the role of law in relation to war in our time. Acknowledging the *constructive* role of law in relation to war is crucial for undoing the circumlocutions that can obscure that role. Understanding the *contestable* character of the legal construction of war is crucial for enabling us to imagine the wide range of possible forms that that construction may take. And finally, confronting the vulnerability of the legal construction of war to *instrumentalization*, a challenge far greater than mere contestation of its boundaries, is crucial for really coming to terms with the role of law in relation to contemporary violence, rather than simply bemoaning its misuse by all the major participants. (Berman 2004, 8)

My second point is that it is not only the construction of war that is instrumentalized but also the construction of terrorism and the sensibilities that go with it. Indeed, the latter has become crucial in reinvigorating the idea of 'just war'. My final point is that the category of 'just war' is not merely an expression of organized violence, but that powerful nations are able to decide for themselves whether an event is to be treated as a 'war crime'. This contrasts with the domestic category of 'crime', which is *backed* by institutionalized force but not *defined* by it. In other words, this language of interpretation and argument isn't merely verbal; it includes the use and threat of violence itself.

There has been much talk about the beginning of an age of 'new war', in which militants use transnational networks and modern technology, and adopt a strategy

'of sowing fear and hatred to create a climate of terror' (Kaldor 2002, 22). No doubt terror is what terrorists aim at.¹ But it is not only terrorists who create that climate. 'Terrorism' is not primarily about the people and objects attacked; it is about the construction of 'threat', the identification of its source, and the response that is appropriate to it. The security expert Richard Falkenrath put it nicely:

Before the terrorist attacks of 9/11, there was no field called 'homeland security' ... Today, homeland security is a multibillion-dollar enterprise and the motivating force behind countless reforms across dozens of heretofore separate government activities. The need for this enterprise is not tied to the fate of al-Qaida or any other particular terrorist group; instead, it derives from the structural—and hence, for all intents and purposes, permanent—vulnerability of free and open societies to catastrophic terrorist attacks. This vulnerability existed before 9/11 and will continue to exist indefinitely.

...

Homeland security has no epistemic community to speak of, but needs one. Men and women from dozens of different disciplines—regional experts, terrorism analysts, law enforcement officials, intelligence officers, privacy specialists, diplomats, military officers, immigration specialists, customs inspectors, specific industry experts, regulatory lawyers, doctors and epidemiologists, research scientists, chemists, nuclear physicists, information technologists, emergency managers, firefighters, communications specialists, and politicians, to name a few—are currently involved in homeland security, but it is not enough merely to aggregate specialists. ... Only a team of individuals with genuine crosscutting knowledge and experience will be able to understand the complexity of any particular homeland security challenge, devise an efficient and viable strategy for dealing with the problem, and implement this strategy effectively. (2006, xxv–xxvi, emphasis added)

Falkenrath does not mention biologists engaged in research on the mutation of bacteria and viruses.

The pervasive sense of threat that *the idea of terrorism* (not the individual terror event) creates is thus the achievement not so much of the individual militant who attacks particular targets as it is of the government (legislators, bureaucrats, police and judges), civil society (including scientists, lawyers, intellectuals and the media) and the market (the sale of technology and expertise). For example, the fear of catastrophe creates an unceasing demand for defence against mutating viruses and ubiquitous terrorism—and it produces the merging of the two. The spread of pathogens (whether deliberately or by accident) and the war against germs together occupy the space on which fear fuels the Terror War, and on which states and militants confront each other.²

¹ As David Rodin (2006, 761) has rightly noted, terror attacks do not usually create continuous terror among ordinary people who tend not to think about the matter unless prodded to do so.

² In a brilliant analysis of the dangers of bacterial weapons as exemplified in the anthrax attacks in late 2001 (allegedly carried out by scientist Bruce Ivins who worked in a US government germ weapons laboratory), Tom Engelhardt (2008) underlines the increasing risk of their unlicensed use with the enormous growth of such laboratories since then. Engelhardt points out that research into germs for defensive purposes is almost impossible to separate from knowledge about their offensive uses.

The coercive interrogation of prisoners—the use of individualized terror—is part of the regime called security, which in turn is part of the ‘just war’ against terrorism. In liberal democratic society this practice tends to give rise to debates: Has torture actually taken place? Is it proper to call the practice torture? Can torture sometimes be morally condoned? Some self-styled liberals have proudly claimed that at least liberal democratic states allow public debate on such matters. But the implications of public debate on torture are not merely a sign of freedom. Open dispute over what constitutes torture (physical or psychological distress *beyond* certain limits) legitimizes the idea that suffering may be inflicted *within* limits. And it thus opens the way to arguments, especially among liberals, in favour of shifting the limit in exceptional circumstances.

Michael Ignatieff (2006) has reviewed some of the debates on the fine distinction between ‘coercive interrogation’ and ‘torture’. He has been accused of blatantly supporting the use of torture, but that is not quite fair. It is true that he appears to be equivocating as when, on the one hand, he writes: ‘So I end up supporting an absolute and unconditional ban on both torture and those forms of coercive interrogation that involve stress and duress’, and then in reference to ‘ticking bomb cases’ he notes: ‘An outright ban on torture and coercive interrogation leave a conscientious security officer with little choice but to disobey the ban’. But the first refers to an ethical formulation of the law, the second to behaviour that is morally acceptable in special cases. This ‘lesser evil’ argument is quite familiar but Ignatieff has a utilitarian supplement to explain what he understands by a *conscientious* security officer: ‘I do not see any trumping argument on behalf of the rights and dignity of security detainees that makes their claims prevail over the security interests (and human right to life) of the majority’. Thus even if there is a legal ban against torture, Ignatieff suggests, the conscientious officer may have good *moral* reasons for disobeying it. This is not a case of equivocation as such but of a characteristic display of liberal anguish when one humanist value has to be sacrificed for another.³ At any rate, the difference between legal judgment and moral necessity is typically instrumentalized to advocate or denounce competing policies.

