

## The Morality of Terrorism

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**ABSTRACT** *In this paper (a sequel to 'What Is Terrorism?', Journal of Applied Philosophy, vol. 7 [1990]) I discuss both consequentialist and deontological justifications of terrorism. In the consequentialist context, I look in particular into Leon Trotsky's classic defence of the 'red terror', based on the argument of continuity of war, revolution, and terrorism, and the claim that the distinction between the guilty and the innocent, combatants and noncombatants, is not relevant to modern warfare. On the deontological side, I discuss Virginia Held's recent attempt at justifying terrorism in terms of basic human rights and distributive justice. The conclusion reached is that terrorism remains almost absolutely morally impermissible.*

### I

In an ethical context terrorism is best defined as the deliberate use of violence, or the threat of its use, against innocent people, with the aim of intimidating some other people into a course of action they otherwise would not take. With regard to this definition, the following points should be noted:

(a) Terrorism has a certain structure. It targets two different persons or groups of people. One is the primary, the other the secondary target. The latter target is directly hit, but the aim is to get at the former, to intimidate them into doing something they otherwise would not do.

(b) The secondary target, which is directly attacked, is innocent people. In the context of war or insurgency, this means persons who are neither members of the armed forces or security services, nor persons who supply these with arms and ammunition, nor political officials involved in the conflict. Terrorism is thus distinguished from war in general (and guerrilla war in particular), and from political violence. This, of course, does not mean that an army cannot employ terrorism; many armies have done that. Nor does it mean that political violence does not often intimidate the authorities or the public, or is not meant to do that.

(c) The etymological connection of 'terrorism' with 'terror' and 'terrorising' is preserved.

(d) The definition covers both political and non-political (such as religious or criminal) terrorism.

(e) With regard to political terrorism, the definition makes it possible to speak both of state and anti-state terrorism, revolutionary and counterrevolutionary terrorism, terrorism of the left and of the right. The definition is politically neutral.

(f) It is also morally neutral, at least at the most basic level of discussion. I believe it captures the elements of terrorism that cause many of us to view it with utmost moral

repugnance: *violence* (or threat of violence) against the *innocent*, for the purpose of *intimidation* and *coercion*. But it is not an attempt at prejudging a *moral* decision by means of a *definition*: it does not make moral condemnation of terrorism analytically true and thus trivial, nor its moral defence analytically false, a contradiction in terms, nor the question of its moral status a self-answering one.

(g) When compared to the use of the word ‘terrorism’ in ordinary language, this definition may appear both too narrow in some respects and too wide in others. One might object that it is too narrow, since it implies that attacks of insurgents on soldiers or police officers, which the media as a rule depict as terrorism, should not be called that, but rather political violence or guerrilla war. On the other hand, it might also be objected that it is too wide, for it follows from it that the bombing of Dresden and Hamburg in World War Two, or recent Israeli Army incursions into Lebanon, were cases of terrorism, or that some of the violence whereby the mafia forces the unwilling population to collaborate is also terroristic. But if we can agree that paradigmatic cases of terrorism do involve the four morally problematic components the definition singles out — violence (or threat of its use) against innocent people, for the sake of intimidation and coercion — we may be willing to accept these, admittedly significant, deviations from ordinary usage.

(h) By focusing on the innocent as the victims of terrorism, the definition connects debates about the morality of terrorism with the traditional discussion of just war theory. For the main provision of that theory with regard to *jus in bello* is the prohibition on attacking noncombatants [1].

## II

When queried about the morality of their actions, some terrorists turn out to be amoralists. Others try to come up with a moral justification of terrorism. Indeed, there is a tradition of moral apologetics of political terrorism employed by the radical left, from Bakunin and Nechaev in the nineteenth century to Trotsky and Marcuse in the twentieth. All these apologies have an unmistakably consequentialist character.

From the consequentialist point of view, terrorism, just as everything else, is not morally wrong or impermissible in itself; it all depends on the consequences it is going to have in the circumstances given. When its consequences are bad, terrorism is, of course, impermissible. But when its consequences are good enough, terrorism, just like everything else, is given moral consecration. For a consequentialist, the question of the moral status of terrorism is solely the question of its consequences, i.e. a factual, empirical question, and accordingly one that, at least in principle, can always be settled [2].

Many find this lack of any opposition to terrorism *as such* on the part of the consequentialist rather disturbing. Many find it difficult to accept that the use of violence, or threat of it, against innocent people, with the aim of intimidating some other people into doing something they would not otherwise do, is morally right and proper whenever its consequences are good enough. This is only a particular case of what is generally seen as the main problem with consequentialism: the much too great willingness of the theory to permit, and indeed call for, various actions that would be considered morally wrong in themselves, i.e. wrong even when they would produce good results. Significantly, quite a few adherents of consequentialism are not ready to commit themselves clearly and consistently to the consequentialist view of terrorism.

Some consequentialists emphasise that those who resort to terrorism tend not to take the need for moral justification seriously enough, and that it is actually not at all easy to satisfy the requirements of its consequentialist justification. It is not enough, as many terrorists apparently assume, to believe that terrorism is a possible, or even helpful method for achieving the desired objective. One must show that the objective will indeed be achieved by means of terrorism; that the objective, when it is eventually achieved, will indeed be so valuable as to justify all that the terrorist does on the way to achieving it; finally, and most importantly, that the objective could not possibly be achieved by other, less problematic methods. A good example of this approach is the article *The Burdens of Terrorism* by Nicholas Fotion, who argues that, when all these difficulties are taken into account, it turns out that terrorism is virtually never justified. For, as Fotion says, ‘the option of attacking the opponent’s military establishment is always present.’ [3]

This, of course, is quite true; but it is not enough to lead to the conclusion Fotion wants to reach. Terrorists do always have at their disposal the option of *attacking* military targets of the enemy, rather than innocent people. But this does not mean that they can always *achieve* their objectives by doing so. And it is the achievement of the objective that, for a consequentialist, constitutes the moral justification of terrorism. When and under what circumstances an attack on military targets of the enemy will prove an efficient, and therefore preferable alternative to terrorism, remains an empirical question, that is, a question that needs to be settled in each particular case on its merits. It is entirely possible that in certain particular cases it will turn out that there is no effective alternative to terrorism, i.e. that terrorism *is* necessary if the objective is to be attained. In all such cases, a consistent consequentialist will have to draw the conclusion that terrorism is morally justified. We should therefore rather look to the authoritative consequentialist account of terrorism in the writings of philosophers such as Kai Nielsen, who points out that terrorism, not on its own, but rather combined with other, ‘more conventional’ methods, has proven ‘an effective tactic to drive out an oppressor’ in South Vietnam and Algeria, and may well have been justified in Chile, Angola, and Mozambique too. With regard to terrorism, historical experience has not been uniform; therefore whoever wants to judge terrorism exclusively in terms of its consequences cannot claim that it is never justified [4].

Many remain unimpressed by the consequentialist defence of terrorism in terms of its good consequences. They feel that the consequentialist account is incomplete. There are other considerations that need to be taken into account — considerations that have great moral weight, and tend to show that terrorism is morally unacceptable even when it does have good consequences. These considerations are the following.

(1) *The separateness of persons*

A terrorist who justifies his actions in consequentialist terms has one paramount goal: to bring about the state of affairs to which he accords the highest value. That can be the good, just, truly free and human society, or the liberation of the homeland and establishment of an independent state, or the victory of the one true faith, or whatever. Since his commitment is to the highest value, that value overrides all other values that might conflict with it, all considerations that might stand in the way of its realisation. He may also have certain beliefs about society according to which the way to bring about the desired state of affairs is, or includes, terrorism. It is sometimes said that terrorism is indiscriminate violence, but that is certainly not true if taken literally. The terrorist does not strike blindly, left and right, but

rather plans his actions carefully, considering the situation and the resources at his disposal, and trying for the course of action likely to be most effective in the circumstances. In his calculations he takes into account, on the debit side, his victims: the men, women and children he is going to kill, maim, or otherwise severely harm. They are part of the price that has to be paid on the way to the ultimate goal; he will have no great difficulty proving this by his calculations. It is precisely these calculations, in which human beings figure as units to be added and subtracted, that many find morally inappropriate and indeed offensive. Many will want to say, with Arthur Koestler's Rubashov, that 'twice two are not four when the mathematical units are human beings.' [5] For every human being is an individual, a person separate from other persons, with a unique, irreproducible thread of life and a value that is not commensurable with anything else. The terrorist will find this preposterous: arithmetic, he will say, applies to human beings just as it does to everything else.