Today ‘coercive interrogation’ is embedded in a system of surveillance by the liberal state. It will not do, I think, to speak simply of a state whose liberalism is diluted, or one that has betrayed liberal values, as many commentators do.⁴ It is not simply that torture is justified by some liberals but that it actually takes place as part of the apparatus of national security that is integral to liberal democracies. By subjecting the entire range of social conduct to suspicion, the project of national security renders all behaviour into signs. Ordinary life becomes the domain of a search for hidden meaning that then points to hidden danger. Perhaps the most important bearer of such meaning is a certain category of person who is himself a sign by virtue of his cultural and religious difference. In other words, effective

³ John Wallach (2005) has an interesting critical analysis of Ignatieff’s views of human rights in ‘Human rights as an ethics of power’.

⁴ I recall the argument by Western Marxists in the 1950s and 1960s to the effect that the Soviet Union and its satellites did not represent ‘real’ socialism. The bitter response at the time was that, real or not, what we had was ‘actually existing socialism’. So, too, with ‘actually existing liberalism’.

surveillance requires *discriminating* control of an entire population within the national territory in which part of the War on Terror is fought.

Unlike Americans, Europeans rarely talk of the 'War on Terror', and when they talk of 'security', terrorism is not their only concern. Thus, the introduction to a recent British report on security notes: 'Over recent decades, our view of national security has broadened to include threats to individual citizens and to our way of life, as well as to the integrity and interests of the state' (Cabinet Office 2008, 4). Even so, there is much in this report on the threat from terrorism 'at home and overseas', and on the need for action in 'failed states'. Much concern is also expressed about 'nuclear proliferation'—and especially about the threat of nuclear weapons to the United Kingdom from unstable regions in Central Asia and the Middle East, but nothing on the threat posed by the possession of chemical or nuclear weapons by liberal democratic states that could be used in war. (The UK Terrorism Act 2000 explicitly includes the 'threat' of force in its definition of terrorism.⁵) Clearly it is not every act of creating terror, however serious, that is regarded by experts as a part of terrorism. Violence must be made to appear as terrorism. The logic of 'security' in modern democracies, of an infinitely expanding need to secure *all* of life deserves greater attention.⁶ It is the state's overwhelming preoccupation with making 'our way of life' safe that renders 'illiberal' measures (including threats of mass destruction) into acceptable means of fulfilling 'liberal' commitments.

I turn now to examine some arguments that seek to distinguish the terror of modern warfare from the terror created by militants, and I cite the current US State Department attempt to do this by defining terrorism: 'Terrorism is premeditated politically-motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents' (Department of State 2002, xvi).⁷ It is not clear whether the assassination of foreign persons carried out by agents of the Central Intelligence Agency (CIA)—or for that matter, its extensive use of proxies to carry out acts of civilian terror in foreign countries—would qualify by this definition as terrorism.⁸ Nor whether its selective encouragement of torture would count (CIA operatives are required to be *conscientious*). Probably not, because the CIA is not a subnational group; it is an executive arm of the American state engaged in clandestine operations with the aim of protecting its interests. According to the US State Department definition, terrorism is not *simply* political violence but political violence that is perpetrated without licence from the

⁵ A nuclear war has not yet been fought, but the only time nuclear weapons were used it was by a liberal democracy. The same liberal democracy has also dropped a massive amount of chemicals (agent orange) on a rural enemy. Given the first-strike option, the possession of these weapons of mass destruction is of course explicitly linked to the *threat* of use. It is worth noting that in 2007 Barack Obama was sharply criticized by Hillary Clinton (among others) for stating that he would not use nuclear weapons 'against civilians' when pursuing Osama Bin Laden—a statement he then tried to rephrase (Luo 2007).

⁶ Peter J Burgess (2008a; 2008b; 2008c), at the International Peace Research Institute, Oslo, has published three interesting 'Policy Briefs' on this subject.

⁷ The US Department of Defense approved definition of terrorism is: 'The calculated use of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological' (Joint Chiefs of Staff 2008, 552–553).

⁸ An important account of such activities is given by Mamdani (2004).

state—and especially when it is directed against ‘our’ state. It follows that the pursuit and killing of terrorists/insurgents, unlike the arrest and indictment of criminals, is necessarily *political*—and so not accountable in the same way as the criminal justice system is.

The criterion that is most often used to distinguish terrorism from the use of armed force in a just war concerns the deliberate killing of civilians in the former. In ‘just war’, it is said, civilians may not be targeted—unless of course damage to them is absolutely necessary and proportional to the objective. This view derives from the doctrine of double effect that goes back to Aquinas, and has been developed over the centuries in many works of moral theology. The doctrine maintains that doing evil is prohibited but that the use of neutral means for a good end is permitted even though it will have incidental evil results—so long as these are not disproportionate to the intended good, and the means are necessary (Wiggins 2006, 253–258).⁹

Defenders of ‘just war’ argue that, for all its unfortunate brutality, war is sometimes necessary whereas terrorism never is, that terrorists kill civilians intentionally and for political purposes whereas armed forces try not to kill civilians, and that the law of war—accepted by states but ignored by insurgents—ameliorates the cruelty of warfare. States that adhere to the concept of ‘just war’ infuse war with ethics—by requiring combatants to follow moral rules that define (a) the right to go to war (*jus ad bellum*) and (b) right conduct once hostilities have begun (*jus in bello*). In short, ‘just war’ is a way of legally separating virtuous motives for killing from vicious ones. There has been an explosion of discourse about ‘just war’ since 11 September 2001, produced by patriotic politicians, journalists and academics. This discourse has grown to include justifications for military intervention having a humanitarian purpose—expressed in the moral principle of the ‘responsibility to protect’ (ICISS 2001).¹⁰

The principles of necessity and proportionality are basic to the concept of ‘just war’.¹¹ An authoritative statement of the principle of proportionality to be observed in international armed conflicts is Protocol I of 8 June 1977, additional to the Geneva Conventions of 12 August 1949. Article 35 (Basic Rules) of the Protocol states:

1. In any armed conflict, the right of Parties to the conflict to choose methods or means of warfare is not unlimited.
2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.¹²

⁹ Rodin (2006, 762) rebuts the claim that this principle makes the killing of noncombatants permissible, and proposes a resort to the legal ideas of recklessness and negligence as grounds for criminal liability regardless of intention. Attractive though this argument is, it does not address the difficulty of determining who the *agent* responsible for inflicting fatal harm in the conduct of war is, or of how the associated notion of *innocence* is arrived at.