(2) *Respect for persons*

Since the terrorist does not take the separateness of persons seriously, she is not in a position to show respect for persons. The principle of respect for persons can be construed in more than one way; but the terrorist is bound to offend against it on any plausible construal. On one interpretation, the principle enjoins respect for the core of individuality of each and every person, a concern for seeing things from the point of view of the other person, in terms of his or her character or 'ground project'. This is the direct opposite of the impersonal, objective, calculatory way in which the terrorist relates to her victims. According to another interpretation, the principle demands that we recognise and respect certain basic human rights of every human being, which safeguard a certain area of personal freedom; persons are to be respected as holders of rights. There is no way the terrorist can do this; for if I have any basic rights at all, the right not to be killed or maimed in order that the terrorist's cause be promoted is surely one of them. On still another interpretation, the principle prohibits using another person as a mere means. The Kantian account of the principle is not as clear as could be desired; but at a minimum, it requires that the other person be able to 'share in the end' of one's action, that is, to consent to it [6]. This is just what the terrorist's victim is not in a position to do. Actually, terrorism is often brought up as a paradigmatic example of reducing other people to mere means [7].

(3) *Guilt and innocence*

The distinction between guilt and innocence is generally considered one of the most fundamental moral distinctions. We tend to accord it central significance when war and other types of violence are to be judged and circumscribed from the moral point of view. Terrorists deliberately and systematically attack, kill and otherwise severely harm innocent people; this, and the aim of intimidation and coercion they seek to achieve by doing this, are what make them terrorists. To be sure, some terrorists claim that their victims *are* guilty; but they can say that only on the basis of an extension of the notion of guilt so extreme that the whole distinction between guilt and innocence no longer makes much sense, at least in the context of moral appraisal of the sorts of things they do to their victims. Still others do not even bother to pay lip service to the distinction.

*(4) Moral dialogue*

We often hope for moral dialogue with those whose moral views differ from ours. In particular, we feel a need for such a dialogue with those who propose to do to us something we find extremely objectionable. We want to hear how they can justify their actions *to us*. In general, it seems that, other things being equal, a theory of punishment that goes some way in convincing the person punished that the punishment is justified is better than a theory that does not try to address her in particular; a moral justification of progressive taxation that appeals to the rich is better than one that remains on the most abstract level, and does nothing in particular to convince those who are to pay the highest price when it is put into effect. The terrorist does not, and is not in a position to, try to justify her actions *to* her victims in a free and equal dialogue with them.

*(5) Moral equality*

We hope for moral dialogue with others because we believe in basic moral equality of humans. We believe that every mature and sane human being, *qua* human being, is qualified to exercise moral judgment and to reason with us on an equal footing. We accept that there are experts on certain factual questions involved in moral issues; but we acknowledge no *moral* experts. We admire certain individuals as morally saintly or heroic; but we do not believe in *moral elites*. Terrorists who justify their actions in utilitarian terms see themselves as members of such an elite, and relegate us to the status of lesser beings, to whom they need not, and indeed cannot, try to explain and justify their actions. They feel themselves called and authorised to perform what Herbert Marcuse calls 'historical calculus' [8] which decides who will live and who will die. We have no say in it, although it is our lives that are at stake.

*(6) Secrecy*

With respect to eminently other-regarding action, with certain narrowly circumscribed exceptions, we tend to be morally suspicious of actions and policies that have to be kept secret. With regard to moral principles, in particular, we insist on publicity; we want them to be such that they can be publicly proclaimed, and that their import, validity and application can be publicly debated. No terrorist could satisfy this requirement and succeed nor, indeed, remain in business for long. Secrecy is a *sine qua non* of his action, as well as of his principles of action.

These objections to terrorism, I believe, show that it is a type of action incompatible with some of the most basic moral beliefs many of us hold. Those of us who do hold these beliefs will find its consequentialist justifications quite unconvincing. Indeed, such justifications will not be seen as showing that terrorism is morally permissible under certain circumstances, but rather as telling against the ethical theory which implies that terrorism is justified whenever such circumstances obtain.

**III**

When discussing consequentialist justifications of terrorism, it is still worthwhile to go back to the writings of Leon Trotsky in defence of the 'Red Terror', which are rightly considered

classic. These are the book *Terrorism and Communism* (1920), a reply to the book with the same title by Karl Kautsky, and the essays 'Their Morals and Ours' and 'Moralists and Sycophants against Marxism', which were written in the late thirties in a debate with some disillusioned Marxists [9]. For Trotsky not only offers a general justification of Bolshevik terrorism, but also addresses the crucial objection to its consequentialist rationale: the objection that refers to the innocence of its victims.

The emancipation of humanity, as depicted by Marxism, is for Trotsky the highest aim, to which everything must be subordinated. This emancipation is possible only through revolution; accordingly, the cause of the revolution is the supreme moral law. In revolutionary struggle all means are justified, if they are useful, that is, efficient and not too costly. The question of means 'is not one of "principle"'. It is a question of expediency' [10].

Against this background, Trotsky advances two specific arguments in defence of the 'Red Terror'. The first is the claim that there is a continuity of war, revolution and terrorism. Revolution is a type of war; accordingly, whatever is permissible in war will also be permissible in revolution. Now war is waged with the aim of breaking the enemy's will to resist, and that is done by violence. The more strongly the enemy resists, the harsher and more massive the violence employed against him must get; at a certain point in the conflict, it will include terrorism:

*Intimidation* is a powerful weapon of policy, both internationally and internally. War, like revolution, is founded upon intimidation. A victorious war, generally speaking, destroys only an insignificant part of the conquered army, intimidating the remainder and breaking their will. The revolution works in the same way: it kills individuals, and intimidates thousands. In this sense, the Red Terror is not distinguishable from the armed insurrection, the direct continuation of which it represents [11].

In view of this continuity, Trotsky argues, we must either accept terrorism as a legitimate method of struggle in certain circumstances, or reject as morally impermissible all war, all revolution, indeed every form of violence.

But Trotsky's argument is not valid. Where Trotsky sees only continuity one can see both continuity and discontinuity. It is true that in war in general, and in revolutionary wars too, one uses intimidation and coercion through intimidation: one kills and wounds a certain number of enemies, and thereby intimidates and subjugates all or most of the others. In this respect terrorism can be seen as a continuation of war and revolution. But there is also an important, indeed morally decisive, discontinuity between war and revolution, on the one hand, and terrorism, on the other. In war and revolution this intimidation is (or can and should be) effected by attacks on *legitimate* targets: on members of the enemy's armed forces, on other military targets (e.g. arms factories), and on his political leadership. If a war or a revolution is morally justified in its character and goals, such attacks will themselves be morally legitimate. Terrorism, on the other hand, is always an attack on *illegitimate* targets, on *innocent* people, with the aim of intimidation and coercion. Terrorism is therefore morally impermissible even when employed by a side that otherwise wages a war, or a revolution, which is morally justified in terms of its character and goals.

Trotsky's second argument in defence of terrorism is aimed at this distinction between legitimate and illegitimate targets in war and revolution — the distinction between combatants and noncombatants, or those who are, and those who are not, innocent in the relevant sense. He submits that this distinction is irrelevant, if not in general, then at least

with regard to wars in our time. For one thing, many soldiers in every army have been drafted by force or fraud. Moreover, 'modern warfare, with its long-range artillery, aviation, poison gases . . . its train of devastation, famine, fires and epidemics, inevitably involves the loss of hundreds of thousands and millions, the aged and the children included, who do not participate directly in the struggle.' [12]

Trotsky is surely right in saying that the distinction between legitimate and illegitimate targets, which should make possible a moral demarcation between war and revolution, on the one hand, and terrorism, on the other, is not as clear as one might wish, and that there will be difficulties and borderline cases in its application. Nevertheless, these difficulties are not such that we should give up the distinction, and get used to the idea that there is no moral difference between deliberately killing or wounding soldiers in the battlefield, and deliberately killing or wounding civilians, including children and the aged, in the rear. There is a criterion for distinguishing between legitimate and illegitimate targets of armed attacks. The combatants, and those who supply them *qua* combatants, as well as those who make decisions concerning the war, are legitimate targets; others are innocent in the relevant sense, and accordingly are morally protected from such attacks.

The fact that all armies include those who have been drafted against their will, or by fraud, and who therefore only unwillingly participate in war, does not bring the whole distinction into question. For if a soldier is not responsible for the fact that he has been drafted, he is responsible for *remaining* in uniform, armed, on his post. There is always the possibility of throwing away the rifle, taking off the uniform, leaving the post, either openly, by refusing to obey the commanders, or secretly, by deserting. To be sure, such a choice always has its price. But even when the price is the highest possible, namely summary execution by a firing squad, that does not mean that the choice is not available, and that those who do not take it are absolved from responsibility for taking part in war. The fact that A was threatening to kill B if B refused to kill C is neither a justification nor an excuse for B's killing C — neither in morality, nor in law.