¹⁰ It is worth noting that Ignatieff was a member of the committee that prepared this International Commission on Intervention and State Sovereignty (ICISS) report. Written largely before the September attack, it was able to include a brief statement of its timeliness.

¹¹ For a useful account from the perspective of international law, see Gardam (2004). This book expands and brings up to date her earlier (1993) article.

¹² <<http://www.icrc.org/ihl.nsf/4e473c7bc8854f2ec12563f60039c738/0df4b935977689e8c12563cd0051dae4!OpenDocument>>, accessed 25 January 2009.

According to some military historians, these rules are merely a legal restatement of the principle that commanders call *economy of force*:

War has long been limited largely by factors independent of the law. For complex military, political, and economic reasons, belligerents tend to use the minimal force necessary to achieve their political objectives. Force beyond that point—gratuitous violence—wastes resources, provokes retaliation, invites moral condemnation, and impedes post-war relations with the enemy nation. (Jochnick and Normand 1994, 53–54)

The translation of *military practice* into *legal rules* creates a discursive space in which justification and contestation regarding particular instances of military violence can be conducted as a moral issue.

A common move in arguments about ‘proportionality’ is the resort to estimates of the much higher casualties that *might* have resulted if a given strategy were not adopted. But these estimates tend to be highly speculative. Take, for example, the use of the atomic bomb in Hiroshima and Nagasaki:

Putting ourselves back in the legitimate position of Truman’s wartime decision-making, we ask: how many allied soldiers were saved by the bomb? Not Japanese civilians or soldiers but Allied soldiers against Japanese bomb deaths. Estimates differ. In June 1945, the Joint Chiefs estimated 40,000. In 1945 Truman said he had estimated 250,000. In his memoirs, written ten years after the fact, Truman used the figure 500,000. Churchill, in 1953, estimated a million Americans and 500,000 British troops. In 1991, President Bush claimed the use of atomic bombs had ‘spared millions of American lives’. (Kennedy 2006, 146)

The point is that such figures are by their very nature impossible to prove—and yet they are central to arguments about ‘proportionality’. Who can assert with confidence that the Japanese deaths in Hiroshima and Nagasaki were ‘disproportionate’ if they saved a million and a half Allied lives? The rule regarding proportionality in war cannot be indisputably stated. In war victory and defeat are of the essence. It would be absurd for a modern state to engage in hostilities and then deny itself the means to win.¹³ The task of war strategists is to secure the enemy’s surrender or to crush an insurgent opposition, and they are aware that if they win they have little to fear.¹⁴

Connected closely to proportionality is ‘necessity’—both in relation to a particular tactic and to the initiation of war itself. Military forces now employ strategies in which airpower has become a ‘necessity’; I will return to that change in the nature of war in a moment. As for the necessity of initiating a war (*jus ad*

¹³ As the military historian Townsend Hoopes observes, ‘nations do not legislate self-denying restrictions on those weapons and techniques that they judge their survival to depend on’ (quoted in Jochnick and Normand 1994, 56).

¹⁴ In a filmed interview a few years ago, Robert McNamara, who was Secretary of Defence in the Kennedy and Johnson administrations, reflected on the ruthless bombing campaign against Japanese cities that he and US Air Force General Curtis LeMay had directed towards the end of the Second World War. When McNamara expressed some qualms about the mass destruction of civilians, LeMay asked him whether he would prefer to see tens of thousands of American soldiers killed as they tried to invade Japan. In retrospect, the elderly McNamara expressed extreme uneasiness: ‘LeMay said if we’d lost the war we’d all have been prosecuted as war criminals. And I think he’s right.’ *The Fog of War* (2003), directed by Errol Morris.

bellum), the situation has become highly ambiguous because military action is often merely a phase in a drawn out process of hostile confrontations that do not depend on formal declarations of war. Besides, 'necessity' refers to the steps that *must* be taken to achieve a given end, and by *that* measure the claim that starting a particular war is *necessary* cannot always be proved to be so. For example, it is not obvious that the military invasions of Afghanistan and Iraq were necessary to getting rid of terrorism in the strict sense of necessity.¹⁵ If the demand for 'proof' is too strong, the criterion of 'reasonableness' is too weak in this context because there was no agreement between the belligerent countries as to what is reasonable.

In international law the *motive* for embarking on a war (*jus ad bellum*) is crucial to its legality: initiating hostilities in self-defence is authorized by international law; destroying the peace by invading another country is not. But where the distinction between a state of armed hostilities and peace is difficult to make, especially in the context of the so-called new wars, the determination of an offending side (the aggressor) and a side offended against (the defender) is no longer simple. Consequently what becomes more important is the conduct of hostilities (*jus in bello*) in which both sides have equal status. But this equality is difficult to maintain in the conflict if one side is a foreign state determined to maintain its dominance by force and the other side consists of elements in an occupied population determined to resist it, but where only the former has access to a functioning judicial system.

Low-intensity warfare and counterinsurgency (the wars now increasingly fought) are conflicts in which 'the innocence' of civilians often cannot be determined in advance, and therefore the question of whether innocents have been killed intentionally becomes subject to acute argument. This is the kind of conflict, as in Iraq and Afghanistan, where liberals worry that legal and moral boundaries are easily breached because the line between 'soldier' and 'insurgent'—the killer with good intentions and the one with bad—becomes obscure. But if immunity for war crimes is secured (as in the case of the US negotiations in August 2008 with the subordinate Iraqi government, in which immunity for all American soldiers and contractors was sought) the line between 'innocent' combatant and 'criminal' combatant becomes clear again. He who is not legally pronounced guilty is innocent.

It is well known that the 'just war' principles of necessity and proportionality have roots in medieval Christian theology.¹⁶ But there are interesting breaks in the evolution of relevant doctrine. Thus, in the early Middle Ages all killing, even in a war that had the church's support, was considered homicide—a sin requiring the

¹⁵ Most Americans (and Europeans) who have condemned the Iraq invasion have supported the US invasion of Afghanistan on the grounds that it was necessary to bring to justice the international criminals who had organized the 9/11 attack. But this claim to a punctilious concern for international law is a little puzzling: the US itself has refused to sign the International Criminal Court treaty that would allow its citizens to be tried for international crimes, and has entered into a number of bilateral agreements with countries to prevent US citizens travelling abroad from being arrested and sent to the ICC. Now imagine this impossible scenario: the Taliban make bilateral agreements to protect Al-Qaeda operatives travelling abroad, and invade the US to capture Cheney and Rumsfeld in order to try them as war criminals. What does the *absurdity* of this tale tell us about international law?