As for the suffering of civilians, it is surely inevitable not only in modern, but in almost all wars, except when the combat takes place at sea or in a desert. But we must attend not only to the suffering inflicted, but also to the way it is inflicted. When making a moral judgment, anyone but a diehard consequentialist will want to take into account not only the consequences of the actions judged, but also who brought them about, in what way, and what was the deliberation behind the deed.

Suppose our artillery has shelled a village on the other side of the front line, and civilians have been killed and maimed. We may hold that from the moral point of view, the decisive question is that concerning the intentions of our gunners. Did they attack an enemy military target in the village, and the attack also brought about civilian deaths, or did they deliberately target civilians? (1) Their intention may have been to attack enemy soldiers stationed in the village, and civilian casualties may have been an unintended and undesired, but inevitable and foreseen consequence of the attack. More specifically, that means that our gunners did not intend to kill or maim civilians; that was neither their aim, nor a means for attaining their aim. Had it been possible to attack the enemy unit without endangering the civilians in any way, they would certainly have done so. That was not possible, so they attacked although they knew that the attack would cause civilian casualties too; but they did their best to reduce those inevitable, but undesired consequences as much as possible. In both the planning and the carrying out of the attack, there was a reasonable and morally tolerable proportion between the intended and desired, and the unintended and undesired,

but inevitable consequences. Our artillery did not raze the village to the ground and kill tens of civilians in the course of liquidating an enemy squad. (2) On the other hand, our artillery may have shelled the village with the intention of destroying it and killing off its inhabitants.

In the first case, what happened was a legitimate act of war in which, regrettably, there were civilian casualties too, but those casualties were unintended, inevitable, reduced to a minimum, and proportionate to the military aim achieved. The second case was an attack on an illegitimate target, a morally impermissible use of military force, a war crime. If the purpose was to intimidate some other people into doing something they otherwise would not do, it was also a case of terrorism, rather than an act of war in the strict sense.

In circumstances such as these the distinctions made by the doctrine of double effect seem very helpful. Indeed, my account is an application of Michael Walzer's amended version of the doctrine [13]. But the doctrine is notoriously controversial [14], and I would not want my response to Trotsky's second argument to stand or fall with it. It does not, as the example and the point I wish to make can be restated without recourse to the doctrine of double effect.

(1) We can describe the first case as one of conflict between a positive and a negative duty: the duty to achieve a military objective and the duty not to kill or maim civilians. Now in general negative duties have greater weight than positive ones. This is also true of the two duties that come into conflict in this case: the prohibition of injuring civilians has greater weight than the duty of achieving military objectives. But there are also cases when a positive duty overrides an incompatible negative one. The example under discussion may have been one such instance: the military need of putting an end to the activities of the enemy unit may have been so strong and urgent that it prevailed over the prohibition of killing or maiming a comparatively small number of civilians. If so, what our gunners did was morally justified, all things considered, although it could only have been done at a high moral cost. (2) On the other hand, if our gunners shelled the village in order to destroy it and kill or maim the villagers, they simply disregarded one of the basic moral duties of a soldier, the duty not to attack civilians, without any moral reason for doing so. Their action can be neither justified nor excused, and is a crime of war. If it was done as a way of intimidating some other people into doing something they otherwise would not do, it was also a case of terrorism.

Therefore the phenomenon of civilian casualties in war and revolution cannot by itself establish the conclusion that terrorism is inevitable in war and revolution, and that we can accordingly renounce it only at the cost of renouncing at the same time all war, revolution, and violence in general. Noncombatants, civilians, innocent persons suffer in various ways, as a result of various considerations on the part of those whose actions bring about their suffering. In this context, the usual moral distinctions can and should be made, whatever the difficulties involved in their application.

#### IV

If we are looking for a moral justification of terrorism, we should look for it in consequentialist ethics; deontological theories can be expected to judge it as wrong in itself, even when it has good consequences.

Still, in recent philosophy there is one important attempt at moral justification of terrorism from a deontological point of view. I am referring to Virginia Held's paper

'Terrorism, Rights, and Political Goals'. The main thesis of the paper is that terrorism can be justified under certain circumstances in terms of basic human rights.

Held begins by emphasising that social action in general cannot be properly judged solely in the light of its consequences; we must also apply the concepts of rights and duties. When dealing with terrorism, we must focus on the fact that terrorists violate rights, and ask whether such violations can be morally justified.