¹⁶ And yet I must here cite the powerful critiques of war by the contemporary theologian Stanley Hauerwas. See especially Hauerwas (1998).

warrior's formal penance after hostilities had ceased. It was killing or maiming humans as event not as motive that mattered. In the 12th century, however, a new theology of penance was developed in which the *intention* to commit sin became critical: killing in war could now be a virtue *so long as it was done with the right motive* (Keen 1984, 49), as in a war against the infidel. Remorse at having committed a sin was now required prior to penance (and integral to confession) instead of being its consequence as it had been in the older system.¹⁷ Today, because there is no mechanism for penance, secular liberals can only offer regret for killing 'innocents' in war—and a bad conscience if the killing was 'unnecessary or disproportionate'.

In modern warfare, where armies are embedded in the structure and functioning of society, the very idea of killing noncombatants *intentionally* has become complicated. Military fighters depend not only on the morale of their civilians at home but on the essential supplies civilians produce for them. To the extent that the military killing machine uses means that are produced by civilians, civilians are part of that machine. The rules of 'just war' certainly do not preclude the killing of civilians or the destruction of their environment: they forbid '*superfluous injury or unnecessary suffering*'—that is to say, destruction that cannot be shown to be either tactically necessary or proportional.

The direct destruction of civilians and their means of life is a routine event in modern hostilities, regardless of whether this is then claimed to have been accidental. Thus, apart from targeting factories that manufacture weapons used by the enemy's killing machine, warfare inevitably involves the targeting of sites that have simultaneous civilian and military uses. Many things that are of vital importance to enemy civilians (electricity plants, food storage, water purification plants, roads, bridges, railways and so on) are also essential to the enemy's army. To destroy them is to strike at the enemy's capacity to fight, and in modern strategic warfare this capacity does not reside solely in fielded forces. Bombing by air deep in enemy territory is the most effective means of dealing with dual-use targets and with the enemy's industrial power in general, and of undermining the enemy's morale.¹⁸

In his thoroughly researched history of American airpower, Michael Sherry has argued persuasively that the development of aerial warfare combined three strands:

the creation of an apocalyptic mentality, consisting of expectations of ultimate danger and destruction that were both frightening and reassuring; the creation of the apparatus for realizing that danger; and the creation of the modern nuclear dilemma. (Sherry 1987, x)

Air power has indeed changed the nature of modern warfare. There are several studies of the use of air power in the Second World War, some on the firebombing of German cities.¹⁹ In his remarkable book on this subject WG Sebald writes that it

¹⁷ I have discussed this difference in detail in Asad (1993, 125–170).

¹⁸ Sahr Conway-Lanz (2006) has recounted in detail the ways in which air forces belonging to liberal democratic countries (primarily Britain and the US) were morally justified by reference to the idea of 'pinpoint bombing', but then inevitably moved into using 'area bombing' that killed large numbers of civilians.

¹⁹ Sherry (1987, 256–300) has described in detail the firebombing of Japanese cities (especially Tokyo) that eventually led to the atomic bombing of Hiroshima.

was the Germans who were the real pioneers in bomb warfare—from Guernica through Warsaw and Belgrade to Rotterdam. Tens of thousands of Russian refugees were killed by German bombing, he notes, in the 1942 siege of Stalingrad (Sebald 2004, 104). However, Sebald's account is a European story, for he does not mention the British bombings of villages in the Middle East (including Iraq and Palestine) between the two World Wars (Omissi 1990).²⁰

At any rate, since the Second World War aerial bombardment has become normalized, and been employed as a standard military tactic in US bombing campaigns in Vietnam, Laos, Cambodia, Iraq, Afghanistan and Somalia. Western media have become less and less interested in the increasing military use of air power, and have accepted that the enhanced safety and effectiveness of their ground forces justify its use. This fact is at least as much part of the so-called 'new wars' as the terrorist tactics to which this term has been usually applied, and yet most writings on terrorism have paid almost no attention to it. It is well known that aerial bombardment does not discriminate well between combatants and noncombatants, but it is wrong to think that this is due primarily to individual negligence rather than to the nature of modern military strategies themselves. Thus, the adoption of a zero-casualty strategy by NATO in the Kosovo intervention led to bombardment from very high altitudes as a result of which 500 civilian Serbs died and no NATO military were killed.²¹ It was with the emergence of strategic warfare, after the Second World War to be precise, that the concept of 'collateral damage' was devised to cover the unbridgeable gap between the norm of noncombatant immunity and the reality of civilian vulnerability. The unprecedented scale of civilian massacres that took place in Hiroshima and Nagasaki were not accidental, of course; they were the outcome of an ongoing debate in the US about whether, and if so to what extent, noncombatants could be deliberately targeted (Conway-Lanz 2006).

But I want to go beyond the question of how inexact the killing machine is in identifying its 'legitimate' targets to question the assumption that 'innocence' makes good sense in modern warfare. Modern hostilities must continually undermine the distinction between the *unjustified* killing of 'innocent civilians' and the *justified* deaths of 'the guilty enemy'. It is not always easy to decide who should be targeted: enemy soldiers, of course. But then there are persons who supply them with weapons and logistical information, and who mend the wounded so that they can go back and kill again. And there is a government that wages the war, and there are citizens who elect that government to represent them. Where, in other words, does the reach of agency (and therefore responsibility) lie? Whose intentions are to count in the web of actions on which the modern killing machine depends? To the extent that international

²⁰ It was the policing function adopted by the Royal Air Force in the colonies that enabled it to obtain continuous support from the British government even after the 1914–1918 European war had ended.

²¹ Gardam (2004, 117) wrote, 'the insistence of the NATO forces that Operation Allied Force was conducted in accordance with the requirements of proportionality in IHL [international humanitarian law] is brought into question by the statistics. There were 37,465 sorties flown, of which more than 14,006 were strike missions. Although the number is contested, it appears there were at least some 400–500 civilian casualties.' Gardam does not record the NATO response to this contestation, based on an Amnesty International report.

humanitarian law is subject to argument, and to the extent that different states have unequal power to make their argument stick, the notion of noncombatant immunity is highly unstable if not incoherent.