What may we do in order to secure respect of rights? May we, in order to ensure that the rights of one person or group are respected, violate the rights of another person or group? 'If we say that no violations of rights are justified, even in this case, this can become a disguised recipe for maintaining the status quo. If we permit violations, we risk undermining the moral worth of the very rights for which we are striving to achieve respect.' [15]

In a society in which rights are not respected, we will have to make comparative judgments about rights and their holders. Granting the necessity of such judgments does not amount to accepting consequentialism of rights — the view of rights as something that ought to be maximised, so that, for instance, we may violate a certain right of A, if by doing so we ensure the same right of B and C. Rights are not properly a subject of calculations and trade-offs, with a view to maximising their respect, or minimising their violations, in society as a whole. But when rights come into conflict, we must try to order them according to their importance. And where rights are not respected, we must be able to make comparative judgments about their violations.

According to Held, the question of the moral justification of terrorism is a particular case of the general question whether we may violate certain rights in order to ensure the respect of other rights. Terrorism violates basic human rights of its victims. But what if a limited use of terrorism is the only way of securing effective respect of basic human rights of all in a society?

In Held's view, in such a society resort to terrorism would still not be justified. But it would become justified, if an additional condition were met: that of *distributive justice*. If, in a society, (a) the basic human rights of a part of the population are effectively respected, while the same rights of another part of the population are violated; (b) if the only way of overcoming this state of affairs, and ensuring the effective respect of basic human rights of all, is a limited use of terrorism, i.e. violating basic human rights of those who end up as its victims; finally, (c) if terrorism is directed *against members of the first group*, that terrorism will be justified. For it will be enjoined by distributive justice, applied to the problem of violations of basic human rights. From the point of view of justice, it is better to equalise violations of rights in a stage of transition to a situation in which the rights of all will be effectively respected, than to allow that the group which has already suffered far-reaching violations of rights be exposed to further such violations — of course, assuming that in both cases we have violations of the same, or equally important, basic human rights. 'If we must have rights violations, a more equitable distribution of such violations is better than a less equitable distribution.' [16]

The justification of terrorism offered by Held is original and interesting. It is quite different from the usual consequentialist justification that refers to the good consequences of terrorism: to the fact that its use in certain circumstances maximises the common good, promotes the general interest, satisfies the preferences of all. For this is a justification of terrorism in terms of *rights*. It is also different from a justification of terrorism in terms of consequentialism of rights. Consequentialism of rights will allow resort to terrorism when that is the only way of maximising the respect of rights, or minimising their violations. Held

does not simply refer to rights, but to a *just distribution* of violations of rights. The crucial part of her justification of terrorism is the argument of distributive *justice*.

Is this justification convincing? I think we can best assess it if we go back to some of the objections to terrorism discussed in section II, and try to see the issue from the point of view of a potential victim of terrorism.

A candidate for a victim of a terrorist attack, faced with the usual consequentialist justification of terrorism, will most likely say that she finds it unacceptable to be killed or maimed for the sake of maximising the satisfaction of everyone's preferences, promoting the general interest, realising the common good. She has a *right* to life and bodily integrity, and this right must not be violated merely in order to promote the general interest, the common good. Considerations of rights have in principle greater weight than those of consequences. When offered a justification of the attack couched in terms of consequentialism of rights, she will likely say that she finds that justification unacceptable too. For that justification, too, does not take seriously the separateness of persons, and sacrifices *her* basic human rights for the sake of the greatest possible degree of respect of rights of a certain *group* of people.

I believe that such a person, faced with the justification of terrorism offered by Held — the justification that invokes basic human rights, *and* applies distributive justice to violations of such rights — might well make a similar retort. She might say that she finds the justification unconvincing and unacceptable; for it too does not take seriously the separateness of persons, but rather sacrifices *her* basic human rights for the sake of a more just distribution of violations of such rights within a *group* of people in the course of transition to a stage where these rights would be generally respected.

Is this retort convincing? The answer to this question will depend on the view of rights one espouses. If one views rights as almost absolute side constraints on our pursuit of individual and collective aims, the way Robert Nozick does [17], one is likely to find this retort quite appropriate, and to reject the justification of terrorism advanced by Held. But this view of rights has been criticised as much too radical, and as one that prevents us from making certain obviously relevant moral distinctions. In Nozick's theory, says H. L. A. Hart, 'the basic rights which fill the moral landscape and express the inviolability of persons are few in number but are all equally stringent.' [18] As a result, the theory has unacceptable implications:

How can it be right to lump together,

and ban as equally illegitimate, things so different in their impact on individual life as taking some of a man's income to save others from some great suffering and killing him or taking one of his vital organs for the same purpose? [ . . . ] Can one man's great gain or relief from great suffering not outweigh a small loss of income imposed on another to provide it? [19]

On the other hand, if, in order to avoid these implications of Nozick's radical account, one opts for a more moderate view of rights, Held's argument may appear quite attractive.

However, although Nozick's view of rights is indeed much too radical if one applies it across the board — that is, to property rights, as to the rights to life and to bodily integrity, the way Nozick does — this view no longer looks quite as exaggerated if we recall *just what rights* the terrorist typically violates. Are my rights not to be killed or maimed (except in self-defence or as deserved punishment) almost absolute, or rights that may be sacrificed for the sake of a more just distribution of violations of the same rights within a group in a transition to a stage where they will be generally respected?

Faced with the prospect of being killed or maimed on the grounds of this last justification, might I not draw on Nozick's view of rights, and say that I am a person in my own right, that my life is the only life I have and all I have, and that nobody may take it away, nor ruin it by making me a cripple, for the sake of a more just distribution of, and subsequently more general respect for, the rights to life and bodily security within a group of people? My life and at least some of my basic human rights amount to more than mere membership in a group of holders of rights. The value and significance of my life is not derived from my membership in a group. Nobody may sacrifice it to the group.

If so, then Virginia Held's attempt to justify terrorism from a deontological point of view does not succeed. Nozick's radical view of rights as almost absolute side constraints on our pursuit of individual and collective goals is not *too radical* when the rights at stake are the rights the terrorist typically violates: the rights of the individual not to be killed or maimed (except in self-defence or as deserved punishment). If it is not, if these rights are indeed almost absolute, then the considerations of rights and distributive justice to which Held appeals cannot override them after all [20].

## V

If our preferred ethical theory is consequentialism, then we will accept terrorism in certain circumstances. We can do so only if we feel that the nonconsequentialist objections to terrorism, reviewed in section II, have no great weight. But then, all those objections to terrorism at the same time question the very foundations of consequentialist ethics. The arguments on elitism and secrecy bring to mind Bernard Williams's critique of 'Government House utilitarianism' and Henry Sidgwick's discussion of the way consequentialism should be taught and applied which shows so clearly the relevance of that critique [21]. The argument on guilt and innocence is just as pertinent to the consequentialist account of praise, blame, and punishment, which in certain circumstances justifies blaming and punishing the innocent, and not punishing and even praising the guilty. The objections concerning the separateness of, and respect for, persons, bring to mind J. J. C. Smart's rejection of all deontological constraints on the pursuit of the consequentialist goal with the question: 'If it is rational for me to choose the pain of a visit to the dentist in order to prevent the pain of toothache, why is it not rational of me to choose a pain for Jones, similar to that of my visit to the dentist, if that is the only way in which I can prevent a pain, equal to that of my toothache, for Robinson?' [22]

On the other hand, if we are more attracted to a deontological approach in ethics, these objections are certain to make a considerable impression. If we cannot accept that in morality everything depends on the consequences of actions, but rather believe that some actions are right or wrong, obligatory or prohibited, in themselves, and if we take seriously the separateness of persons and the value of personhood, the difference between guilt and innocence, and the ideas of moral equality, moral dialogue, and publicity of moral principles and action, our stand on terrorism is likely to be clearly and strongly negative. If my critique of Virginia Held's attempt at a deontological justification of terrorism is valid, terrorism remains almost absolutely wrong. [23]

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## Acknowledgement

I should like to thank Sidney Axinn, Nicholas Fotion, Walter Sinnott-Armstrong, and an anonymous referee for this journal for helpful comments on earlier versions of this paper.

I also benefited from responses from audiences at the Australian National University, La Trobe University, University of Melbourne, University of New South Wales, and University of Sydney, where I read the paper in June - December 1996.