The modern rule that combatants may kill only combatants descends from the medieval game of sacred violence. Thus medieval chivalry was violence that presumed a conflict between equally armed knights, members of a superior class and therefore men of honour who would not stoop to attack social inferiors or sacred persons (individuals who are poorly armed or unarmed). In the process of building up its political authority in 11th-century Western Europe, the Church of Rome attempted to regulate generalized violence by the establishment of 'The Truce of God', which involved the incorporation of knights into the project and the promotion of chivalric codes. The medievalist Philippe Contamine writes:

the Peace of God particularly helped to release the notion of the natural immunity of non-combatants and their possessions. A direct link exists between the Peace of God and the enumeration of those who in time of war had 'safe conduct without asking for it': churchmen, ... 'cowherds and all farmers' ... labourers, merchants, women, old people and children.²² (Contamine 1984, 273–274)

The relative success of the Peace of God, incidentally, served as the prelude to the Crusades, perhaps the most famous of all 'just wars' in the history of Euro-America, and one that accommodated many massacres. (*Jihad*, incidentally, is not simply what terrorists call their violence; it is the Islamic version of 'just war', and it has its own theological-legal conditions that have been much debated by Muslim scholars over the centuries.) Modern war strategies have long superseded this notion of civilian immunity: they now involve calculations of the costs and benefits of damaging political opponents (whether they bear arms or not) in pursuit of specific military objectives.

Clausewitz (1982, 405) famously pointed out that secular war is the continuation of politics by other means, and clearly in that politics the feudal notion of chivalry has no place. There are political objectives to secure in modern warfare in which ends and means are inextricably linked. However, the rhetoric of 'apology' and 'regret' that accompanies 'collateral damage' indicates that there is more than rational strategy involved, that modern war has its own etiquette of death dealing even if it has dispensed with the norms of chivalry and the rites of penance.

Thus, in great part the categories used in the discourse about immunity belong to very specific cultural arrangements, and the secular discourse of civilian immunity has religious roots. At least one scholar who has sought to strengthen the idea of 'just war' has proposed that the distinction between combatant and noncombatant that is difficult to secure be substituted by the distinction between those who are an immediate threat to life and those who are not (May 2007).²³ This is not, in fact, an easy line to draw, but it displays the widely shared sense that one needs to identify those who *deserve* to be killed.

²² For an analysis of the Peace of God as an early phase in the centralization of the papacy (whose later phase was the crusades), see Mastnak (2000).

²³ This seems to me a very fragile argument: military strategies would be rendered hopeless if it were followed.

The sowing of terror among the enemy remains a crucial part of modern warfare. Demonizing the enemy is a familiar feature of all wars—but especially of colonial and counterinsurgency wars. No general in our time would recognize an absolute ban on terrifying and killing civilians. In the context of the 1981 Israeli attack against Lebanon, Abba Eban, Foreign Minister in Israel's first government, was one of the few prominent critics of the Israeli bombing and terrifying of civilians. 'The Lebanese population in Beirut apartment buildings', Eban wrote,

have not the slightest degree of control over the terrorists who move in. The real Israeli indictment of the Beirut [bombing] decision is on the grounds of predictable ineffectiveness. . . . There is thus no balance to be drawn between pragmatic advantage and moral detriment. . . . Israel is not more secure, but its image has been tarnished at the highest level. (Eban 1981)

This was in clear contrast, Eban maintained, to the situation after the 1967 war when the Israeli air force bombed Egyptian towns and villages on the west bank of the Suez Canal. At that time, so he argued, 'there was a rational prospect, ultimately fulfilled, that affected populations would exert pressure for the cessation of hostilities' (Eban 1981).²⁴ In modern warfare liberals, and Eban is merely one example, try to strike a balance—at once tactical and moral—between means and ends. (Liberal arguments for shifting the limits of coercive interrogation are similar in this respect.) The concern is not that civilians must never be harmed but only that such injury must be justified by pragmatic advantage in the prosecution of a military/political objective. Otherwise the suffering sustained by civilians at the hands of the military may be regarded as 'superfluous or unnecessary'. In other words, when civilians are killed according to a justifying calculus, they are part of *getting at the enemy*; if the killing cannot be justified, they are innocent. Humanitarian conduct in war is not a matter of following a rule but of calculating probabilities in situations of uncertainty—and to the extent that war is now moralized it tends to be through utilitarian ethics. Hence, it is the careful *calculation of risks and possible gains* that is taken as the sign of a superior moral standard.

I now want to consider in a little detail how modern war is to be distinguished from modern peace. I want to set aside the supposed 'rules of just war' and look at the ways certain armed hostilities have been conducted in our time.

Because the language of law informs the shape and conduct of hostilities it is not only the degree to which violence is necessary and proportional in military engagements that is endlessly interpreted, but also the beginnings and endings of war itself. This is particularly the case because wars between states are now inevitably total wars. Historians chronicling the collapse of Nazi Germany, for instance, have described vividly the chaos, the revenge killings, the lootings and rape (in which members of the Allied armies often took part) after the unconditional surrender. More significantly, for large European populations the

²⁴ The same notion of moralized warfare continues to be held in our day. In an opinion piece published shortly before the Iraq invasion, and arguing against it, ex-President Jimmy Carter (2003) noted: 'the first stage of our widely publicized war plan is to launch 3000 bombs and missiles on a relatively defenseless Iraqi population within the first few hours of an invasion, with the purpose of so damaging and demoralizing the people that they will change their obnoxious leader, who will most likely be hidden and safe during the bombardment'.

formal end of the war did not mean an end to violence. Half the continent found itself exchanging one kind of organized violence (Nazism) for another (Stalinism)—entering what some writers have called a ‘semblance of peace’.²⁵ It was peace only in the sense that a formal end to the war had been signed.