## NOTES

- [1] I argued for this definition in IGOR PRIMORATZ (1990) What Is Terrorism? *Journal of Applied Philosophy* 7. The wording offered here is slightly, but significantly, amended in response to an objection by WALTER SINNOTT-ARMSTRONG (1991) On Primoratz's Definition of Terrorism, *ibid.*, 8.
- [2] This is true of both act and rule consequentialism: a critical examination of the latter shows that it collapses back into the former in every case when the best possible consequences would be secured by breaking, rather than sticking to, the relevant moral rule (see IGOR PRIMORATZ (1989) *Justifying Legal Punishment* (Atlantic Highlands, NJ, Humanities Press International), pp. 118–128). R. M. Hare's attempt at combining act and rule consequentialism in his two-level theory of moral thinking meets a similar fate (see *ibid.*, pp. 129–137).
- [3] NICHOLAS FOTION (1981) The Burdens of Terrorism, in B. M. LEISER (ed.) *Values in Conflict* (New York, Macmillan), p. 467.
- [4] KAI NIELSEN (1981) Violence and terrorism: its uses and abuses, in B. M. LEISER (ed.), *op. cit.*, pp. 446–449.
- [5] ARTHUR KOESTLER (1968) *Darkness at Noon*, trans. by D. HARDY, ed. by H. BROWNE (London, Longmans), p. 125.
- [6] H. J. PATON (trans. and ed.) (1972) *The Moral Law: Kant's Groundwork of the Metaphysics of Morals* (London, Hutchinson), p. 92.
- [7] On the different interpretations of the principle of respect for persons see JOHN E. ATWELL (1982) Kant's notion of respect for persons, *Tulane Studies in Philosophy*, 31.
- [8] See HERBERT MARCUSE (1968) Ethics and revolution, in R. T. De George (ed.) *Ethics and Society* (London, Macmillan).
- [9] LEON TROTSKY (1961) *Terrorism and Communism* (Ann Arbor, The University of Michigan Press). Both essays are included in L. TROTSKY, J. DEWEY, and G. NOVACK (1969) *Their Morals and Ours*, 4th ed. (New York, Pathfinder Press).
- [10] L. TROTSKY, *Terrorism and Communism*, p. 58.
- [11] *Loc. cit.*
- [12] L. TROTSKY, Moralists and Sycophants against Marxism, p. 43.
- [13] See MICHAEL WALZER (1980) *Just and Unjust Wars* (Harmondsworth, Penguin Books), pp. 151–156.
- [14] See e.g. PHILIPPA FOOT (1978) The problem of abortion and the doctrine of double effect, *Virtues and Vices* (Oxford, Blackwell).
- [15] VIRGINIA HELD (1991) Terrorism, rights, and political goals, in R. G. FREY and C. W. MORRIS (eds.), *Violence, Terrorism, and Justice* (Cambridge, Cambridge University Press), p. 73.
- [16] *Ibid.*, p. 80.
- [17] See ROBERT NOZICK (1974) *Anarchy, State, and Utopia* (Oxford, Blackwell), pp. 28–33.
- [18] H. L. A. HART (1979) Between utility and rights, in A. RYAN (ed.), *The Idea of Freedom: Essays in honour of Isaiah Berlin* (Oxford, Oxford University Press), p. 81.
- [19] *Ibid.*, p. 84.
- [20] My speaking of 'almost absolute' rights might be thought odd. Is this expression not a contradiction in terms? A right is either absolute, i.e. one that may *never* be infringed, or it is not, in which case it may be violated under certain circumstances; but it cannot be both.

In his recent book on rights, Peter Jones deals with this worry in a very helpful way:

... The critical question for the absoluteness of a right is whether it should be upheld *whatever* the consequences. Arguments about the absoluteness of a right turn into a sort of moral philosopher's game in which those who claim absoluteness for the right are challenged to maintain their position in the face of increasingly excruciating and improbable circumstances in which ever more lurid and unpalatable consequences follow upon the inviolability of the right. But is the difference between a

right that may never be infringed and one that may virtually never be infringed really so critical? Suppose that we can think of extraordinary and utterly improbable circumstances in which a right of fundamental importance would finally have to yield. Of what significance would that be? None at all, except in those extraordinary and utterly improbable circumstances. So the search for rights which are absolutely and utterly infeasible in every imaginable circumstance may be of limited practical value. (P. JONES (1994) *Rights* (London, Macmillan), p. 203)

- [21] BERNARD WILLIAMS (1995) *Ethics and the Limits of Philosophy* (London, Fontana/Collins), pp. 108–109; HENRY SIDGWICK (1967) *The Methods of Ethics*, 7th ed. (London, Macmillan), pp. 489–490.
- [22] J. J. C. SMART (1961) *An Outline of a System of Utilitarian Ethics* (Parkville, Melbourne University Press), p. 26.
- [23] In parts of this paper I draw on my On the ethics of terrorism, in ELISABETH ATTWOOLL (ed.) (1991) *Shaping Revolution* (Aberdeen, Aberdeen University Press).