Where colonial struggle and counterinsurgency are concerned, the separation between war and peace is not easily established precisely because the formal conclusion to war is missing. Sometimes peace is represented as separate from war, as when ‘the counter-insurgency, peace enforcement and reconstruction phase is represented as radically different from war’ (Shaw 2005, 77). Sometimes peace is assimilated to war, as in the conflicts in Afghanistan and Iraq. These are not instances of confusion in which objective realities are mistaken for each other; they are part of what Berman has called ‘construction, contestation, and instrumentalization’. Calling the armed conflict between an occupying state and a resistant population ‘war’ has a long history. At least since the 19th century imperial operations against native peoples were known as ‘small wars’,²⁶ and in an important sense today’s War on Terror is a descendent of that concept: a space of violence in which ‘peace’ is neither the opposite of ‘war’ nor indistinguishable from it, but where peace depends on intermittent war.

The US representation of itself as being engaged in a war against a nonstate enemy belongs to the same lineage as the earlier ‘small wars’. According to the *Small Wars Manual* (first published by the US Marine Corps in 1935 and greatly expanded in 1940) a small war differed from a conventional war in requiring no formal declaration of hostilities. This is reflected, as the Manual points out, in the fact that American forces ‘dribble in’ to the countries in which they intervene. The purpose of a small war is not to conquer or annex foreign territory but, in ‘the spirit of the Monroe doctrine, to suppress lawlessness and insurrection’. The use of US Marines in foreign countries ‘to protect the lives and property of American citizens resident in those countries does not necessarily constitute an act of war, and is, therefore, not equivalent to a declaration of war’ (US Marine Corps 1940, 2, 3, 5). The manual points out that unlike a war between states in which diplomatic negotiations cease with the initiation of hostilities, in small wars diplomacy and military action continue together.

So armed hostilities can be represented as episodes in the new War on Terror; but they are episodes without a clear conclusion—and arguably without a clear beginning since terrorists and counterterrorists were active before 9/11. The indefiniteness as to when war begins and ends has led to attempts at ‘clarification’ in the Geneva Conventions in which the term ‘armed hostilities’ is now preferred to the older ‘war’. But popular discourse in the US still speaks of war rather than armed hostilities, and liberal intellectuals still write about ‘just war’ in reference to the Balkans and the Middle East.

The Israeli journalist Amira Hass points out that the peace accompanying an occupation is really dependent on war. Every citizen of an occupying power, she insists, whether military or civilian, who moves or settles in occupied land does so on the basis of privilege arising not only from the initial act of violence but also from its continuous presence. Speaking of Israelis on the West Bank, she writes:

²⁵ Stafford (2007) covers some of this.

²⁶ See Callwell (1906).

We have the privilege of hiking in Palestinian areas to our heart's content, of buying subsidized housing for Jews only on the lands of Bethlehem, of raising cherries and grapes in the wadis of Hebron, of quarrying on the mountain slopes, of driving on roads whose land was expropriated from the indigenous inhabitants for public use. . . . The regime of travel permits that has been in place since 1991 deprives all Palestinians of the right to freedom of movement in Israel while the system of roadblocks limits their movement in their own territories. (Hass 2008)

Hass thus distinguishes the peace of Israeli settlers from the continuous state of hostilities on which the occupation rests, emphasizing the necessity of the latter for the former. The intermittent acts of open violence, whether performed by Palestinian militants resisting occupation or by the Israeli army protecting the settlers' way of life, are merely epiphenomena within the structure of peace-war.

Suicide bombing is perhaps the most dramatic form of terrorism. There is already a sizeable literature claiming to offer explanations of what motivates suicide bombers. The attribution of motives to suicide bombers is always the function of narratives, some of which are more plausible than others. Least persuasive, to my mind, are the narratives that use the concept of martyrdom to clinch the Islamic character of this form of terrorism. The term *shahid*, glossed as 'martyr' in English, is more complicated, and (at a more abstract level) the relation between cultural concept and individual intention is more problematic, than most existing explanations of suicide bombers allow.²⁷ At any rate, my view is that the psychological question 'Why did he do it?' is no more interesting than it is when directed at the motives of a volunteer who joins the army to kill the enemy—unless, of course, he has to be identified and punished for something already categorized as a crime. The common assumption among Western 'terrorist experts' that suicide bombers have been brainwashed but soldiers who volunteer have not seems to me tendentious.

But why does suicide bombing horrify? Partly, I suggested, because of an attitude to suicide in general, and especially when it is non-Europeans who kill Europeans. There are other reasons too, which I have discussed in my book. At any rate, many societies—Greek and Roman, Hindu and Japanese—were not horrified by suicide. In fact, killing oneself was often carried out as an exemplary act. 'Fighting to the death' has commonly been praised in wars ancient and modern. The soldier's body is integral to his weapons, and as such it is itself an instrument as well as an object of death. It may be recalled that the Bible presents Samson's famous suicide, in which he destroys the Philistines together with himself, as an heroic act. For this reason Samson's suicide today is officially celebrated in the liberal democratic state of Israel as an act of great symbolic import for the secular present. Indeed, the readiness to annihilate oneself together with one's enemies is not an entirely alien thought in the modern liberal West, as the policy of nuclear deterrence—Mutually Assured Destruction—proves.

The destruction of human beings and their ways of life—the decision of how and when they are allowed to live or to die—has been essential to the formation of the modern state. All commitments to political immortality and all calls for sacrifice for the nation demand killing and dying. That is one reason I suggest that modern terrorists belong to the same universe as liberal democrats waging war.

²⁷ I have discussed some of these complications in Asad (2007, 39–64).

Terrorists are, of course, criminals according to state law, but the logic of violence that underlies their conflict with established states is shared with the latter. It is only the etiquette of death dealing they do not share: the formal statements of regret. For liberalism the readiness to multiply death—ours and theirs, but especially theirs—is a condition of freedom, a readiness to shift nonviolent politics into the politics of force.

The reader may ask why I refer continually to ‘liberalism’ when so many of the activities being discussed are *illiberal*. My answer is that I want to examine the extent to which the liberal democratic state shares a space of violence with terrorism. For this one needs to look at how citizens in liberal democratic society are actually authorized to kill, how they actually argue about or submit to public policies about war, and not at a set of principles—whether these are regarded as unquestionably valuable in themselves or intended as the best way of securing procedural justice. The well-known contradictions in liberal discourse and practice are reflected in the many problems one encounters in thinking about modern war and terrorism: ‘just war’ claims to follow clear legal and moral rules but belligerent nations do not agree on how these are to be applied in concrete cases; it seeks to humanize war but accommodates the massive killing of civilians and it cannot hold powerful states accountable for atrocities; it refuses the terror threatened by insurgents but accepts the terror of a nuclear option by the state. Although theorists seek to present liberalism as consistent, unified and universal, and polemicists seek to separate it clearly from doctrines and attitudes that are *illiberal*, the ways in which self-styled liberals deal with questions of military violence are not so easily classifiable. The contradictions and ambiguities in liberalism’s evolving language make public debates possible among liberals. What are called ‘illiberal’ policies are often due to features intrinsic to liberal democracies: the need for politicians to appeal to a diverse and emotionally volatile electorate, their need to be ‘realistic’ about powerful corporate interests—what President Eisenhower called ‘the military-industrial complex’—and their need to separate procedural rules completely from individual intention at the same time as holding the individual culpable for infringing rules but with qualifying reference to his or her intention.

In short, liberalism is a historical tradition that should not be equated with a clear and fixed doctrine. Liberals have developed divergent positions in response to different historical experiences. This is especially the case since the late 19th century, when liberalism (the word itself was coined in that period) combined parliamentary democracy, national reform and international law.²⁸ And this is also the period when liberalism advocated civic republicanism at home and colonial rule abroad—that is, when it identified itself closely with imperial projects.²⁹ The foreign projects into which liberal vocabulary has been variously inserted are generally unstable and uncontrollable. The most fundamental project of remaking the world—of waging war ‘to make the world safe for democracy’, as the Wilsonian

²⁸ Over the last decade a number of important studies have appeared on the close historical connections between liberalism, imperialism and international law: Berman (2008; most of the chapters in this book were originally published in English as articles); Koskenniemi (2001); Anghie (2004).

²⁹ Interesting studies on how liberal arguments endorsed imperial projects include Mehta (1999) and Pitts (2006).

formula had it a century ago—has led time and again throughout the 20th century to catastrophic results that are then disavowed because they were unintended. It was a liberal president (Lyndon Johnson) who accelerated America's military engagement in Vietnam after his liberal predecessor (John Kennedy) had initiated it, and who oversaw what became the most destructive war against civilians in the second half of the 20th century fought 'in defence of freedom'.

But one does not have to be a self-described liberal to make use of liberal principles. Perhaps the most striking illustration of this in recent politics is provided by the neoconservatives who gave the Bush Administration its ideological direction: by welding an egalitarian ideal (neither race nor culture makes people unfit for freedom) with a redemptive project (every undemocratic society can be rescued for liberal modernity) they were able to justify major military intervention: because of our *liberality* (in the double sense of our commitment to freedom and generosity) it is our responsibility to democratize the Middle East. It was precisely this creative use of principles that won over many prominent American liberals to the neoconservative project. And it was in response to this that Tony Judt wrote, in dismay, of the enthusiasm with which they endorsed the War against Terror. They did so, Judt observed, on the grounds that 'anyone who won't stand up to 'Global Jihad' just isn't a consistent defender of liberal values' (Judt 2006, 18). There were, of course, many in the US who spoke out against this posture apart from Judt.³⁰ My point here is merely that liberal language offers itself to 'illiberal' projects as easily as it does to 'liberal' ones.

But it is not only liberal language but also liberal practice that is at issue here. Liberal powers have used massive force and liberal arguments to make, unmake, expand and dissolve states violently. The Revolutionary Wars helped form modern France and also helped liberalize Europe. The continental expansion of the US by force against the indigenous population culminated in the Mexican-American war and then the Civil War helped to construct the modern American state. It was the liberal Allies who dissolved the Austro-Hungarian Empire after their victory in the First World War and established independent European nation states in its place. At the same time they destroyed the Ottoman Empire and replaced it by Mandates governed forcibly by two liberal European governments, Britain and France. The clashing liberal principles of national self-determination (the right to independence) and national sovereignty (secession as treason) have justified various kinds of political violence. In short, the liberal democratic state has occupied a space of violence throughout its history, and it is my contention that although terrorists do not possess the means of war that liberal states deploy, they inhabit the same space because they have comparable aspirations.

Like their state opponents, terrorists are modern, ideological and ruthless. And like them, they are prepared to defend and extend their liberty by violent means. Brian Michael Jenkins, who has made a careful study of modern terrorism, observes that terrorists

innovate; exploit new technology; learn from one another; imitate successful tactics; produce manuals of instruction based on experience; debate tactics, targets, and

³⁰ For example: Andrew Bacevich, Richard Falk, Seymour Hersh, Chalmers Johnson and Gore Vidal, among many others.

limits on violence; and justify their actions with doctrines and theories. (Jenkins 2006, 117)

Terrorists, he adds, have also become bloodier (117).³¹ Yet every one of these characterizations applies also to state forces waging war, whether 'just' or 'unjust'. The main difference is that states can and do carry out far more destruction than terrorists.

The modern system of international law endorses the use of violence only to preserve and defend existing sovereign formations not to dissolve or expand them. (Israel is an example here of the fact that what international law says and what international law can do are two quite different things.) But because many states today have come to be seen as incapable of maintaining themselves, or as maintaining themselves only in ways unacceptable to the Western powers, a new liberal purpose for violence has been assumed by the latter: humanitarianism. The first famous example in our time was the NATO intervention in Yugoslavia; the more recent example was the US invasion of Afghanistan, together with its NATO allies. Thus, in late 2001 the European Commission stated in one of its Bulletins that the 7 October attack against Afghanistan was not aimed at Islam or at the people of Afghanistan: 'The Afghan people deserve a government which is truly representative and which responds to their needs and aspirations.' The Commission was clearly concerned that the violence being inflicted on that country be seen as actuated by good intentions; the Bulletin therefore announced that the EU member states were 'responding urgently to the humanitarian crisis in and around Afghanistan' by making 316 million Euros available.³² Strictly speaking the military intervention is seen as humanitarian by virtue of its professed intention not by reference to the immediate violence it necessitates. Because its intentions are liberal (the ending of tyranny, the promotion of gender equality, the securing of ordinary lives, the punishment of criminals and so on) and its conduct honourable, humanitarian military action can be assimilated to 'just war'. But in ensuring that the initiation of hostilities will by definition be *just*—and that the enemy will therefore be *unjust*—humanitarian intervention dissolves the distinction between defensive and aggressive war and extends and intensifies the space of violence. An implication of the dissolution between defence and aggression for conduct in the field (*jus in bello*) is that many restraints are removed because violent preemption of possible threats by possible opponents appears reasonable.

Humanitarian intervention also dissolves the old distinction between war and peace. In an article advocating a more vigorous and ambitious role for NATO, Julian Lindley-French points out that 'the distinctions between peacekeeping, peacemaking and warfighting are becoming rapidly meaningless in the context of a "three-block" war, that is war involving humanitarian activities, stabilisation, and high-intensity warfighting' (Lindley-French 2005).

So instead of employing the just-war/evil-terrorism binary I suggest that our question be rephrased: if armed hostilities are today increasingly difficult to

³¹ Jenkins is Senior Advisor to the President of the RAND Corporation and Director of the National Transportation Security Center.

³² Bulletin EU 10-2001 (en): 1.6.81 <<http://europa.eu/bulletin/en/200110/p106081.htm>>, accessed 4 July 2008.

separate from peace, what kind of politics, at home and abroad, does their joint appearance make possible? What if the idea of 'just peace' as the conclusion to a 'just war' is translated into an 'entitled peace' *sustained* by nomadic violence—that is, violence in unpredictable forms and places, and informed by complex motives, whose *effect* is to sustain or undermine a given way of life?

Since at least the end of the 19th century, Western—now especially American—foreign policy has tended to envisage humanity as divided into two: the one occupying a space of peace (the Western liberal democracies) and the other a space of war (weak non-Western countries). To some extent, as the history of 'small wars' shows, this has emerged out of an older division between the civilized West and the uncivilized Rest (Callwell 1906, 25). This division is now complicated by the rise of new powers in the East, but, as Lindley-French maintains, expressing a viewpoint common among military experts,

Until power in the Asia-Pacific region is embedded in functioning institutions of the type that the European Union and NATO represent, a power paragon of stability is required. . . . In other words, a new transatlantic contract is required focused on a new NATO, which will become the cornerstone of global security. (Lindley-French 2005)

China, Japan, South Korea and so on are not yet civilized enough to act as NATO can, so what NATO is able to do is to offer stability as a global good. Thus the dictatorial regimes of the Taliban and Saddam Hussein inevitably destabilize their regions; the invasions of Afghanistan and Iraq are acts of stabilization—at least in intention. But this must be understood as part of a big picture:

What is emerging from the counter-offensive is a new 30-years war in which extreme belief systems, old but massively destructive technologies, instable and intolerant societies, strategic crime and the globalization of commodities and communications combine to create a multi-dimensional threat transcending geography, function and capability. The response of the West and its partners will require a new grand strategy with a big NATO at its core. (Lindley-French 2005)

NATO, in other words, must take up the challenge of global governance in a liberalizing world where making war will be essential.

In his classic work on small wars at the end of the 19th century, the British soldier Colonel Callwell divided them into three classes:

campaigns of conquest or annexation, campaigns for the suppression of insurrection or lawlessness or for the settlement of conquered or annexed territory, and campaigns undertaken to wipe out an insult, to avenge a wrong, or to overthrow a dangerous enemy. (Callwell 1906, xx)

Callwell sees the global order as a single space with two interlocking subdivisions. Apparently the two are distinct: the space of war is the space of nonnormativity generating threats (terrorism *and* closed economies), a space calling for intervention by the liberal democracies; the space of peace is a space from which small wars can be mounted periodically, for any of the reasons given by Callwell, or by Lindley-French. Even the allegedly new causes of humanitarianism (the 'responsibility to protect and help' inhabitants of the space of war), and of global stabilization, derive from 19th-century imperialism whose moralistic language made it compatible with liberalism—they are not quite the same as 19th-century wars because the conditions of global capitalism, military techniques and

the language of moralism are today different. From the space of war the space of peace inevitably appears as a threat; so the two spaces are really one, both necessary parts of the expanding West.

The reasons for fighting humanitarian wars are not simply humane, nor simply actuated by concerns about stability. In his award-winning history of America's small wars, Max Boot admits as much, and insists that nevertheless foreign military engagements are necessary:

America's strategic situation today presents more opportunities than ever before for such entanglements. Since the fall of the Berlin Wall, America has stood head and shoulders . . . above all other nations, possessor of the world's richest economy and its most potent military. . . . The inner core of the American empire—North America, Western Europe, Northeast Asia—remains for the most part stable and prosperous, but violence and unrest lap at the periphery—in Africa, the Middle East, Central Asia, the Balkans, and other regions teeming with failed states, criminal states, or simply a state of nature. This is where America has found itself getting involved in its recent small wars, and no doubt will again in the future. (Boot 2002, xix–xx)

The concern is not the threat of terrorism alone, however. Boot tells his readers that many small wars in the past 'served much the same function as World Trade Organization negotiations do today: to open up more of the world to Western commerce' (Boot 2002, xvii). And this, Boot adds perceptively, will continue to be one of their functions.³³ The space of war must be liberalized (and capitalized) by force—assimilated into the space of peace by military means, just as its 'internal' normative status needs to be continuously restored.

It should not be difficult, in this neoliberal world, to see how the prosperous Western states and third world militants occupy the same space of political violence. In this space terror is entirely normal: whether it be aerial bombardment (NATO's 'Enduring Freedom') or suicide bombing, the destruction of whole cities and villages presented on television news (America's 'Shock and Awe') or the killing of terrified hostages presented on video aired on television, the security state's violent exclusion of would-be immigrants or the terrorist cell's execution of traitors. But beyond all this there are forms of terror that 'terrorists' cannot match: the threat of nuclear war, something that is claimed to offer global political stability through a military stand-off—but that also opens up the real possibility of global annihilation.

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³³ Boot (2002, xx) cites Thomas Freedman: 'The hidden hand of the market will never work without a hidden fist. McDonald's cannot flourish without McDonnell Douglas, the designer of the US Air Force F-15.'

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